

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

NEPR

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IN RE: REVIEW OF THE PUERTO RICO ELECTRIC POWER AUTHORITY INTEGRATED RESOURCE PLAN

CASE NUM.: CEPR-AP-2018-0001

SUBJECT:

ARCTAS CAPITAL GROUP, LP PETITION TO INTERVENE IN THE FILING OF THE IRP (PHASE 2)

ARCTAS CAPITAL GROUP, LP

PETITION TO INTERVENE

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

NOW COMES Arctas Capital Group, LP ("Arctas"), through its authorized officer, respectfully petitions this Honorable Puerto Rico Energy Bureau ("Energy Bureau") to intervene in the above-captioned proceeding pursuant to the Energy Bureau Resolution and Order notified July 3, 2019 of the subject case number ("July 3 Resolution and Order"). Such petition to intervene is filed pursuant to section 3.03(A) of Regulation 9021, known as the "Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority and Section 5.05 of Regulation No. 8543, known as the "Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings", and Section 3.5 and 3.6 of Act No. 38-2017, as amended, known as the "Uniform Administrative Procedure Act of the Government of Puerto Rico".

The July 3 Resolution and Order states that the Energy Bureau determined that the Revised IRP Filing, as defined in July 3 Resolution and Order, complies with the requirements established in Regulation 9021. As per section 3.03(A) of Regulation 9021, any person may file a petition to intervene in the IRP proceeding within thirty (30) days after the Energy Bureau's determination that the proposed IRP is complete. Therefore, petition to intervene may be filed on or before August 2, 2019.

In support of its timely petition to intervene, Arctas states as follows:

I INTRODUCTION

1. On May 29, 2018, based on information from the Puerto Rico Electric Power Authority ("PREPA") that it had begun development of an updated Integrated Resource Plan ("IRP"), the Puerto Rico Energy Bureau ("Energy Bureau") ordered PREPA to file an updated IRP for Energy Bureau review. On February 13, 2019 PREPA filed its proposed IRP, which the Energy Bureau reviewed, and on March 14, 2019 issued a Resolution and Order that the proposed IRP was not in compliance with Regulation 9021 and therefore not complete. On June 7, 2019 PREPA filed a revised proposed IRP ("Revised IRP Filing"), and on June 14, 2019 PREPA filed a document titled *PREPA's Cover Filing, Updated List of Documents Filed or Submitted, and Motions ("June 14 Motion")*, which the Energy Bureau reviewed, and on July 3, 2019 issued a Resolution and Order ("July 3 Resolution and Order") that determined, among other things, that the Revised IRP Filing complies with the requirements established in Regulation 9021, and that it is necessary to commence Phase 2 of the IRP approval process as established in Regulation 9021. Part

2 of the July 3 Resolution and Order establishes the Procedural Calendar for the IRP review and approval process.

2. The July 3 Resolution and Order states that “Any interested person may file, on or before August 2, 2019, a petition to intervene or a petition to appear as Amicus Curiae in the instant proceeding.” The July 3 Resolution and Order further states that the petition to intervene must comply with the provisions of Section 5.05 of Regulation No. 8543 and that potential intervenors must demonstrate the existence of a substantive interest in the proceeding. In addition, the Energy Bureau will evaluate each petition to intervene pursuant to the requirement of Regulation No. 8543 and Section 3.5 and 3.6 of Act 38-2017, as amended.

3. In accordance with the July 3 Resolution and Order, Arctas seeks to intervene in the IRP proceeding bringing extensive experience in power generation development, globally and in Puerto Rico, with specific knowledge of LNG infrastructure and natural gas fired power generation in Puerto Rico that can assist in the proceeding. The individuals at and working with Arctas on this effort led the development of the EcoEléctrica LNG terminal and 540 MW power plant (“EcoEléctrica”) through development, financing, and construction and into commercial operation. However, currently Arctas has no economic ties to EcoEléctrica or any other Puerto Rico assets.

II FOUNDATION FOR THE REQUEST TO INTERVENE

4. Section 5.05 of Regulation No. 8543 provides that “[a]ny person with a legitimate interest in a case before the Commission may present a duly grounded petition to intervene.” The Commission, now known as the Energy Bureau, will analyze and/or

evaluate the petition to intervene using the criteria established in the Uniform Administrative Procedure Act of the Government of Puerto Rico (“UAPA”).

5. Pursuant to Section 3.5 of the Uniform Administrative Procedure Act of Puerto Rico, “[a]ny person having a legitimate interest in an adjudicative procedure before an agency may file a written, duly grounded application in order to be allowed to intervene or participate in said procedure.” The agency may grant or deny the petition taking the following factors into consideration:

- a. Whether the petitioner’s interest may be adversely affected by the adjudicatory procedure.
- b. Whether there are no other legal means for the petitioner to adequately protect his interests.
- c. Whether the petitioner’s interests are already adequately represented by the parties to the procedure.
- d. Whether the petitioner's participation may help, within reason, to prepare a more complete record of the procedure.
- e. Whether the petitioner's participation may extend or prolong the procedure excessively.
- f. Whether the petitioner represents or is a spokesperson for other groups or entities in the community.
- g. Whether the petitioner can contribute information, expertise, specialized knowledge or technical advice which is otherwise not available in the procedure.

The agency shall apply the above criteria liberally, and may require additional evidence be submitted to it in order to issue the corresponding determination with regard to the application to intervene. The above factors are addressed in item 7 below.

6. The nature and extent of Arctas interest in the proceeding:

Arctas is a privately held project development firm established in 2002, and is located in Houston Texas, USA. Arctas address and contact information is as follows:

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1980 Post Oak Blvd – Suite 1500
Houston, TX 77056

www.arctas.com
(713) 513-7120

Attn: Rick Sierra
Email: sierra@arctas.com

Arctas has extensive expertise in developing, acquiring, structuring, financing, optimizing and managing a broad range of complex energy infrastructure assets and energy businesses. Arctas has succeeded using a formula of experienced power project development professionals led by senior energy executives who have a record of building and managing successful independent development companies and divisions within larger companies. Arctas founders and officers developed, closed and/or managed as C-level executives many transactions involving billions of dollars of capital in numerous countries. Members of the Arctas team, then employees of a unit of Enron that was the 50% lead partner in EcoEléctrica, were responsible for key aspects of EcoEléctrica development including power sales, LNG fuel supply, financing arrangements, and engineering, procurement, and construction (“EPC”) for the LNG terminal, power plant, desalination

plant and propane terminal expansion that were included in the project. Arctas founder and managing director David Haug was the lead executive for this effort from 1993 until power production begun. Rick Sierra, an Arctas Vice President, had executive management responsibilities from 1995-2003 in the development of the EPC agreement, construction management, and oversight of commercial operations.

Since its inception, Arctas' business focus has been primarily in the Americas and Caribbean energy markets. Arctas and its executives have successfully completed projects or acquisitions in power generation (including oil, natural gas, and renewables) and natural gas transportation.

Arctas has, together with consultants, spent over three years studying the physical, financial, and economic situation in Puerto Rico relevant to the generation, transmission, pricing and financing of electric power in general. Arctas has also actively pursued energy projects in Puerto Rico, to include the following activities:

- In June 2018 participated in the PREPA 2018 IRP Stakeholder Meeting for soliciting comments and feedback regarding assumptions, scenarios, portfolios, and recommendations.
- Intervenor in then Energy Commission Aguirre Site Economic Analysis proceeding case number CEPR-AP-2017-0001 that was open from February 10, 2017 through April 26, 2018. Arctas was an active intervenor, submitting evidence that identified fuel alternatives for the Aguirre Site, provided expert third party perspectives regarding LNG/natural gas prices for Puerto Rico and permitting

schedules for possible projects, and identified issues of concern that resulted in PREPA corrections and clarifications to its economic analysis.

- Arctas participated in PREPA's Request for Proposals 81412 ("RFP") for Fuel Supply in the North and Conversion of San Juan Units 5 and 6, issued by PREPA on July 30, 2018. Arctas attended the site visit and kickoff meeting, reviewed PREPA provided technical material, submitted clarification questions, and responded to the RFP.
- Arctas has been evaluating proposed fuel infrastructure and power generation projects identified in the February 13, 2019 PREPA proposed IRP, and now more recently the Revised IRP Filing and June 14 Motion, so as to assess the feasibility and financeability of the projects so as to determine the extent of Arctas' interest in participation in an RFP when issued by PREPA and/or the Public Private Partnership Authority ("P3A").
- During the last two years Arctas has also responded to requests for information sought on behalf of a Puerto Rico governmental entity and a public concern regarding energy infrastructure projects and investments.

7. In response to the seven factors set out in Section 3.5 of the UAPA, Arctas states the following:

- a. **Whether the petitioner's interest may be adversely affected by the adjudicatory procedure.**

The PREPA proposed IRP includes recommendations that include retiring certain existing generating units and replacing them with new generating units as well as

building new LNG infrastructure that would increase natural gas fired power generation and lower fuel oil fired power generation. In the July 3 Resolution and Order, the Energy Bureau establishes a Procedural Calendar for the review and approval process of the PREPA proposed IRP. The review process will have a significant bearing on Energy Bureau decisions regarding PREPA recommendations in the proposed IRP, including with respect to proposed generation and natural gas projects that are of interest to Arctas. Arctas recognizes the importance that additional LNG supply and new efficient power generation can have to help meet electrical system environmental, economic, and reliability objectives. Arctas believes that as an Intervenor it will be able to fully participate in the process, provide relevant analysis of recommended projects, and identify ways in which plans for recommended projects could be enhanced. If not an Intervenor, Arctas will be adversely affected by not being able to fully make use of Arctas work performed and resources used to date or be able to adequately analyze recommended projects that are of interest to Arctas.

b. Whether there are no other legal means for the petitioner to adequately protect his interests.

The Energy Bureau powers, duties, and responsibilities include review and approve plans in connection with energy resources integrated planning in Puerto Rico, and oversee compliance therewith. An objective of the July 3 Resolution and Order is for the Energy Bureau to ultimately make decisions regarding PREPA recommendations in the proposed IRP, including with respect to proposed

generation and natural gas projects that are of interest to Arctas. Intervening in an IRP review and approval proceeding is an established way for parties such as Arctas to provide power generation insight and perspective to both PREPA and the Energy Bureau and also pursue and obtain certain information it considers important which is currently not available through other means. Additionally, there are no other means or proceedings that may occur in the future which are certain to provide the information important to Arctas.

c. Whether the petitioner's interests are already adequately represented by the parties to the procedure.

Arctas has no agreements in place for other entities to represent its interests in the instant proceeding and no governmental entity, that we are aware of, has the technical expertise or mandate to adequately represent Arctas' perspective or commercial interests.

d. Whether the petitioner's participation may help, within reason, to prepare a more complete record of the procedure.

Arctas believes that if it is allowed to intervene, its experience with power generation (including renewables), LNG infrastructure, LNG supply, and natural gas pipelines can be used to rigorously scrutinize the cost and viability of projects recommended in the proposed IRP. Arctas may also identify issues that lead to project enhancements or other decisions that help attain results that achieve Energy Bureau and PREPA objectives in a cost effective manner, and create the greatest net benefit to Puerto Rico.

e. **Whether the petitioner's participation may extend or prolong the procedure excessively.**

Arctas petition is timely filed. Arctas intervention will be in conformity with the Energy Bureau procedures and calendar, and will not unduly extend or prolong the IRP review and approval proceeding.

f. **Whether the petitioner represents or is a spokesperson for other groups or entities in the community.**

Arctas does not represent and is not a spokesperson for other groups or entities in the community that have an interest in the proceeding.

g. **Whether the petitioner can contribute information, expertise, specialized knowledge or technical advice which is otherwise not available in the procedure.**

Arctas can contribute to the IRP review and approval proceeding as follows:

- i. Arctas is a successful developer of energy projects, including the following:
 - Acquired controlling interest in 2014 in the 600MW wind development project in Panhandle of Texas known as the Mariah Energy Center, and assumed responsibility for completion of the project. In February 2016, the first phase (230MW) out of 3-phase project closed financing and began commercial operation in December 2016. Subsequent phases are under current active development.

- In Central America, led the development of 4 wind plants (3 in Nicaragua and 1 in Guatemala) representing over 150MW of new generation displacing expensive oil-based power generation in a region marked by high-priced power. All were financed, constructed and are in commercial operation, despite Nicaragua being rated significantly below investment grade. By successfully developing the 1st, 2nd and 4th wind plants in Nicaragua, Arctas has helped transform the country into the top market outside of Europe getting the highest percent of actual power generation from wind energy. Arctas also won a small solar public tender in El Salvador in 2015; Arctas subsequently sold its interest to partners.
- Acquired controlling stake and general partner interest in the 537km, 200 mmscf/d Centragas natural gas pipeline in Colombia from the Enron bankruptcy; managed the business for seven years until the pre-agreed "BOT" contractual transfer to the government designee; minority partners were Promigas (25%) and Toyota (25%). Subsequently, Arctas has been developing an LNG export project at existing gas facilities located on the Colombian Atlantic coast at north end of Centragas pipeline.
- Acquired one of the largest non-institutional positions in Mirant equity following their bankruptcy filing and helped establish and advise the Mirant Equity Committee in the US bankruptcy court Northern District of Texas (thereby protecting the equity from wipeout and significantly adding value to the equity

holders). Subsequently, teamed with a boutique restructuring firm to advise \$1.2B bondholders on US portfolio of Mirant power assets in bankruptcy.

ii. During the period between 1994 and 2003, Arctas executives, then employees of a project development sponsor with 50% interest in the EcoEléctrica LNG terminal and 540 MW power plant, were responsible for sponsor's interest in all aspects of EcoEléctrica during development, construction, and the first few years of commercial operations. This included direct involvement, supervision of top industry consultants, and joint activities and coordination with partners and prospective financing entities and investors, to obtain approval for the first new LNG terminal in the U.S. in 20 years and the world's first ever combination LNG terminal and utility-scale power plant. These activities included:

- Negotiation and execution of power sales agreement with PREPA, in particular the fuel costs and logistics
- Primary and back-up fuel supply arrangements for LNG, propane, and fuel oil
- Modeling plant and system dispatch based on PREPA's model to maximize plant use
- Coordination and supervision of a large team of employees and industry specialists to interface with the multiple Puerto Rican and U.S. agencies that have authority over LNG and power projects
- Managing regulatory proceedings before Puerto Rican and U.S. agencies

- Coordinating education and outreach efforts that led to project support from Guayanilla and Peñuelas
- Negotiation of and closing \$603 million debt financing
- Plant configuration, equipment selection and basic engineering
- Oversight of construction, start-up and plant operations
- Commercial operations and fuel management

iii. Arctas executives have substantial experience in distressed situations, bankruptcy reorganization and restructuring, and financing projects in non-investment grade markets. Each of these skill sets will be useful in evaluating whether various proposals can actually get completed, financed, and built.

III CONCLUSION

8. Arctas petition to intervene should be granted because:

- a. Arctas has a substantive interest in identifying and evaluating PREPA recommendations in the proposed IRP (including with respect to proposed energy infrastructure projects, such as power generation) so as to determine project viability, in which case Arctas may want to pursue participation in one or more of the projects.
- b. Arctas participation will allow for a more complete evaluation of proposed energy infrastructure and power generation projects in Puerto Rico which are to be considered in the IRP proceeding.

c. Arctas has extensive knowledge and resources that can be very useful in the instant proceeding.

d. Arctas involvement will not unduly extend or delay the instant proceeding.

Arctas is available to provide additional information the Energy Bureau may require to evaluate Arctas' petition to intervene.

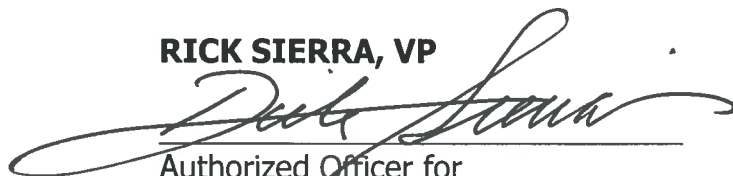
WHEREFORE, having complied with applicable statutory and regulatory criteria, we kindly and respectfully request the Honorable Puerto Rico Energy Bureau to acknowledge the above and grant our request to petition to intervene in the instant IRP review and approval proceeding.

I CERTIFY: This day I have sent this Petition to Intervene, regarding Case No. CEPR-AP-2018-0001 using the Energy Bureau's electronic filing tool at:

<https://radicacion.energia.pr.gov>.

RESPECTFULLY SUBMITTED in San Juan, Puerto Rico, this July 31, 2019.

RICK SIERRA, VP



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