



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

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

CASE NO.: CEPR-AP-2018-0001

SUBJECT: PREPA's petition for confidential
treatment of portions of its IRP.

RESOLUTION AND ORDER

On June 7, 2019, the Puerto Rico Electric Power Authority ("PREPA") filed a document titled *PREPA's Verified Motion for Confidential Treatment of Portions of its Integrated Resource Plan* ("IRP") Filing before the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau"). As part of its filing, PREPA requested confidential treatment of portions of its IRP under federal and Puerto Rico law, including Regulation 9021¹ and under Section 6.15 of Act 57-2014² and Act 80-2011³.

Act No. 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the submitting party understands deserves such protection.⁴ Specifically, Act 57-2014 requires the Energy Bureau to provide confidential treatment to the submitted information provided that "the Energy Bureau, after the appropriate evaluation, believes such information should be protected".⁵ In such case, the Energy Bureau "shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted."⁶

¹ *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, April 24, 2018.

² *The Puerto Rico Energy and Transformation and RELIEF Act*, as amended.

³ *Law for the Protection of Commercial and Industrial Secrets of Puerto Rico*, as amended.

⁴ Section 6.15 of Act 57-2014, as amended.

⁵ *Id.*

⁶ *Id.*

On June 10, 2019, the Energy Bureau granted confidential treatment to the documents in PREPA's June 7 Motion.⁷ On June 21, 2019, PREPA filed a document titled *PREPA's (1) Updated Motion for Confidential Treatment of Portions of its Integrated Resource Plan Filing and (2) Compliance Filing* ("June 21 Motion"), after the Energy Bureau ordered PREPA to file a detailed, specific and coherent list of the documents related to the revised proposed IRP filing for which PREPA was seeking confidential designation and treatment.⁸ PREPA labeled the documents for which it was seeking confidential designation and treatment and included them as part of the June 21 Motion. PREPA also included an updated list of the documents it had filed until June 19, 2019. In such list, PREPA identified the documents and workpapers for which it requested confidential designation and treatment.

Under the Energy Bureau's policy on management of confidential information in procedures before the Energy Bureau,⁹ the following rules apply for each type of Confidential Information:

1. *Trade Secret Information*

Any document designated by the [Energy Bureau] as Validated Confidential Information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

2. *Critical Energy Infrastructure Information ("CEII")*

The information designated by the [Energy Bureau] as Validated Confidential Information on the grounds of being CEII may be accessed by the parties' authorized representatives only after they have executed and delivered the Nondisclosure Agreement.

Those authorized representatives who have signed the Non-Disclosure Agreement may only review the documents validated as CEII at the [Energy Bureau] or the Producing Party's offices. During the review, the authorized representatives may not copy or disseminate the reviewed information and may not bring any recording device to the viewing room.

⁷ See, *Resolution and Order, PREPA's Petition for Confidential Information*, June 10, 2019, Case No. CEPR-AP-2018-0001.

⁸ See, *Resolution and Order, Documents with Confidential Treatment Designation*, June 18, 2019, Case No. CEPR-AP-2018-0001.

⁹ See, *Resolution, Policy on Management of Confidential Information in Procedures before the [Bureau]*, August 31, 2016, case number CEPR-MI-2016-0009.



3. *Attorney-Client Privilege*

In those cases in which the [Energy Bureau] determines that there is sufficient basis to determine that the information for which confidentiality treatment is sought pursuant to the attorney-client or attorney work-product privilege falls within one of the exceptions to this privilege, such information will be reviewed by an external Administrative Law Judge ("ALJ") who shall be responsible for reviewing such claims.

The ALJ will notify its final determination to all parties in a proceeding before the [Bureau]. Said decision will be final and will be subject to reconsideration and/or judicial review under the Uniform Administrative Procedure Act. In case the ALJ determines that the confidentiality claims are not warranted, that information related to the ALJ's determination will be disclosed in thirty (30) days from the notification of the determination, unless the Producing Party obtains another remedy or seeks reconsideration and/or judicial review.

In cases when, in evaluating a document, the ALJ accepts certain confidentiality claims but rejects others, the ALJ may propose to disclose a redacted version of the document in which Validated Confidential Information is redacted, while information rejected confidentiality treatment is disclosed. In those cases, the ALJ, in notifying its determination, will provide a copy of the document as redacted by the ALJ so the Producing Party can revise it and accept or object the ALJ's determination.

Any document that the ALJ validates as Confidential Information because it is protected under the attorney-client privilege or because it is attorney work-product will not be available to any party, to the [Bureau], or to the general public.

On July 3, 2019, the Energy Bureau granted PREPA's request for confidential designation and treatment for the items specified in the June 21 Motion. Upon further review of the confidential designation and treatment for the items specified in the June 21 Motion, the Energy Bureau **AMENDS** the designation as follows:

The Energy Bureau **GRANTS** confidentiality designation and treatment for the filed documents¹⁰ under Article 6.15 of Act 57-2014, as detailed on Table 1. The information is available to parties that have signed the appropriate Non-Disclosure Agreement ("NDA") under the applicable protocols.

¹⁰ See referenced electronic file, that contains Critical Energy Infrastructure Information (CEII).

Table 1. Documents designated as confidential.

File	Reason
Appendix 1	
Distribution_DG_Impact_v2.1.xlsx	Customer identifying information
MAX FEED AMP 083016_1200_2100.xlsx	CEII
DG_Impact_estimation.xlsx	Customer identifying information
DG_Impact_v2.xlsx	Customer identifying information
Distribution_DG_Impact_v2.xlsx	Customer identifying information
"Maps" folder in the Appendix 1 folder (5 files; ITEM 46)	CEII
Resource Side Workpapers	
AWS WIND SITES.xlsx	Proprietary Information
Generic Wind Profiles 20190418 v5.xlsx	Proprietary Information
20131104_Upd_Solar_TS_HurrIrene.zip	Proprietary Information
DEL_2_Updated_Wind_data.zip	Proprietary Information
AWS_Solar_v4.3.xlsx	Proprietary Information
AWS_Wind_v4.3.xlsx	Proprietary Information

Furthermore, the Energy Bureau **DETERMINES** that the documents detailed in Table 2 **shall not be designated as confidential information.**

Table 2. Documents not designated as confidential.

File	Reason
Appendix	
Prepa_conductors.xlsx	Information is standard Engineering information
Resource Side Workpapers - 1	
Offshore_wind_PR.pdf	Information is already public and available online
Annual Capital Expenditure 2013 to 2018.xlsx	Information is already public
CapitalCostRecoveryFactor.xlsx	Information is already public
Considerations on the ESM Plan.docx	Information on the file is not CEII or Trade Secret
Existing Units Parameters _1229 2018_V6.1.xlsx	Information on the file is not CEII or Trade Secret
Generation Remaining Life _ Retirement Reason.xlsx	PREPA has already disclosed the information
Plant Average Annual Heat Rate 2013 to 2018.xlsx	PREPA has already disclosed the information
Plant Data and CF 2013 to 2018.xlsx	Contents are already public

[Handwritten signature]

File	Reason
Proposed Capital Expenditures 2019 to 2020.xlsx	Contents are already public
Renewal Dates for Operational Licenses and Permits.xlsx	Contents are already public
Renewal Dates for Operational Permits.xlsx	Contents are already public
Resource Side Workpapers	
Renewable 8760 Profiles 20181024.xlsm	Contents are already public
Report Tables and Graphs.xlsx	Contents are already public
Load Forecast	
Load Forecast by Region PREPA 2018 IRP Base Case Revised 35 pct EE 050319.xlsm	Information on the file is not CEII or Trade Secret
Load Forecast by Region PREPA EE_DG_2018 IRP High Case35 pct EE 050319.xlsm	Information on the file is not CEII or Trade Secret
Load Forecast by Region PREPA EE_DG_2018 IRP Low Case35 pct EE 050319.xlsm	Information on the file is not CEII or Trade Secret
Fuel Forecast	
PREPA Fuel Price Designation (Conversion Cost details)_v2.xlsx	Already available online. The wind data should be removed if it is proprietary. It is unnecessary.
LNG Regas CAPEX-OPEX Estimates.xlsx	Is not CEII or Trade Secret information

The Energy Bureau **ORDERS** PREPA to **further explain or justify why the following information should not be public:**

Table 3. Documents for which further justification is required.

File
Appendix 1
Distribution_Sub_Feeder_v1.1.xlsx
Distribution_Sub_Feeder_v1.xlsx
Mini Grids CapEx Summary 1.22.2019.xlsx
IRP_19_Substation_LoadProcessing_Final.xlsx
MiniGrid VOLL_final.xlsx
MiniGrids CapEx Summary_wPriority_Final.xlsx
Contingency_Analysis_Output_Final.xlsx
"Maps" folder in the Appendix 1 folder (5 files; ITEM 46)
Resource Side Workpapers - 1
PREPA Fossil New Resources 10-9 2018_v6.2.xlsx
PREPA IRP Solar Wind Storage Costs-Updated CF-Wind-final.xlsm
Fuel Forecast
PREPA Fuel Forecast 06032019_FINAL_with formulas.xlsx

File
PREPA Fuel Price Designation (Conversion Cost details)_v2.xlsx
PREPA Fuel Forecast 10232018_Client.xlsx

Although the information in the following files was designated as Confidential, the Energy Bureau **ORDERS** PREPA to provide a summary version of the documents in question that may be designated as nonconfidential:

Table 4. Confidential documents for which a summary version is required.

Resource Side Workpapers
AWS WIND SITES.xlsx
Generic Wind Profiles 20190418 v5.xlsx

The Energy Bureau has not been able to assess the files provided by PREPA that appear to be Aurora modeling files. The Energy Bureau **ORDERS** PREPA to submit such files in a readable format to the Energy Bureau within ten (10) days from the notification date of this Resolution and Order. Once the Energy Bureau receives such files, it will be in a position to evaluate them and assign the required confidential treatment designation.

In accordance with the provisions of the August 31, 2016 Resolution in Case Number CEPR-MI-2016-0009, the Energy Bureau will disclose the information contained in Table 2 within thirty (30) days from the notification date of this Resolution and Order, unless PREPA requests reconsideration, judicial review, or any other remedy it deems appropriate, which will interrupt the referenced thirty-day term.

Any party affected by this determination may move for reconsideration of this Resolution and Order before the Puerto Rico Energy Bureau under Section 11.01 of Regulation 8543, and the provisions of Act 38-2017, known as the Uniform Administrative Procedures Act of the Government of Puerto Rico ("UAPA"). The affected party shall move for reconsideration within the term of twenty (20) days from filing this Resolution and Order. Such request must be presented to the Bureau Clerk's Office, at World Plaza Building, 268 Ave. Muñoz Rivera, Level Ste. 202, San Juan, P.R. 00918, or electronically in the Energy Bureau's digital platform at <https://radicacion.energia.pr.gov/>.

The Energy Bureau shall consider said motion within fifteen (15) days of its filing. Should the Energy Bureau reject it forthright or fail to act upon it within fifteen (15) days, the term to request review shall recommence from notice of such denial, or from the expiration of the fifteen (15)-day term. If a determination is made in its consideration, the term to petition for review shall commence from the date when a copy of the notice of the Energy Bureau's resolution definitively resolving the motion to reconsider is filed in the record. Such resolution shall be issued and filed in the record within ninety (90) days after the motion to reconsider has been filed. If the Energy Bureau accepts the motion to reconsider but takes no action regarding said motion within ninety (90) days of its filing, it shall lose jurisdiction on the motion and the term to file judicial review shall commence upon



the expiration of the ninety (90)-day term, unless the Energy Bureau, ~~for just cause~~ and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.

Any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date the copy of the notice of this Resolution and Order was filed in the record of the Energy Bureau. Under Section 11.03 of Regulation 8543, and the dispositions of the UAPA and the Court of Appeals Regulation.

Be it hereby notified and published.



Edison Avilés Deliz
Chairman



Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on August 27, 2019. I also certify that on August 27, 2019 a copy of this Resolution and Order was notified by electronic mail to: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@aeep.com, c-aquino@prepa.com, mvazquez@diazvaz.law, kbolanos@diazvaz.law, acarbo@edf.org, javier.ruajovet@sunrun.com, pedrosaade5@gmail.com, rmurthy@earthjustice.org, carlos.reyes@ecoelectrica.com, ccf@tcmrslaw.com, victorluisgonzalez@yahoo.com, mgrpcorp@gmail.com, hriviera@oipc.pr.gov, jriviera@cnslpr.com, manuelgabrielfernandez@gmail.com, acasellas@amgprlaw.com, corey.brady@weil.com, maortiz@lvprlaw.com, rnegron@dnlawpr.com, paul.demoudt@shell.com, escott@ferraiuoli.com, agraitfe@agraitlawpr.com, castrodieppalaw@gmail.com, voxpulix@gmail.com, cfl@mcvpr.com, sierra@arctas.com, tonytorres2366@gmail.com, info@liga.coop, amaneser2020@gmail.com.

I sign this in San Juan, Puerto Rico, today August 27, 2019.

Wanda I. Cordero Morales
Clerk