

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

NEPR

Received:

Sep 10, 2019

4:44 PM

IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY INTEGRATED
RESOURCE PLAN

CASE NO. CEPR-AP-2018-0001

SUBJECT: MOTION TO COMPEL
RESPONSES TO DISCOVERY
REQUESTS

Motion By Local Environmental Organizations To Compel PREPA to Respond to
Discovery Requests

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW, Local Environmental Organizations¹, by and through their
legal counsel, to respectfully set forth and pray:

1. Local Environmental Organizations request that the Energy Bureau:
 - a. Issue an Order compelling PREPA to answer Local Environmental Organizations' Discovery Request 1.03, and Local Environmental Organizations' Second Set of Discovery Requests.
 - b. Extend the discovery period by a fair number of days, to make up for time lost due to PREPA's refusal to provide timely answers to intervenors' discovery requests.
 - c. Clarify that the due date for intervenors' pre-filed testimony is October 15, 2019.

¹ Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc. - Enlace Latino de Acción Climática, Comité Yabucoño Pro-Calidad de Vida, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Sierra Club and its Puerto Rico chapter, Mayagüezanos por la Salud y el Ambiente, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., Campamento Contra las Cenizas en Peñuelas, Inc., and CAMBIO Puerto Rico (collectively, “

PREPA's Failure to Respond to Discovery Requests by Local Environmental Organizations

2. Local Environmental Organizations filed their first discovery request on August 4, 2019. PREPA's August 15th response is attached as Exhibit A. Par. 4 of PREPA's response, attached as Exhibit B, states that PREPA's response to Local Environmental Organization's Request 1.03 would be provided through a SharePoint website. PREPA requested that the Energy Bureau grant an extension of time until August 19th to provide the link to that Site. The Energy Bureau never granted that request; therefore PREPA's response to this discovery request is now 26 days overdue.
3. Local Environmental Organizations filed their second discovery request, attached as Exhibit C, on August 26, 2019. PREPA's response was due ten days later, on September 5th.² To date, PREPA has not provided any responses.
4. PREPA's refusal to provide timely discovery responses conflicts with its own objective to provide 'proper opportunities for discovery by the Energy Bureau, its staff and consultants, intervenors, and PREPA... for the proper "testing" of PREPA's ... positions through discovery and opposing testimony, all in order to achieve the best possible outcome for the people of Puerto Rico."³
5. Local Environmental Organizations request an Energy Bureau Order compelling PREPA to respond to Discovery Request 1.03, and Local Environmental Organizations' second set of discovery requests.

The Energy Bureau Should Extend the Discovery Period

1. Citizens of Puerto Rico have a constitutional right to information possessed by PREPA.⁴ PREPA's refusal to provide timely answers to these citizens' questions infringes on this right.
2. To protect this constitutional right, the Puerto Rico Legislature mandates reasonable access to information and broad public participation in Integrated Resource Plan proceedings "[t]ransparency and citizen participation in every process related to electric power service in Puerto Rico shall be

² Under Section II(B) of the Energy Bureau's July 3rd Order, "There will be a ten (10) day term for PREPA to answer all information requests."

³ PREPA's August 1st Motion Regarding Initial Technical Hearing and Procedural Calendar, para. 2.

⁴ *Davila v. Gen'l Supervisor of Elections*, 82 P.R.R. 256, 272 (1960) ("It is not enough merely to recognize the important political justification for freedom of information. Citizens of a self-governing society must possess the legal right to examine and investigate the conduct of its affairs, subject only to those limitations imposed by the most urgent public necessity. This right must be elevated to a position of highest sanctity if it is to constitute an effective bulwark against unresponsive leadership.")

promoted...[e]very [IRP] shall be devised with broad participation from citizens and other interested groups.”⁵. Through the process of passing Law 17-2019, the “Public Energy Policy Law of Puerto Rico,” the Legislature re-examined and then re-affirmed this commitment to transparency. PREPA’s refusal to provide timely discovery answers violates this legislative mandate.

3. During the first Integrated Resource Plan process, the Energy Bureau correctly emphasized the importance of public involvement, stating that interested persons and citizen groups like Local Environmental Organizations play a critical role in “the vital task of assessing the [Integrated Resource Plan].”⁶ The Energy Bureau called on the broader community to assist with this task, and assured the community’s experts that they “would be afforded the necessary information, tools, and opportunities to make their active, timely, informed, and responsible contributions to the [Integrated Resource Plan] assessment process.” *Id.*
4. In accordance with the constitutional rights and statutory rights detailed above, the Energy Bureau afforded intervenors a certain period of time to obtain discovery responses from PREPA. PREPA’s refusal to provide timely answers infringes on those constitutional rights and statutory rights.
5. To make up for the infringement of these rights, Local Environmental Organizations request that the Energy Bureau move the end of the discovery period back by a fair time period.

Clarification of Intervenors’ Deadline for Pre-Filed Testimony

6. The Energy Bureau’s July 3, 2019 Resolution and Order, concerning the Completeness Determination of PREPA’s IRP Filing and Procedural Calendar, determined that “Intervenors will have until October 15, 2019, to file their written testimony”. Attachment A to that Resolution and Order reiterates the October 15, 2019 deadline for Intervenors’ Pre-Filed Testimony.
7. On August 1st, PREPA filed a Motion Regarding Initial Technical Hearing and Procedural Calendar. PREPA noted that the Procedural Calendar’s October 15th deadline for Intervenors’ Pre-Filed Testimony, and did not protest or challenge that date. PREPA did request at least fourteen calendar days for discovery after Intervenors’ testimony was filed.
8. On August 21, 2019, the Energy Bureau issued a Resolution and Order concerning the Initial Technical Hearing, Procedural Calendar and Parties

⁵ 22 L.P.R.A. §§ 1051(o), 1051(hh)

⁶ Order on Public Participation, Intervenors, and Amici Curiae at 2, July 22, 2015, No. CEPR-AP-2015-0002.

Notification Mailing List. The August 21st Resolution and Order rescheduled the Evidentiary Hearing from October to December, and included a 21-day discovery period on Intervenor's Pre-Filed Testimony: but inexplicably listed the deadline for Intervenor's Pre-Filed Testimony as October 8th, rather than October 15th. No reason was given supporting shortening the time for testimony. No party requested that this deadline be moved up.

9. Local Environmental Organizations request that the Bureau clarify that Intervenor's Deadline for Pre-Filed Testimony is still October 15, 2019. If the Bureau still prefers a 21-day discovery period after that testimony is filed, that would certainly fit with the other deadlines in the Procedural Calendar.

WHEREFORE, Local Environmental Organizations request that the Energy Bureau:

- a. Issue an Order compelling responses to Local Environmental Organizations' Discovery Request 1.03, and our Second Set of Discovery Requests.
- b. Extend the discovery period by a fair number of days, to make up for time lost due to PREPA's refusal to provide timely responses.
- c. Clarify that the due date for intervenors' pre-filed testimony is October 15th.

Respectfully submitted,

/s/ Raghu Murthy

Raghu Murthy
Earthjustice

CERTIFICATION OF SERVICE

I hereby certify that on August 26, 2019, I have sent this Second Discovery Request via email to the Energy Bureau, PREPA and the intervenors:

- Energy Bureau (secretaria@energia.pr.gov; wcordero@energia.pr.gov; legal@energia.pr.gov; sugarte@energia.pr.gov)
- PREPA (mvazquez@diazvaz.law; kbolanos@diazvas.law; astrid.rodriguez@prepa.com; jorge.ruiz@prepa.com; n-vazquez@aeepr.com; c-aquino@prepa.com)
- Javier Rúa-Jovet, Sunrun (javier.ruajovet@sunrun.com);
- Carlos A. Reyes and Carlos E. Colón-Franceschi, EcoEléctrica (carlos.reyes@ecoelectrica.com and ccf@tcmrslaw.com);
- Víctor L. González and Marc G. Roumain-Prieto, Grupo Windmar (victorluisgonzalez@yahoo.com, mgrpcorp@gmail.com);
- Hannia B. Rivera-Díaz and Jessica Rivera-Pacheco, Oficina Independiente de Protección al Consumidor (hrivera@oipc.pr.gov, jrivera@cnslpr.com);
- Manuel Fernández-Mejías, Empire Gas Company (manuelgabrielfernandez@gmail.com);
- Alexandra Casellas-Cabrera and Corey Brady, National Public Finance Guarantee (acasellas@amgprlaw.com and corey.brady@weil.com);
- Mariana Ortiz-Colon and Raúl Negrón-Casanovas, Progression Energy (maortiz@lvprlaw.com and rnegron@dnlawpr.com);
- Paul De Moudt, Shell (paul.demoudt@shell.com);
- Eugene Scott-Amy, Wartsila North America (escott@ferraiuoli.com);
- Fernando E. Agrait, Non Profit Intervenors (agraitfe@agraitlawpr.com);
- Renew Puerto Rico (castrodiappalaw@gmail.com, voxpulix@gmail.com);
- Arctas Capital Group (sierra@arctas.com, tonytorres2366@gmail.com);
- SESA-PR & Caribe GE (cfl@mcvpr.com);
- League of Cooperatives of Puerto Rico and AMANESER 2025 (info@liga.coop, amaneser2020@gmail.com)

/s/ Pedro Saadé Lloréns

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/s/ Raghu Murthy

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**COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY BUREAU**

NEPR

Received:

Sep 10, 2019

4:40 PM

**IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY INTEGRATED RESOURCE
PLAN**

CASE NO.: CEPR-AP-2018-0001

**SUBJECT: PETITION TO
INTERVENE**

**FIRST DISCOVERY REQUEST TO PUERTO RICO ELECTRIC POWER
AUTHORITY FROM LOCAL ENVIRONMENTAL ORGANIZATIONS**

Local Environmental Organizations, by and through their legal counsel, hereby submit this First Set of Discovery Requests to Puerto Rico Electric Power Authority ("PREPA"). Please forward responses to the discovery requests below to the undersigned counsel. The General Instructions for these Requests are enclosed as well.

If any document is being withheld or redacted based on a claim of privilege, please also provide a privilege log identifying and justifying with specificity such withholding or redacting.

Responses are to be provided in electronic format please (e.g., text documents should be in the original word processor file format or searchable PDF, data files should be in Excel format in original, electronic, unlocked, Excel Format, where possible, with formulas in-tact).

- 1.1. Please provide all work papers submitted by PREPA to the Energy Bureau in this proceeding. In accordance with Energy Bureau July 3, 2019 Order Section II(B)(3), please provide all work papers in original, electronic, unlocked, Excel format (where possible) with formulas in-tact.
- 1.2. Please provide all discovery responses provided by PREPA to date. As with all discovery requests, this is a continuing request.
- 1.3. Please provide a copy of the USB drive containing PREPA's work papers delivered to the Energy Bureau on June 6, 2019.

GENERAL INSTRUCTIONS

1. Responses are to be provided in electronic format (e.g., text documents should be in the original word processor file format or searchable PDF, data files should be in Excel).
2. If you contend that any response to any discovery request may be withheld under the attorney-client privilege, the attorney work product doctrine or any other privilege or basis, please state the following with respect to each such response in order to explain the basis for the claim of privilege and to permit adjudication of the propriety of that claim:
 - a. The privilege asserted and its basis;
 - b. The nature of the information withheld; and,
 - c. The subject matter of the document, except to the extent that you claim it is privileged.
3. For any document or set of documents PREPA objects to providing to on the grounds it is burdensome or voluminous, please identify the specific document.
4. These discovery requests are to be answered with reference to all information in your possession, custody or control or reasonably available to you. These discovery requests are intended to include requests for information, which is physically within your possession, custody or control as well as in the possession, custody or control of your agents, attorneys, or other third parties from which such documents may be obtained.
5. If any discovery request cannot be responded to or answered in full, answer to the extent possible and specify the reasons for your inability to answer fully.
6. These discovery requests are continuing in nature and require supplemental responses should information unknown to you at the time you serve your responses to these discovery requests subsequently become known.
7. For each response, identify all persons that were involved in the preparation of the answers to the interrogatories below and/or are responsible for compiling and providing the information contained in each answer.
8. Identify which witness(es) at the hearing(s) is competent to adopt and/or discuss the response.
9. Please produce the requested documents in electronic format to the following individuals:

Raghu Murthy rmurthy@earthjustice.org
Pedro Saadé Lloréns pedrosaade5@gmail.com

10. Wherever the response to an interrogatory or request consists of a statement that the requested information is already available to Local Environmental Organizations, provide a detailed citation to the document that contains the

information. This citation shall include the title of the document, relevant page number(s), and to the extent possible paragraph number(s) and/or chart/table/figure number(s).

11. In the event that any document referred to in response to any request for information has been destroyed, specify the date and the manner of such destruction, the reason for such destruction, the person authorizing the destruction and the custodian of the document at the time of its destruction.
12. Local Environmental Organizations reserve the right to serve supplemental, revised, or additional discovery requests as permitted in this proceeding.

Definitions: For the purposes of these data requests, the following definitions shall apply:

1. "Document" means all written, recorded or graphic matters, however produced or reproduced, pertaining in any manner to the subject of this proceeding, whether or not now in existence, without limiting the generality of the foregoing, all originals, copies and drafts of all writings, correspondence, telegrams, notes or sound recordings of any type of personal or telephone communication, or of meetings or conferences, minutes of directors or committee meetings, memoranda, inter-office communications, studies, analyses, reports, results of investigations, reviews, contracts, agreements, working papers, statistical records, ledgers, books of account, vouchers, bank checks, x-ray prints, photographs, films, videotapes, invoices, receipts, computer printouts or other products of computers, computer files, stenographer's notebooks, desk calendars, appointment books, diaries, or other papers or objects similar to any of the foregoing, however denominated. If a document has been prepared in several copies, or additional copies have been made, and the copies are not identical (or which, by reasons of subsequent modification of a copy by the addition of notations, or other modifications, are no longer identical) each non-identical copy is a separate "document."
2. "And" or "or" shall be construed conjunctively or disjunctively as necessary to make the requests inclusive rather than exclusive.
3. The term "you" and "your" refer to PREPA.
4. The term "person" means any natural person, corporation, corporate division, partnership, limited liability company, other unincorporated association, trust, government agency, or entity.
5. The term "regarding" means consisting of, containing, mentioning, suggesting, reflecting, concerning, regarding, summarizing, analyzing, discussing, involving, dealing with, emanating from, directed at, pertaining to in any way, or in any way logically or factually connected or associated with the matter discussed.
6. The singular as used herein shall include the plural and the masculine gender shall include the feminine and the neuter.

8. "Identify" or "identifying" or "identification" when used in reference to a person that is a natural person means to state: the full name of the person and any names under which he conducts business; the current employer of the person, the person's job title and classification, the present or last known work address of the person; and, the present or last known telephone number of the person.
9. "Identify" or "identifying" or "identification" when used in reference to a person other than a natural person means to state: the full name of the person and any names under which it conducts business; the present or last known address of the person; and, the present or last known telephone number of the person.
10. "Identify" or "identifying" or "identification" when used in reference to a document means to provide with respect to each document requested to be identified by these discovery requests a description of the document that is sufficient for purposes of a request to produce or a subpoena duces tecum, including the following:
 - a. the type of document (e.g., letter, memorandum, etc.);
 - b. the date of the document;
 - c. the title or label of the document;
 - d. the Bates stamp number or other identifier used to number the document for use in litigation;
 - e. the identity of the originator;
 - f. the identity of each person to whom it was sent;
 - g. the identity of each person to whom a copy or copies were sent;
 - h. a summary of the contents of the document;
 - i. the name and last known address of each person who presently has possession, custody or control of the document; and,
 - j. if any such document was, but is no longer, in your possession, custody or control or is no longer in existence, state whether it: (1) is missing or lost; (2) has been destroyed; or (3) has been transferred voluntarily or involuntarily, and if so, state the circumstances surrounding the authorization for each such disposition and the date of such disposition.
11. "Identify" or "identifying" or "identification" when used in reference to communications means to state the date of the communication, whether the communication was written or oral, the identity of all parties and witnesses to the communication, the substance of what was said and/or transpired and, if written, identify the document(s) containing or referring to the communication.
12. "Current" when used in reference to time means in the present time of this data request.
13. "Customer" means a person who buys retail electricity on a regular and ongoing basis.
14. "Workpapers" are defined as original, electronic, unlocked, Excel format (where possible) with formulas in-tact.

Glossary of Acronyms Used in Data Requests

“CC” means combined cycle
“CCGT” means combined cycle gas turbine
“C&I” means Commercial and Industrial
“DRNA” means the Puerto Rico Department of Natural and Environmental Resources
“DSM” means Demand Side Management
“EE” means Energy Efficiency
“EM&V” or “EMV” means Evaluation, Measurement, and Verification
“EQB” means the Puerto Rico Environmental Quality Board
“FERC” means Federal Energy Regulatory Commission
“GWh” means gigawatt-hour
“IRP” means Integrated Resource Plan
“LRAM” means Lost Revenue Adjustment Mechanism
“MW” means megawatt
“MWh” means megawatt-hours
“NPV” means net present value
“Protected account” means an account protected from service disconnection.
“RFP” means request for proposal
“S&P” means Standard & Poor’s 500

Respectfully submitted,

/s/ Raghu Murthy
Raghu Murthy
Earthjustice

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

2019 AUG 16 PM 3:09, 2019
4:40 PM

IN RE: Review of the Puerto Rico Electric
Power Authority Integrated Resource Plan

CASE NO.:
CEPR-AP-2018-0001

SUBJECT:

PREPA's Cover Filing and Responses to the
Local Environmental Organizations' 1st Set of
ROIs and Confidentiality Designations

**THE PUERTO RICO ELECTRIC POWER COVER FILING AND RESPONSE TO
LOCAL ENVIRONMENTAL ORGANIZATIONS FIRST SET OF REQUESTS
OF INFORMATION AND CONFIDENTIALITY DESIGNATIONS**

TO THE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority (PREPA) and hereby submits the *Cover Filing and Responses to the Local Environmental Organizations' 1st Set of ROIs and Confidentiality Designations*. This filing relates to the Local Environmental Organizations' "First Discovery Request to [PREPA]" served on PREPA on Sunday, August 4, 2019.

1. The Local Environmental Organizations' 1st set of Request of Information (the "ROI") ROIs consists of three requests. The first and third ROIs state as follows:

1.1. Please provide all work papers submitted by PREPA to the Energy Bureau in this proceeding. In accordance with Energy Bureau July 3, 2019 Order Section II(B)(3), please provide all work papers in original, electronic, unlocked, Excel format (where possible) with formulas in-tact (the "First ROI").

1.3. Please provide a copy of the USB drive containing PREPA's work papers delivered to the Energy Bureau on June 6, 2019 (the "Third ROI", and together herein referenced as the "First and Third RIO").

2. The First and Third ROI ask for copies of materials that PREPA has previously produced and submitted to the Puerto Rico Energy Bureau (the “Energy Bureau”). Therefore, PREPA will not address this request.

3. The First and Third ROI overlap requests for work papers that have already been submitted by PREPA to the Energy Bureau in this case. PREPA’s original versions of the work papers for the June 7, 2019 Integrated Resource Plan were submitted to the Energy Bureau during the week of June 10, 2019. Also, PREPA has submitted a complete replacement set of renamed and reorganized work papers with confidentiality designations on June 28, 2019 to the Energy Bureau.

4. The Third ROI requests that the work papers to be provided on a USB drive. PREPA’s public work papers range in the hundreds. Therefore, PREPA will create a *Sharepoint* site with the public work papers and will provide the Local Environmental Organizations (and other intervenors, when and as applicable), with access to the *Sharepoint* site. PREPA request’s the Energy Bureau to grant an extension of time until August 19, 2019 to create the *Sharepoint* site, upload the documents and notify the corresponding parties and the Energy Bureau that the documents are available. Some of the work papers were designated as confidential by PREPA and the Energy Bureau approved those designations. Therefore, said papers will not be included on the *Sharepoint* site.

5. The second ROI (the “Second ROI”) states as follows:

1.2. Please provide all discovery responses provided by PREPA to date. As with all discovery requests, this is a continuing request.

6. The Second ROI asks for copies of PREPA’s responses to other sets of ROIs. The request to PREPA does not require the appointment of an officer of the corporation to respond to the ROI and, as such, PREPA won’t make such designation for the Second ROI.

7. To date, PREPA has responded to two set of ROIs: the Energy Bureau's 1st and 2nd set of ROIs on August 2, 2019 and August 8, 2019 respectively. The public portion of those responses is available on the Energy Bureau's web site (<http://energia.pr.gov/plan-integrado-de-recursos/>). However, some of the responses were designated as confidential. The Energy Bureau's rulings on those designations are pending. PREPA will act accordingly to the Energy Bureau's request once its ruling on said requests are final¹.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully submits the aforementioned Cover Filing and Responses to the Local Environmental Organizations' 1st Set of Request of Information and Confidentiality Designations and requests an extension of time until August 15, 2019 to create a *Sharepoint* site and produced the aforementioned documents.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 15th day of August 2019.

/s/ Katiuska Bolaños

Katiuska Bolaños
kbolanos@diazvaz.law
TSPR 18888

Maralíz Vázquez
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Fax. (787) 919-7319

¹ PREPA anticipates that it will move the Energy Bureau to designate additional filings as confidential.

CERTIFICATE OF SERVICE

We hereby certify that, a copy of the filing was sent via e-mail to the Energy Bureau Clerk and internal legal counsel to: secretaria@energia.pr.gov; wcardero@energia.pr.gov; legal@energia.pr.gov; and sugarte@energia.pr.gov. A hard copy of the foregoing will be filed with the Clerk of the Energy Bureau tomorrow.

In addition, the foregoing filing was sent via e-mail to the approved or pending intervenors (Arctas, Caribe GE, League of Cooperatives and AMANESER 2025, OIPC, EcoEléctrica, Empire Gas, Environmental Defense Fund, Local Environmental Organizations, National, "Non Profits", Progression, SESA-PR, Renew, Shell, Sunrun, Wartsila, Windmar Group) and amicus (ACONER, AES-PR, RMI) at the following e-mail addresses: sierra@arctas.com, tonytorres2366@gmail.com, cfl@mcvpr.com; gnr@mcvpr.com, info@liga.coop, amaneser2020@gmail.com, hrivera@oipc.pr.gov, jrivera@cnslpr.com, carlos.reyes@ecoelectrica.com, ccf@tcmlslaw.com, manuelgabrielfernandez@gmail.com, acarbo@edf.org, pedrosaade5@gmail.com, rmurthv@earthjustice.org, rstgo2@gmail.com, larroyo@earthjustice.org, jluebke@earthjustice.org, acasellas@amgprlaw.com, loliver@amgprlaw.com, epo@amgprlaw.com, robert.berezin@weil.com, marcia.goldstein@weil.com, jonathan.polkes@weil.com, gregory.silbert@weil.com, agraitfe@agraitlawpr.com, maortiz@lvprlaw.com, rnegron@dnlawpr.com, castrodiéppalaw@gmail.com, voxpathulix@gmail.com, paul.demound@shell.com, javier.ruajovet@sunrun.com, escott@ferraiuoli.com, mgrpcorp@gmail.com, aconer.pr@gmail.com, axel.colon@aes.com, rtorbert@rmi.org.

In San Juan, Puerto Rico, this 15th day of August 2019.

/s/ Katuska Bolaños
Katuska Bolaños

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

NEPR

Received:

Sep 10, 2019

4:40 PM

**IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY INTEGRATED RESOURCE
PLAN**

CASE NO. CEPR-AP-2018-0001

**SUBJECT: SECOND DISCOVERY
REQUEST**

**Second Discovery Request To Puerto Rico Electric Power Authority From
Local Environmental Organizations**

Local Environmental Organizations, by and through their legal counsel, hereby submit this Set of Discovery Requests to Puerto Rico Electric Power Authority ("PREPA"). Please forward responses to the discovery requests below to all attorneys of record by September 5, 2019. The General Instructions for these Requests are enclosed as well.

If any document is being withheld or redacted based on a claim of privilege, please also provide a privilege log identifying and justifying with specificity such withholding or redacting.

Responses are to be provided in electronic format please (e.g., text documents should be in the original word processor file format or searchable PDF, data files should be in Excel format in original, electronic, unlocked, Excel Format, where possible, with formulas in-tact).

1. Provide the input and output files produced from each Aurora modeling run described in the IRP.
2. Provide a copy of the Aurora user guide.
3. Provide the input and output files from each PSSE modeling run described in the IRP.
4. Provide a copy of the PSSE user guide.
5. Provide the input and output files from any modeling run using a modeling platform other than Aurora or PSEE simulating the transmission and/or distribution system upgrades described in the IRP.
6. Refer to IRP p. 8-43, which provides some details of the "levelized cost of customer owned generation." Please provide Siemens' forecasts for the levelized cost of customer owned generation for each year of the IRP planning period. Please also provide the basis for those forecasts, in spreadsheets with all formulas and links intact.

7. Has PREPA conducted a Hosting Capacity Analysis, to determine the amount of customer owned generation that can be accommodated on the island's distribution system?
8. PREPA's IRP scenarios assume 1,176 MW of customer owned generation by 2038.
 - a. Please provide all analysis and workpapers that serve as the basis for that figure, in spreadsheets with all formulas and links intact.
 - b. Did Siemens consider additional scenarios or sensitivities with different forecasts for customer-owned generation?
9. Please refer to IRP p. 6-21: "While standard scale LNG could be delivered from non-U.S. sources such as Trinidad and Tobago, the pricing would be expected to be competitive with U.S.-sourced LNG."
 - a. Provide all non-U.S. sources for LNG, other than Trinidad and Tobago.
 - b. For each of the sources listed in response to (a), provide the basis for Siemens' expectation that this source's pricing would be expected to be competitive with U.S.-sourced LNG, through the planning period of the IRP.
10. Please provide the outage factors for the Aguirre CC units in Fiscal Year 2019.
11. Refer to IRP p. 6-27. Please provide a detailed description of all of the Minimum Technical Requirements for renewable energy projects and storage projects.
12. Did Siemens' Aurora modeling include any waste-to-energy projects?
13. Refer to Exhibit 4-19. Please provide the basis for assumptions for the price conditions shown in this exhibit.
14. Refer to Exhibit 4-20.
 - a. Are each of these units in compliance with all requirements of the Clean Water Act, and any permits issued for these units under the Clean Water Act? If not, please provide a detailed description of each violation.
 - b. Exhibit 4-20 details the units' compliance or noncompliance with the SO₂ EPA designation and whether each is affected by the MATS rule. Are each of these units in compliance with all other requirements of the Clean Air Act, and any permits issued for these units under the Clean Air Act? If not, please provide a detailed description of each violation.
15. See IRP p. 8-46.
 - a. Please provide a detailed description for the process of considering and arriving at each "pre-defined investment decision" in the Energy System Modernization Plan.
 - b. Please provide all documents from the P3 Authority, COR3, and the FOMB that PREPA consulted while considering these pre-defined investment decisions.
16. See IRP p. 4-5. Please provide a detailed description of each of the "pricing structures necessary to retain existing natural-gas fired generation in the south".
17. See IRP p. 5-10. Please provide the basis for Siemens' determination not to consider repowering of existing units, "due to the complications associated with trying to 'recycle' aged infrastructure."
18. See IRP p. 5-11. Please provide all of the figures that Siemens input into the PEACE model, to obtain estimates for capital costs of future generation resources, in spreadsheets with all formulas and links intact.

19. Refer to the statement on IRP p. 5-24, that “The 16% Puerto Rico Overnight Cost Adder factor accounts for island cost premiums relative to “typical” mainland U.S. costs and corresponds to the U.S. Department of Defense Area Cost Factor for Puerto Rico.”
 - a. Please provide each instance where the 16% Puerto Rico Overnight Cost Adder factor was applied to the cost of any item in the IRP.
 - b. For any item in the IRP where the Cost adder was not applied, please provide a detailed description of why the Cost Adder was not applied.
20. Please refer the statement on IRP p. 7-10: “The NFE project is currently under construction, and PREPA is pursuing regulatory authorizations to convert the San Juan 5 and 6 Units to be dual fuel capable.”
 - a. Please provide a detailed description, and the status, of each regulatory authorization PREPA requires to convert the San Juan 5 and 6 units to be dual fuel capable.
21. Please refer to these statements on IRP p. 7-11: “Onshore LNG storage offers advantages and disadvantage compared to ship-based offshore storage (FSU) and/or regasification (FSRU) or regasification. The FSU and FSRU options may require authorization from the Federal Energy Regulatory Commission (FERC), the U.S. EPA, the U.S. Department of Transportation Maritime Administration, the U.S. Coast Guard, local agencies in Puerto Rico.”
 - a. Is PREPA considering an FSU or FSRU as an option for any of its existing or proposed gas-fired plants? If so, please provide the location and a detailed description of each FSU and FSRU being considered.
 - b. Has PREPA begun the process to obtain any the authorizations required for any of these FSUs or FSRUs? If so, please provide a detailed description of the status of each ongoing process.
22. Did Siemens’ forecasting incorporate any assumptions or predictions concerning the Jones Act’s effect on the cost of importing natural gas? If so, please provide a detailed description of each assumption and prediction.
23. Refer to IRP Exhibit 3-34 and the electricity sales forecast from the Fiscal Oversight Management Board at p. 57 of the June 27, 2019 PREPA Fiscal Report.
 - a. Please provide all communications from the Fiscal Oversight Management Board concerning its electricity sales forecast.
 - b. Please provide a detailed description of the reason for the discrepancies between IRP Exhibit 3-34 and the Fiscal Oversight Management Board’s electricity sales forecast.
24. Refer to IRP Exhibit 6-1.
 - a. Please provide all documentation, references and assumptions underlying this table of cost of capital assumptions.
 - b. Please provide CapitalCostRecoveryFator.xlsx.

Refer to these statements on IRP p. 7-21: “In the case of Aguirre and San Juan, a pricing formula equal to 115% of Henry Hub plus \$4.35/MMBtu was used, which reflects a \$2.80 adder for liquefaction, a \$1.00 adder for transport, and a \$0.55 adder for margin. The Mayagüez and Yabucoa plants are assumed to have a similar LNG price structure as San Juan.”

- c. Does the pricing formula include the cost of revaporization? If not, why not?
 - d. Please provide the basis for the pricing formula for Aguirre and San Juan.
 - e. Please provide a justification for the assumption that the Mayagüez and Yabucoa plants will have a similar LNG price structure as San Juan.
25. Refer to the statement on IRP p. 7: “Siemens used an offtaker pricing formula similar to those used by large-scale Gulf Coast LNG offtakers in order to represent the estimated delivered cost to supply gas to Aguirre via AOGP.”
- a. Please provide each of the offtaker pricing formulas used by large-scale Gulf Coast LNG offtakers considered by Siemens.
 - b. Please provide a justification for using a similar offtaker pricing formula for the the estimated delivered cost to supply gas to Aguirre via AOGP.
26. Refer to the statement on IRP p. 7-18: “Accordingly, a recommendation for pursuing one of these Scenarios is reserved pending the completion of the comprehensive review of PREPA’s options using a capacity expansion model that would assess the convenience of installing natural gas generation or converting exiting units as is the case of San Juan 5 & 6 against optimized portfolios that could achieve similar benefits with different sets of resources.”
- a. Has Siemens already conducted any capacity expansion models that assess new gas generation units against portfolios with different sets of resources?
 - b. Please provide a detailed description of how the capacity expansion model in this statement differs from the capacity expansion models already conducted by Siemens?
27. Refer to the statement on IRP p. 4-11: “For EcoEléctrica the gas prices 2022 onwards are assumed to reflect the cost of the commodity, the cost of liquefaction and the cost of transportation only and assume that the long-term contract that EcoEléctrica had for reduced natural gas prices expires.”
- a. Please provide the long-term contract that EcoElectrica has for reduced natural gas prices.
 - b. Please provide the basis for the assumption that this contract will expire before 2022.
 - c. Does Siemens’ assumptions for EcoEléctrica gas prices 2022 onwards include the cost of revaporization? If not, why not?
 - d. Confirm that Siemens’ assumptions for EcoElectrica gas pricess 2022 onwards are based on Henry Hub pricing.
28. Refer to Exhibit 8-22. Do the emissions for the gas-fired units in this table include methane emissions that occur during transport and handling of the fuel from ships to the unit: specifically including revaporization and hoteling?

29. Refer to the sentence on IRP p. 8-45: "San Juan units are subjected to fuel constraints of delivery to San Juan (ship-based fuel constraints for July 2019-June 2024, and land-based LNG constraints from July 2024 through the end of the forecast period." Please provide a detailed description of these constraints.
30. Refer to IRP Exhibits 7-5 and 8-41.
 - a. Why is the "Land-Based LNG at San Juan Port (without pipeline) not represented in Exhibit 7-5?
 - b. Please explain the differences between the two Exhibits in the figures for Max Gas Daily Volume, Max Capacity, and Annualized Capex for Ship-Based LNG at Mayaguez (west) and Ship-Based LNG at Yabucoa (east).
 - c. For each figure that is different, please identify the correct figure.
31. Is PREPA aware of any potential offtakers for natural gas at the San Juan terminal or any other natural gas terminal proposed or under construction by PREPA? If so, provide the contracts, communications, and any other documentation demonstrating a commitment to take natural gas from those projects.
32. Provide the basis for the statement, on IRP p. 10-5 concerning the Palo Seco CCGT proposal, that "January 2025 is also the earliest practical date the unit could be in service."
33. Refer to the statement on IRP p. 10-6, concerning the proposed Mobile Gas Peaking Units: "These new units will be capable of burning containerized natural gas delivered by truck with onsite tankage." For each of the proposed 18 units, please provide the gas import facility that will serve the unit.
34. Please refer to the statement on IRP p. 10-22: "The action plan calls for establishing Demand Response (DR) programs with a goal of over 60 MW of flexibility to the system by 2025." Please provide the basis for the goal of over 60 MW of demand response.
35. Refer to Exhibit 4-25: PREPA Existing Units Subject to MATS. Did Siemens include any assumptions or estimates for consequences of MATS noncompliance, such as penalties or enforcement actions?
36. Refer to statement made at 15:03 of the July 31, 2019 PREPA Board meeting, that PREPA is moving forward with conversion of the Mayaguez units to gas.
 - a. Confirm that this conversion is not part of the IRP Action Plan.
 - b. Please provide a detailed explanation of why PREPA is moving forward with this conversion, even though it is not in the Action Plan.

GENERAL INSTRUCTIONS

1. Responses are to be provided in electronic format (e.g., text documents should be in the original word processor file format or searchable PDF, data files should be in Excel).
2. If you contend that any response to any discovery request may be withheld under the attorney-client privilege, the attorney work product doctrine or any other privilege or basis, please state the following with respect to each such response in order to explain the basis for the claim of privilege and to permit adjudication of the propriety of that claim:
 - a. The privilege asserted and its basis;
 - b. The nature of the information withheld; and,
 - c. The subject matter of the document, except to the extent that you claim it is privileged.
3. For any document or set of documents PREPA objects to providing to on the grounds it is burdensome or voluminous, please identify the specific document.
4. These discovery requests are to be answered with reference to all information in your possession, custody or control or reasonably available to you. These discovery requests are intended to include requests for information, which is physically within your possession, custody or control as well as in the possession, custody or control of your agents, attorneys, or other third parties from which such documents may be obtained.
5. If any discovery request cannot be responded to or answered in full, answer to the extent possible and specify the reasons for your inability to answer fully.
6. These discovery requests are continuing in nature and require supplemental responses should information unknown to you at the time you serve your responses to these discovery requests subsequently become known.
7. For each response, identify all persons that were involved in the preparation of the answers to the interrogatories below and/or are responsible for compiling and providing the information contained in each answer.
8. Identify which witness(es) at the hearing(s) is competent to adopt and/or discuss the response.
9. Please produce the requested documents in electronic format to all attorneys of record.
10. Wherever the response to an interrogatory or request consists of a statement that the requested information is already available to Local Environmental Organizations, provide a detailed citation to the document that contains the information. This citation shall include the title of the document, relevant page number(s), and to the extent possible paragraph number(s) and/or chart/table/figure number(s).
11. In the event that any document referred to in response to any request for information has been destroyed, specify the date and the manner of such

destruction, the reason for such destruction, the person authorizing the destruction and the custodian of the document at the time of its destruction.

12. Local Environmental Organizations reserve the right to serve supplemental, revised, or additional discovery requests as permitted in this proceeding.

Definitions: For the purposes of these data requests, the following definitions shall apply:

1. "Document" means all written, recorded or graphic matters, however produced or reproduced, pertaining in any manner to the subject of this proceeding, whether or not now in existence, without limiting the generality of the foregoing, all originals, copies and drafts of all writings, correspondence, telegrams, notes or sound recordings of any type of personal or telephone communication, or of meetings or conferences, minutes of directors or committee meetings, memoranda, inter-office communications, studies, analyses, reports, results of investigations, reviews, contracts, agreements, working papers, statistical records, ledgers, books of account, vouchers, bank checks, x-ray prints, photographs, films, videotapes, invoices, receipts, computer printouts or other products of computers, computer files, stenographer's notebooks, desk calendars, appointment books, diaries, or other papers or objects similar to any of the foregoing, however denominated. If a document has been prepared in several copies, or additional copies have been made, and the copies are not identical (or which, by reasons of subsequent modification of a copy by the addition of notations, or other modifications, are no longer identical) each non-identical copy is a separate "document."
2. "And" or "or" shall be construed conjunctively or disjunctively as necessary to make the requests inclusive rather than exclusive.
3. The term "you" and "your" refer to PREPA.
4. The term "person" means any natural person, corporation, corporate division, partnership, limited liability company, other unincorporated association, trust, government agency, or entity.
5. The term "regarding" means consisting of, containing, mentioning, suggesting, reflecting, concerning, regarding, summarizing, analyzing, discussing, involving, dealing with, emanating from, directed at, pertaining to in any way, or in any way logically or factually connected or associated with the matter discussed.
6. The singular as used herein shall include the plural and the masculine gender shall include the feminine and the neuter.

8. "Identify" or "identifying" or "identification" when used in reference to a person that is a natural person means to state: the full name of the person and any names under which he conducts business; the current employer of the person, the person's job title and classification, the present or last known work address of the person; and, the present or last known telephone number of the person.
9. "Identify" or "identifying" or "identification" when used in reference to a person other than a natural person means to state: the full name of the person and any names under which it conducts business; the present or last known address of the person; and, the present or last known telephone number of the person.
10. "Identify" or "identifying" or "identification" when used in reference to a document means to provide with respect to each document requested to be identified by these discovery requests a description of the document that is sufficient for purposes of a request to produce or a subpoena duces tecum, including the following:
 - a. the type of document (e.g., letter, memorandum, etc.);
 - b. the date of the document;
 - c. the title or label of the document;
 - d. the Bates stamp number or other identifier used to number the document for use in litigation;
 - e. the identity of the originator;
 - f. the identity of each person to whom it was sent;
 - g. the identity of each person to whom a copy or copies were sent;
 - h. a summary of the contents of the document;
 - i. the name and last known address of each person who presently has possession, custody or control of the document; and,
 - j. if any such document was, but is no longer, in your possession, custody or control or is no longer in existence, state whether it: (1) is missing or lost; (2) has been destroyed; or (3) has been transferred voluntarily or involuntarily, and if so, state the circumstances surrounding the authorization for each such disposition and the date of such disposition.
11. "Identify" or "identifying" or "identification" when used in reference to communications means to state the date of the communication, whether the communication was written or oral, the identity of all parties and witnesses to the communication, the substance of what was said and/or transpired and, if written, identify the document(s) containing or referring to the communication.
12. "Current" when used in reference to time means in the present time of this data request.
13. "Customer" means a person who buys retail electricity on a regular and ongoing basis.
14. "Workpapers" are defined as original, electronic, unlocked, Excel format (where possible) with formulas in-tact.

Glossary of Acronyms Used in Data Requests

“CC” means combined cycle
“CCGT” means combined cycle gas turbine
“C&I” means Commercial and Industrial
“DRNA” means the Puerto Rico Department of Natural and Environmental Resources
“DSM” means Demand Side Management
“EE” means Energy Efficiency
“EM&V” or “EMV” means Evaluation, Measurement, and Verification
“EQB” means the Puerto Rico Environmental Quality Board
“FERC” means Federal Energy Regulatory Commission
“GWh” means gigawatt-hour
“IRP” means Integrated Resource Plan
“LRAM” means Lost Revenue Adjustment Mechanism
“MW” means megawatt
“MWh” means megawatt-hours
“NPV” means net present value
“Protected account” means an account protected from service disconnection.
“RFP” means request for proposal
“S&P” means Standard & Poor’s 500

Respectfully submitted,

/s/ Raghu Murthy
Raghu Murthy
Earthjustice

CERTIFICATION OF SERVICE

I hereby certify that on August 26, 2019, I have sent this Second Discovery Request with the following intervenors:

- Javier Rúa-Jovet, Sunrun (javier.ruajovet@sunrun.com);
- Carlos A. Reyes and Carlos E. Colón-Franceschi, EcoEléctrica (carlos.reyes@ecoelectrica.com and ccf@tcmrslaw.com);
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- Hannia B. Rivera-Díaz and Jessica Rivera-Pacheco, Oficina Independiente de Protección al Consumidor (hrivera@oipc.pr.gov, jrivera@cnslpr.com);
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- Alexandra Casellas-Cabrera and Corey Brady, National Public Finance Guarantee (acasellas@amgprlaw.com and corey.brady@weil.com);
- Mariana Ortiz-Colon and Raúl Negrón-Casanovas, Progression Energy (maortiz@lvprlaw.com and rnegron@dnlawpr.com);
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