

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:** Resolution granting AES Motion  
for Change or Status to Intervenor.

**RESOLUTION**

On July 3, 2019, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a *Resolution and Order* in the instant case regarding the Integrated Resource Plan ("IRP") filed by the Puerto Rico Electric Power Authority ("PREPA") on June 7, 2019 ("July 3 Resolution and Order").<sup>1</sup> Through the July 3 Resolution and Order, the Energy Bureau also established the Procedural Calendar for the instant case, stating that all petitions to intervene or to appear as *Amicus Curiae* must be filed by August 2, 2019.<sup>2</sup> Through the August 21, 2019, *Resolution and Order* ("August 21 Resolution and Order") the Energy Bureau established the current procedural calendar. The August 21 Resolution and Order did not alter the deadline to submit petitions to intervene or to appear as *Amicus Curiae*.

On August 1, 2019, AES – Puerto Rico, LP ("AES-PR") filed a document titled *Moción en Solicitud de Autorización para comparecer como Amicus Curiae*, requesting participation as *Amicus Curiae* in the instant case ("AES Petition"). Upon review of the AES Petition, the Energy Bureau issued a *Resolution* on the same day, in which it determined that AES-PR met the requirements set forth in Regulation No. 8543<sup>3</sup> and Sections 3.5 and 3.6 of Act 38-2017,<sup>4</sup> **thus granting the petition to participate as *Amicus Curiae*.**

On September 18, 2019, AES-PR filed a document titled *Motion for Change of Status to Intervenor* ("AES Motion"). AES-PR argues that if the "request to intervene is not granted, [AES-PR] would not be able to participate in these proceedings in a manner afforded to those entities that possess interests that may be affected by the Energy Bureau's final decision".<sup>5</sup>

<sup>1</sup> See Resolution and Order, Completeness Determination of PREPA's IRP Filing and Procedural Calendar, Case No. CEPR-AP-2018-0001, *In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, July 3, 2019.

<sup>2</sup> *Id.*, p. 7.

<sup>3</sup> *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures*, December 18, 2014.

<sup>4</sup> *Uniform Administrative Procedures Act of the Government of Puerto Rico*, as amended.

<sup>5</sup> AES Petition, p. 3 ¶8.

AES-PR further argues that “[a]bsent intervention, AES-PR has limited and inadequate means of protecting its economic interests in the proceedings” and that “AES-PR’s current status as *amicus curiae* limits its participation”.<sup>6</sup> AES-PR recognizes that the “deadline set by the Energy Bureau to intervene has elapsed”<sup>7</sup> but argues that “[g]iven the early stages of this proceeding, no prejudice to any participant will occur from granting a change in status from *amicus curiae* to *intervener*”.<sup>8</sup>

Section 3.5 of Act 38-2017 states that any person that has a legitimate interest in an adjudicative procedure may submit a duly substantiated request to intervene in said procedure, and that the administrative agency may grant or deny said request taking into consideration the following factors:

- (a) That the petitioner’s interest may be adversely affected by the adjudicative procedure;
  - (b) That there are no other legal means for the petitioner to adequately protect his interest.
  - (c) That the petitioner’s interest is already adequately represented by the parties to the proceedings.
  - (d) That the petitioner’s participation can reasonably help prepare a more complete record of the procedure.
  - (e) That the petitioner’s participation may unduly extend or delay the procedure.**
  - (f) That the petitioner represents or is a spokesperson for other groups or entities of the community.
  - (g) That the petitioner may provide information, expertise, specialized knowledge or technical advice that would not be otherwise available in the procedure.
- (Emphasis supplied)

In the AES Motion, AES-PR addressed each of the aforementioned factors.<sup>9</sup> Moreover, the Energy Bureau recognizes that, as established by the Puerto Rico Supreme Court, a party with a legitimate interest may file a petition to intervene at any point during an adjudicative proceeding, in order to afford said party reasonable opportunity to defend its interests against an administrative determination that may adversely affect it.<sup>10</sup> Furthermore, the

---

<sup>6</sup> *Id.*, p. 4 ¶9.

<sup>7</sup> *Id.*, p. 4 ¶12.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*, pp. 3 – 4, ¶¶6 – 11.

<sup>10</sup> *Comisión de Ciudadanos al Rescate de Caimito v. G.P. Real Property S.E.*, 173 D.P.R. 998, 1010 (2008).



Puerto Rico Supreme Court has established that the aforementioned factors should be liberally applied in order to comply with the public policy of allowing public participation.<sup>11</sup>

Upon review of the AES Motion, the Energy Bureau **DETERMINES** that AES-PR meets the requirements set forth Section 3.5 of Act 38-2017 to allow its intervention in the instant case. Notwithstanding, it is important to point out that, in setting the current procedural calendar, the Energy Bureau balanced the requirement of allowing ample participation in the IRP review process, and the public interest of establishing an IRP in a timely manner, in order to ensure the energy sector transformation mandated by Act 120-2018<sup>12</sup> and Act 17-2019.<sup>13</sup> Since AES-PR has been fully aware of the procedural calendar in the instant case, the Energy Bureau will not consider any requests to modify or extend the current procedural calendar due to AES-PR's intervention. Similarly, the Energy Bureau will not grant any remedies associated with AES-PR's intervention that will unduly extend or delay these proceedings.

Therefore, the Energy Bureau **GRANTS** AES-PR petition to change its status from *Amicus Curiae* to intervenor. The Energy Bureau **FOREWARNS** that the procedural calendar adopted through the August 21 Resolution and Order will not be altered or modified due to AES-PR's late intervention.

Any party affected by this determination may move for reconsideration of this Resolution before the Puerto Rico Energy Bureau under Section 11.01 of Regulation 8543, and Act 38-2017. The affected party shall move for reconsideration within the term of twenty (20) days from filing this Resolution. 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 the 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

<sup>11</sup> *Id.*

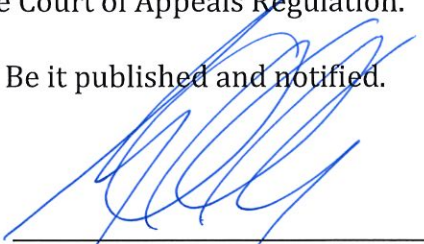
<sup>12</sup> *The Puerto Rico Electric Power System Transformation Act*, as amended.

<sup>13</sup> *The Puerto Rico Energy Public Policy Act*.

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 was filed in the record of the Energy Bureau. Under Section 11.03 of Regulation 8543, and Act 38-2017 and the Court of Appeals Regulation.

Be it published and notified.



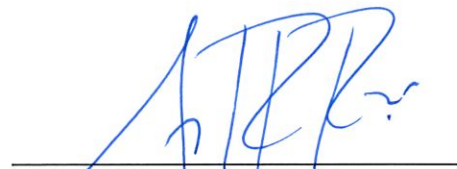
---

Edison Avilés Deliz  
Chairman



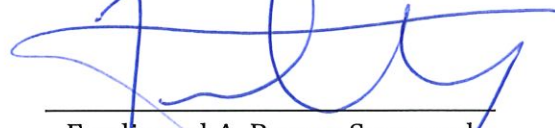
---

Lillian Mateo Santos  
Associate Commissioner



---

Ángel R. Rivera de la Cruz  
Associate Commissioner



---

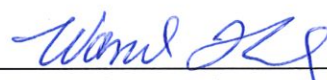
Ferdinand A. Ramos Soegaard  
Associate Commissioner



## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 23, 2019. I also certify that on September 23, 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, jrivers@cnspr.com, manuelgabrielfernandez@gmail.com, acasellas@amgprlaw.com, corey.brady@weil.com, maortiz@lvprlaw.com, rnegrón@dnlawpr.com, paul.demoudt@shell.com, escott@ferraiuoli.com, agraitfe@agraitlawpr.com, castrodieppalaw@gmail.com, voxpopulix@gmail.com, cfl@mcvpr.com, sierra@arctas.com, tonytorres2366@gmail.com, info@liga.coop, amaneser2020@gmail.com, mpietranтони@mpmlawpr.com, apagan@mpmlawpr.com.

I sign this in San Juan, Puerto Rico, today September 23, 2019.

  
\_\_\_\_\_  
Wanda I. Cordero Morales  
Clerk