

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



**IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY RATE REVIEW**

**CASE NO.:** CEPR-AP-2015-0001; NEPR-AP-  
2018-0003

**SUBJECT:** Request for Confidential  
Designation, Administrative Fine and  
Compliance Monitoring Hearings.

**RESOLUTION AND ORDER**

**I. Request for Confidential Designation of Filed Documents**

On September 13, 2019, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Request for Confidential Designation of Attachments to the Motion to Submit Proposed Factors for the Period of October to December 2019 and Public Lighting Report* ("September 13 Motion"). Through the September 13 Motion, PREPA requested confidential treatment for several Excel spreadsheets<sup>1</sup> submitted in native form with original formulas, calculations and procedures. Furthermore, PREPA filed a public version of the aforementioned spreadsheets which contained input values only (*i.e.*, the information was provided; however the formulas were removed).

On September 20, 2019, PREPA filed before the Energy Bureau a document titled *Request for Confidential Designation of Attachments to the Motion to Submit Additional Reconciliations (August 2019) for the Determination of Factors for the Period of October to December 2019* ("September 20 Motion"). Through the September 20 Motion, PREPA submitted additional information pertaining to the reconciliation corresponding to the month of August 2019, supplementing the information filed through the September 13 Motion. Additionally, PREPA requested confidential treatment to the updated spreadsheets,<sup>2</sup> and filed a public version of said spreadsheets which also contained input values only.

<sup>1</sup> The Excel spreadsheets filed with the September 13 Motion are as follows: (i) Ingresos mensuales 2020 (21062019).xlsx; (ii) OCT-DEC 2019 FACTORS.xlsx; (iii) Public Lighting adjustment.xlsx; and (iv) Summary of Adjustment Clauses May-June-July 2019 REV.xlsx.

<sup>2</sup> The Excel spreadsheets filed with the September 20 Motion are as follows: (i) Ingresos mensuales 2020 (21062019).xlsx; (ii) OCT-DEC 2019 FACTORS – including August 2019 Reconciliation.xlsx; (iii) Public Lighting adjustment.xlsx; and (iv) Summary of Adjustment Clauses May-June-July-August 2019.xlsx.

In its Motions, PREPA requested the same remedy regarding confidential treatment designation, as granted through the July 2, 2019 Resolution in the instant case.<sup>3</sup>



Upon review of PREPA's arguments, the Energy Bureau **GRANTS** confidential designation to the documents filed and listed in the September 13 Motion and the September 20 Motion. The non-confidential files, which contain and show the same information as the confidential files, do not contain formulas or otherwise protected information. As such they will be made part of the public file of the instant case, upon the issuance of this Resolution and Order.

## II. Administrative Fine

On September 13, 2019, the Energy Bureau issued a Resolution and Order ("September 13 Order") through which, among other things, (i) denied PREPA's request to transfer the August 2019 reconciliation to the next quarterly period; (ii) ordered PREPA to attend a Technical Hearing on September 17, 2019; and (iii) warned PREPA that non-compliance with the September 13, 2019 deadline for the quarterly filing for the factors that would be in effect from October 1, 2019 to December 31, 2019 would result in the imposition of a daily fine in the amount of five thousand dollars (\$5,000).<sup>4</sup>

During the September 17, 2019 Technical Conference, the Energy Bureau granted PREPA until September 20, 2019 to file the reconciliation for the month of August 2019.<sup>5</sup> Furthermore, the Energy Bureau determined to defer the fine imposed in the September 13 Order until PREPA submitted the required information on September 20, 2019.<sup>6</sup>

On September 20, 2019, PREPA filed a document titled *Motion to Submit Additional Reconciliations (August 2019) for the Determination of Factors for the Period of October to December 2019* ("September 20 Filing"). Upon review of the September 20 Filing, on September 25, 2019, the Energy Bureau issued a Resolution and Order ("September 25 Order") through which it determined that the documents filed by PREPA did not comply with the Energy Bureau requirements. In general, the September 20 Filing included documents with cells blacked out, information presented as input values instead of having formulas

<sup>3</sup> See Resolution, PREPA's Motion to Make Confidentiality Designations for June 19 and 21 Filings Supporting Documents, Case No. CEPR-AP-2015-0001, July 2, 2019.

<sup>4</sup> The Energy Bureau established that for the purpose of the fine, a day was defined as a period of twenty-four hours, or part thereof, starting at 5:30 p.m. of a given day (September 13, 2019) and ending at 5:29:59 p.m. the next day.

<sup>5</sup> At 10:38 p.m. on September 13, 2019, PREPA filed a document titled *Motion to Submit Proposed Factors for the Period of October to December 2019 and Public Lighting Report* ("September 13 Second Motion"). With this Motion PREPA filed the proposed factors for the months of October to December 2019, excluding the reconciliation for the month of August 2019.

<sup>6</sup> See Technical Hearing Recording, Conferencia Técnica CEPR-AP-2015-0001; NEPR-AP-2018-0003 pt. 3, Youtube, at minutes 10:05 – 10:40.





intact and with no reference sources provided, among other things. Furthermore, through the September 25 Order, the Energy Bureau ordered PREPA to file the required additional information on September 26, 2019.

Through the aforementioned procedural incidents, PREPA misled the Energy Bureau by stating that the documents filed contained all formulas intact.<sup>7</sup> Furthermore, said actions put at risk the evaluation and approval of the quarterly factors, and the timely implementation of such factors on October 1, 2019. PREPA has been made aware that the quarterly filings of the rider reconciliations are a vital component of the implementation of PREPA's permanent rate. Moreover, since this is an ongoing process, PREPA should eliminate errors in the filed information and avoid unnecessary delays in submittals. Instead, PREPA changed, once again, the format in which it presents the required information and provided incomplete files that did not comply with the Energy Bureau's orders.

Based on the above, the Energy Bureau **MODIFIES** the fine imposed in the September 13 Order and **IMPOSES** a one-time fine in the amount of five thousand dollars (\$5,000) based on PREPA's late filings and noncompliance with the information required to be submitted as part of the quarterly filings. PREPA is **ORDERED** to pay the aforementioned fine with the Energy Bureau's Clerk, within fifteen (15) days of the notification of this Resolution and Order. Finally, the Energy Bureau **ORDERS** PREPA to, **on or before 12:00 p.m., October 10, 2019**, show cause for which the documents and information provided with the September 26, Motion shall not be made part of the public docket of the instant case.

### III. Compliance Monitoring Hearings

The approved Tariff Book requires PREPA to submit to the Energy Bureau the quarterly rider factor reconciliation filings on or before the end of the second week of the third month of each quarter. During the September 17, 2019 Technical Hearing, PREPA discussed the current internal procedures for said quarterly filings. PREPA recognized that it has not adjusted them to comply with the quarterly filings deadlines established in PREPA's Tariff Book.

In order to ensure that PREPA takes the necessary steps to improve its internal procedures towards achieving compliance with the quarterly filings deadlines established in PREPA's Tariff Book, PREPA must appear at a monthly Compliance Monitoring Hearing to inform the Energy Bureau on its proposed plan to achieve such compliance, including the progress made during the month prior to each hearing. The Compliance Monitoring Hearings will be held at the Energy Bureau's Hearing Room, located at World Plaza Building, 268 Muñoz Rivera Ave, Eight Floor, San Juan, Puerto Rico on the following dates:

<sup>7</sup> Although expressly asked by the Commissioners during the September 17, 2019 Technical Conference, none of the PREPA representatives present at the Technical Conference clarified that the September 13 Second Motion filing was deficient as its confidential attachments did not include the native format with its formulas intact. See Technical Hearing Recording, Conferencia Técnica CEPR-AP-2015-0001; NEPR-AP-2018-0003 pt. 3, Youtube, at minutes 10:50 – 12:25.



1. October 30, 2019 at 9:00 a.m.;
2. November 21, 2019 at 9:00 a.m.; and
3. December 13, 2019 at 9:00 a.m.

The Energy Bureau **ORDERS** PREPA to appear at said Compliance Monitoring Hearings. All personnel responsible for the preparation of the quarterly filings and/or involved in the improvement of the aforementioned internal procedures **MUST** attend the Compliance Monitoring Hearings **and MUST** be available to provide testimony under oath. PREPA shall submit copies of any presentations, project timelines or information to be used or presented at the Compliance Monitoring Hearings at least three (3) working days before each of the corresponding hearings.

Be it notified and published.



Edison Avilés Deliz  
Chairman



Angel 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 October 7, 2019. I also certify that on October 7, 2019 a copy of this Resolution and Order was notified by electronic mail to the following:

astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@prepa.com, n-ayala@prepa.com, c-aquino@prepa.com, j-morales@prepa.com, hriviera@oipc.pr.gov, maribel.cruz@acueductospr.com, pga@caribe.net, jfeliciano@constructorespr.net, nydinmarie.watlington@cemex.com, epenergypr@gmail.com, aconer.pr@gmail.com, glenn.rippie@r3law.com, john.ratnaswamy@r3law.com, michael.guerra@r3law.com, pnieves@vnblegal.com, abogados@fuerteslaw.com, jorgehernandez@escopr.net, ecandelaria@camarapr.net, agraitfe@agraitlawpr.com, francisco.rullan@aae.pr.gov, mgrpcorp@gmail.com, manuelgabrielfernandez@gmail.com, mmuntanerlaw@gmail.com, licenciadamasferrer@gmail.com, kbolanos@diazvaz.law and wilma.lopez@aae.pr.gov. I also certify that today, October 7, 2019, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and I have sent a true and exact copy to the following:





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For the record, I sign this in San Juan, Puerto Rico, today October 7, 2019.

  
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Sonia Seda Gaztambide  
Interim Clerk

