

GOVERNMENT OF PUERTO RICO
PUERTO RICO ENERGY BUREAU

JHSR - SECRETARIA
NEGOCIADO DE ENERGIA
DE PUERTO RICO

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IN RE:

Request for Approval of Amended and Restated
Power Purchase and Operating Agreement with
EcoEléctrica and Natural Gas Sale and Purchase
Agreement with Naturgy

CASE NO.: NEPR-AP-2019-0001

SUBJECT: Petition to Intervene

PETITION OF ECOELÉCTRICA, L.P. TO INTERVENE

Petitioner EcoEléctrica, L.P. ("EcoEléctrica"), by and through its attorneys at Toro Colón Mullet, P.S.C., respectfully submits this Petition to Intervene in the above-captioned proceeding pursuant to Section 5.05 of Regulation No. 8543-2014¹ and Sections 3.5 and 3.6 of Act No. 38-2017.² In support thereof, EcoEléctrica respectfully states as follows:

On November 27, 2019, the Puerto Rico Energy Bureau (the "Bureau") issued a Resolution and Order in connection with the Petition for Approval of Amended and Restated Power Purchase and Operating Agreement with EcoEléctrica (the "Petition") submitted on November 5, 2019 by the Puerto Rico Electric Power Authority ("PREPA").³ The Bureau denied PREPA's Petition without prejudice, concluding that the Agreement is "contrary to the public interest."⁴ The Bureau

¹ See Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures, Regulation No. 8543, § 5.05 (Dec. 18, 2014).

² See Uniform Administrative Procedures Act of the Government of Puerto Rico, Act No. 38-2017, P.R. Laws Ann. tit. 3, §§ 9645-9646.

³ See PREB Resolution and Order re: Request for Approval of Amended and Restated Power Purchase and Operating Agreement with EcoEléctrica and Natural Gas Sale and Purchase Agreement with Naturgy, Case No. NEPR-AP-2019-0001 (Nov. 27, 2019).

⁴ *Id.* at 12.

also granted PREPA leave to refile its Petition once it issued a final decision regarding PREPA's Integrated Resource Plan ("IRP") proceeding in Case No. CEPR-AP-2018-0001.⁵

EcoEléctrica respectfully submits that it is an interested party and its intervention in this proceeding is necessary to protect its immediate and long-term business relationship with PREPA. EcoEléctrica's participation in this docket will contribute to the development of a more complete record and will assist the Bureau in its eventual determination regarding PREPA's motion for reconsideration.

Pursuant to Section 3.5 of Act No. 38-2017, a petition to intervene is evaluated based on the following factors, to wit: (i) whether the petitioner's interest might be adversely affected by the proceeding; (ii) whether there are other means in law for the petitioner to adequately protect its interest; (iii) whether the petitioner's interest is already adequately represented by the parties to the proceeding; (iv) whether the petitioner's participation can assist in preparing a more complete agency record of the proceeding; (v) whether the petitioner's participation will excessively delay the proceeding; (vi) whether the petitioner represents or speaks for the interests of other groups or entities; and (vii) whether the petitioner may provide unique information, expertise, or technical advice in the proceeding. *See* P.R. Laws Ann. tit. 3, § 9645. The Bureau shall apply these factors "liberally." *Id.* As will be discussed below, these factors support according EcoEléctrica full rights as an intervening party in the above-captioned proceeding.

Factors 1 – 3: EcoEléctrica's Substantial Interest in the Proceeding

The first three factors concern the nature of a petitioner's interest in the proceeding. For the last 20 years, EcoEléctrica has been party to a power-purchase and operating agreement with

⁵ *Id.*

PREPA that accounts for nearly seventeen percent of the electric energy production in Puerto Rico and provides LNG Terminal Services to PREPA Costa Sur Power Plant that accounts for nearly sixteen percent additional electric energy production in Puerto Rico. This proceeding relates to the review of PREPA's request to renew and extend said agreement for a ten-year period. The integrity of the Bureau's review process is therefore of the utmost importance to EcoEléctrica and its ability to continue providing PREPA with clean, safe and reliable energy. EcoEléctrica's interest in this proceeding cannot be overstated – the approval of the Petition will directly impact its immediate and long-term business operations. Thus, it is critical that EcoEléctrica be afforded an opportunity to be heard and reply to the Bureau's findings.

As the first independent power generator to be part of the Puerto Rico's electrical system, EcoEléctrica has an integral interest in PREPA's operations, including PREPA's generation mix and facilities, its related capital expenditures and costs, and other operational matters that may be substantially affected by the Bureau's review process in this proceeding. EcoEléctrica represents a substantial and important share of stable generation for PREPA and, therefore, for Puerto Rico. Its intervention in this proceeding is necessary to protect its own interests, but also the interests of all other stakeholders who benefit from, and depend on, the continuous and stable generation of power provided by EcoEléctrica.

EcoEléctrica's has no alternative means to protect its interest other than intervening in this proceeding. This matter relates to how PREPA will achieve its long-term objectives like obtaining financial viability, promoting resiliency and sustainability, and fueling economic growth. It involves strategic choices for PREPA, and as such EcoEléctrica—a key energy provider for PREPA—respectfully submits that it is uniquely situated such that no other party would adequately represent its interest in PREPA's long-term success in this proceeding.

Factors 4 and 7: EcoEléctrica's Ability to Assist with the Proceeding

Factors 4 and 7 relate to whether a petitioner can assist with the proceeding by contributing technical information, expertise, or advise. EcoEléctrica respectfully submits that its participation will be useful and insightful and will thereby assist the Bureau in the development of a thorough record in this proceeding. If allowed to intervene, EcoEléctrica will draw upon the extensive experience it has gained over the years from participating in other Bureau proceedings related to PREPA. EcoEléctrica's unique expertise and industry knowledge would positively benefit the Bureau's review process and its development of a complete record. Hence, these factors support granting EcoEléctrica's Petition to Intervene.

Factor 5: EcoEléctrica Will Not Delay the Proceeding

The fifth factor concerns whether a petitioner's intervention would excessively delay the proceeding. EcoEléctrica will submit any filings in accordance with the schedule established by the Bureau. Hence, EcoEléctrica's intervention will not unduly delay the instant proceeding.

Factor 6: EcoEléctrica's Interest Aligns with the Public Interest

The last factor relates to whether a petitioner will act as a spokesperson for other groups or entities in the community. As the premier natural gas power generation company in Puerto Rico, EcoEléctrica shares the general interest of other stakeholders in the energy sector and the public at large in having a well-run, viable, and reliable utility that drives sustainable economic growth. That is precisely why EcoEléctrica seeks to intervene in this proceeding—to assist in the operation of an effective, stable and reliable electrical system for all stakeholders. Thus, EcoEléctrica's interest here aligns with the public interest in the instant proceeding.

WHEREFORE, EcoEléctrica respectfully requests that the Bureau: (i) grant EcoEléctrica leave to intervene and grant it full rights as an intervening party in the above-captioned proceeding;

(ii) serve all notices and copies of pleadings, orders, docket entries, and other communications and documents regarding this proceeding upon the undersigned counsel at the address provided; and

(iii) grant any other relief that the Bureau deems just and proper.

CERTIFICATE OF SERVICE

I hereby certify that, on this same date, a true and accurate copy of this document has been notified via electronic means to NITZA D. VÁZQUEZ RODRÍGUEZ (n-vazquez@prepa.com), ASTRID I. RODRÍGUEZ CRUZ (astrid.rodriquez@prepa.com), KATIUSKA BOLAÑOS (kbolanos@diazvaz.law) and JORGE R. RUIZ PABÓN (jorge.ruiz@prepa.com) of the Puerto Rico Electric Power Authority.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 16th day of December 2019.

TORO COLÓN MULLET, P.S.C.

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