

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 and Order to modify  
the procedural calendar of the instant  
case; and to announce the Puerto Rico  
Energy Bureau's Requirement of  
Information No. 10.

RESOLUTION AND ORDER

I. Introduction and Analysis

On November 27, 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 *The Puerto Rico Electric Power Authority Responses to the Puerto Rico Energy Bureau Ninth Requirement of Information* ("November 27 Compliance Filing"). In the November 27 Compliance Filing, PREPA included the answers to the Energy Bureau's Ninth Requirement of Information ("ROI #9"). On December 6, 2019, PREPA filed before the Energy Bureau a document titled *The Puerto Rico Electric Power Authority Additional Responses to the Puerto Rico Energy Bureau Ninth Requirement of Information* ("December 6 Supplement"), through which it provided additional responses to ROI #9 and supplemented the November 27 Compliance Filing, PREPA.

As part of its responses to ROI #9, PREPA stated:

EcoEléctrica was assumed to remain in service **considering the conditions stated in the contract renegotiation underway** the (sic) is expected to result in the extension of the operation of this plant. The new contract includes reduced capacity prices and delivered costs of LNG gas to EcoEléctrica and Costa Sur. The restated PPOA is negotiated to start on January 1st, 2020 and the term of the PPOA will be extended to Sept 30, 2032.

After expiration of the PPOA in 2032, capacity payments (FOM and Demand Charges) are modeled to be reduced to 33% of the re-negotiated capacity payments. This amount will cover at least the fixed operation and maintenance costs of the LNG terminal serving EcoEléctrica and the fixed operational cost of the plant. It is also assumed that PREPA will be charged

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the VOM costs of a typical CCGT post 2032. The program was free to retire the plant after 2032.<sup>1</sup>

On the other hand, on November 5, 2019, PREPA filed before the Energy Bureau a document titled *Request for Approval of Amended and Restated Power Purchase Agreement with EcoEléctrica and Natural Gas Sale and Purchase Agreement with Naturgy; Request for Confidential Treatment of its Letter and Accompanying Attachments* ("Petition"), under Case No. NEPR-AP-2019-0001.<sup>2</sup> In its Petition, PREPA requested the Energy Bureau to, pursuant to Section 7.1 of Regulation 8815<sup>3</sup>, review and approve an Amended and Restated Power Purchase and Operating Agreement between EcoEléctrica, L.P. ("EcoEléctrica") and PREPA, and an Amended and Restated Natural Gas Sale and Purchase Agreement between Naturgy Aprovevisionamientos, S.A. ("Naturgy") and PREPA, (together the "Agreements").<sup>4</sup> PREPA also requested the Energy Bureau to treat the Petition and its attachments as confidential documents.<sup>5</sup>

On November 27, 2019, the Energy Bureau issued a Resolution and Order in Case No. NEPR-AP-2019-0001 ("November 27 Resolution and Order"), addressing PREPA's Petition in which it held:

For the reasons stated herein, the Energy Bureau **DETERMINES, without prejudice**, that **at this time**, the proposed Agreements are contrary to the public interest. The Energy Bureau **GRANTS PREPA leave to refile its Petition** after the Energy Bureau issues a Final Resolution regarding the proposed Integrated Resource Plan ("IRP") that is pending approval. The Energy Bureau is currently evaluating a proposed IRP filed by PREPA on June 7, 2019, as part of the docket of the case, *In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001.

With respect to PREPA's arguments regarding the confidentiality of the Petition, as filed (*i.e.*, unredacted version), the Energy Bureau **GRANTS** PREPA's request for confidential designation and treatment of the Petition and its attachments. The Energy Bureau **ORDERS** PREPA to submit, within

<sup>1</sup> December 6 Supplement, p. 7. Emphasis supplied.

<sup>2</sup> 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.

<sup>3</sup> *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet*, October 11, 2016.

<sup>4</sup> Petition, p. 1.

<sup>5</sup> *Id.*, pp. 19-20.





fifteen (15) days of the notification date of this Resolution and Order, redacted versions of the Petition and its attachments.<sup>6</sup>

To that effect, the majority of the Energy Bureau established that:

In order to determine whether the Agreements are economic or consistent with the Proposed IRP, **additional analysis will be required that mirrors that of the analysis performed as part of the IRP evaluation process.** Therefore, if additional information was to be requested under the present case, the Energy Bureau would effectively create a process parallel to the IRP evaluation process. This parallel process will evaluate assets (*i.e.* EcoEléctrica, a possible Combined Cycle Unit in the same general location and any other effects in the electric system) that are also under evaluation in the IRP process. Since the same type of analysis and model runs are used on both processes, there will be a duplicated investment of resources and efforts. In addition, there is a high risk that such parallel analyses would yield different or inconsistent results. **As such, and, given the advanced stages of the IRP evaluation process, as discussed below, this review properly belongs in the IRP proceeding.**<sup>7</sup>

The majority of the Energy Bureau also determined that “in the absence of a robust analysis of the Agreements’ terms across different scenarios, as such scenarios are described in the Proposed IRP, and the fact that the Proposed IRP is still under the Energy Bureau’s consideration, we cannot determine that the Agreements are consistent with the Proposed IRP.”<sup>8</sup> Moreover, as established in the November 27 Resolution and Order, the Agreement’s terms were not analyzed as part of the first IRP approval process.<sup>9</sup> The Energy Bureau approved the first IRP through the Final Resolution and Order of September 23, 2016, in Case No. CEPR-AP-2015-0002.<sup>10</sup>

It is important to note that the Agreement’s terms have not been considered as part of the analysis of the new proposed IRP in the instant case. Therefore, given that the Agreement’s terms were not considered in the currently approved IRP and given that the evidentiary hearings for the evaluation of the proposed new IRP are imminent, the Energy Bureau finds that it is appropriate to review the Agreement’s terms as part of the evaluation

<sup>6</sup> Resolution and Order, Case No. NEPR-AP-2019-0001, November 27, 2019, pp. 2 – 3. Emphasis in the original.

<sup>7</sup> *Id.*, pp. 8 – 9. Emphasis in the original.

<sup>8</sup> *Id.*, p. 9.

<sup>9</sup> November 27 Resolution and Order, p. 7.

<sup>10</sup> Final Resolution and Order on the First Integrated Resource Plan of the Puerto Rico Electric Power Authority, *In Re: Integrated Resource Plan for the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2015-0002, September 23, 2016.



process of the proposed IRP. This is especially important due to the changed circumstances in the last several years such as the impacts of Hurricanes Irma and Maria, the approval of the new renewable portfolio standard and the rescission of consideration of the Aguirre Offshore Gas Port, all of which significantly impact the assumptions used in the analysis of the Approved IRP.<sup>11</sup>

Therefore, the Energy Bureau, deems necessary to perform additional analysis regarding the Agreement's terms in the context of the proposed IRP. To that effect, one of the main benefits of the IRP process is that it can provide confidence that the resource chosen are the best, least-cost options, and are consistent with the public interest as articulated in the law.

It is important to note that, as presented in Case No. NEPR-AP-2019-0001, PREPA evaluated the Agreements' terms under only one IRP case.<sup>12</sup> This analysis also included one sensitivity regarding another gas-fired asset. However, this single case analysis is not sufficient to determine the Agreements are consistent with the proposed IRP or that they remain economic across a variety of scenarios and circumstances.

Based on the above, the Energy Bureau will issue today its Requirement of Information No. 10 to PREPA and **ORDERS** PREPA to provide its answers **on or before January 15, 2020**.

## II. Revised Procedural Calendar

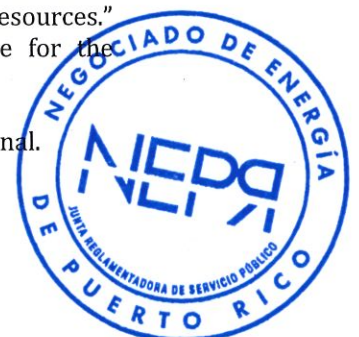
Based on the need to analyze the Agreements' terms as part of the IRP evaluation process, the Energy Bureau **MODIFIES** as follows the procedural calendar in the instant case:

<sup>11</sup> To that effect, on March 14, 2018, the Energy Bureau issued a Resolution and Order ("March 14 Resolution and Order") through which it initiated the current proceeding, ahead of the three-year IRP periodical review schedule, as permitted by Section 6B(h)(i) of Act 83 of May 2, 1941, as amended, known as *The Puerto Rico Electric Power Authority Act*. In the March 14 Resolution and Order the Energy Bureau expressed:

The [Energy Bureau] finds that a review of PREPA's existing IRP (the February 17 Modified IRP) prior to the three-year term established in Act 83 and Act 57-2014 is warranted **in order to determine the effects of hurricanes Irma and María may have had on Puerto Rico's resource needs and determine whether any proposed update, revision or modification is necessary** to mitigate "substantial changes in demand or group resources." Accordingly, the [Energy Bureau] hereby establishes the applicable timeline for the submission of an updated IRP for [Energy Bureau] review.

March 14 Resolution and Order, pp. 3 – 4. Emphasis supplied, quotation marks in the original.

<sup>12</sup> See November 27 Resolution and Order, p. 8, n. 20.

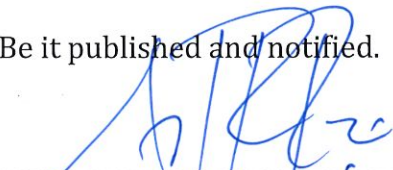






Date	Phase
December 11, 2019	Intervenor's Supplemental Written Testimony
December 20, 2010	<i>Amicus Curiae</i> Brief Due
December 20, 2019	Rebuttal Testimony to Intervenor's Written Testimony Due
January 15, 2020	PREPA's response to ROI #10
January 29, 2020	Intervenors' Supplemental Written Testimony on PREPA's answers to ROI #10
February 3 - 7, 2020	Evidentiary Hearing (The Energy Bureau may modify the duration at its discretion)
February 11, 2020	Public Hearing
February 21, 2020	Final Substantive and Legal Briefs Due
March 2, 2020	Reply to Legal Briefs Due
March 2, 2020	Public Comments Due

Through the October 29, 2019 Resolution and Order in the instant case, the Energy Bureau allowed parties to provide, on or before December 11, 2019, Supplemental Written Testimony regarding the responses to the pending Requirements of Information ("ROI"), received until October 31, 2019 and the responses to the Energy Bureau's ROI #9.<sup>13</sup> Said deadline remains unaltered. However, as shown in the procedural calendar above, all parties can submit additional Supplemental Written Testimony, **on or before January 29, 2020**, which shall be based **only** on PREPA's responses to ROI #10. Any Supplemental Testimony, or part thereof, that is not based on the above shall be deemed not filed.

Be it published and notified.

  
 Angel R. Rivera de la Cruz  
 Associate Commissioner

  
 Lillian Mateo Santos  
 Associate Commissioner

  
 Ferdinand A. Ramos Soegaard  
 Associate Commissioner


<sup>13</sup> Resolution and Order, Energy Efficiency Assessment, Procedural Calendar and AES-PR Requirement of Information, Case No. CEPR-AP-2018-0001, October 29, 2019, p. 2.




## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 13, 2019. Chairman Edison Avilés Deliz dissented with a written opinion. I also certify that on December 13, 2019 a copy of this Resolution 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, sproctor@huntonak.com, agraitfe@agraitlawpr.com, cfl@mcvpr.com, sierra@arctas.com, tonytorres2366@gmail.com, info@liga.coop, amaneser2020@gmail.com, mpietrantoni@mpmlawpr.com, apagan@mpmlawpr.com.

I sign this in San Juan, Puerto Rico, today December 13, 2019.

  
Wanda I. Cordero Morales  
Clerk





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-2019-0001

**SUBJECT:** Resolution and Order to modify the procedural calendar of the instant case; and to announce the Puerto Rico Energy Bureau's Requirement of Information No. 10 and to modify the procedural calendar.

**CHAIR EDISON AVILES DELIZ, dissenting**

**I. Introduction**

On November 5, 2019, the Puerto Rico Electric Power Authority ("PREPA") submitted a petition ("Petition") to the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") seeking the review and approval of modifications to its existing power purchase agreement with EcoEléctrica L.P. ("EcoEléctrica") as well as the gas sale purchase agreement with Naturgy Aprovevisionamientos S.A. ("Naturgy").<sup>1</sup> The Energy Bureau identified the matter initiated by PREPA as Case No. NEPR-AP-2019-0001.

On November 27, 2019, the majority of the Energy Bureau issued a Resolution and Order in Case No. NEPR-AP-2019-0001 ("November 27 Resolution and Order"), addressing the Petition in which it held that:

*[f]or the reasons stated herein, the Energy Bureau **DETERMINES, without prejudice, that at this time, the proposed Agreements are contrary to the public interest. The Energy Bureau GRANTS PREPA leave to refile its Petition** after the Energy Bureau issues a Final Resolution regarding the proposed Integrated Resource Plan ("IRP") that is pending approval. The Energy Bureau is currently evaluating a proposed IRP filed by PREPA on June*

<sup>1</sup> PREPA attached to the Petition a proposed power purchase and operating agreement entitled *Amended and Restated Power Purchase and Operating Agreement between Ecoeléctrica, L.P. and the Puerto Rico Electric Power Authority* ("Proposed PPOA"), as well as a gas sale and purchase agreement entitled *Amended and Restated Natural Gas Sale and Purchase Agreement between Naturgy Aprovevisionamientos S.A. and the Puerto Rico Electric Power Authority* ("Proposed GSPA"). The Proposed PPOA and the Proposed GSPA are collectively referred to as the "Proposed Agreements".



7, 2019, as part of the docket, In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001.

With respect to PREPA's arguments regarding the confidentiality of the Petition, as filed (i.e., unredacted version), the Energy Bureau **GRANTS** PREPA's request for confidential designation and treatment of the Petition and its attachments. The Energy Bureau **ORDERS** PREPA to submit, within fifteen (15) days of the notification date of this Resolution and Order, redacted versions of the Petition and its attachments.<sup>2</sup>

I dissented from the Energy Bureau's majority November 27 Resolution and Order. In my Dissenting Opinion, I clearly stated that:

**...it is my position that the PREB must require additional information from PREPA in the current procedure to be able to evaluate in depth PREPA's Petition.** To be specific, among other things, the PREB must be certain of the intention of the parties expressed in Section 23 of the Proposed PPOA. Analysis of Section 23 of the Proposed PPOA is crucial to determine if the applicable law resides within local or federal statutes. If federal law is applicable, then the PREB can, as a matter of state law, once and for all, evaluate which methodology properly defines the utility's (PREPA's) avoided cost. Once the avoided cost is defined, the PREB will be able to decide if the Proposed Agreements, are just and reasonable, and in the public interest. On the other hand, if local law applies, and given that the petition to amend the existing agreement was made on November 5, 2019, then the PREB must evaluate PREPA's Petition using the Approved IRP. Doing otherwise, as the PREB's majority pretends, has no basis or support on any applicable law, **and denies the battered PREPA's customer the possibility of having an immediate reduction in its electric bill, a reduction badly needed, and which does not depend on access to, public, private nor federal funds.**<sup>3</sup> (Emphasis in the original).

On November 27, 2019, PREPA filed before the Energy Bureau a document titled *The Puerto Rico Electric Power Authority Responses to the Puerto Rico Energy Bureau Ninth Requirement of Information* ("November 27 Compliance Filing"). In the November 27 Compliance Filing, PREPA included the answers to the Energy Bureau's Ninth Requirement of Information ("ROI #9").

On December 6, 2019, PREPA filed before the Energy Bureau a document titled *The Puerto Rico Electric Power Authority Additional Responses to the Puerto Rico Energy Bureau Ninth Requirement of Information* ("December 6 Supplement"), through which it provided

<sup>2</sup> Resolution and Order, Case No. NEPR-AP-2019-0001, November 27, 2019, pp. 2-3.

<sup>3</sup> Chair Edison Avilés-Deliz, dissenting opinion, Case No. NEPR-AP-2019-0001, November 27, 2019, pp. 10-11.





additional responses to ROI #9 and supplemented the November 27 Compliance Filing, PREPA.

As part of its responses to ROI #9, PREPA stated:

*EcoEléctrica was assumed to remain in service considering the conditions stated in the contract renegotiation underway the (sic) is expected to result in the extension of the operation of this plant. The new contract includes reduced capacity prices and delivered costs of LNG gas to EcoEléctrica and Costa Sur. The restated PPOA is negotiated to start on January 1st, 2020 and the term of the PPOA will be extended to Sept 30, 2032.*

*After expiration of the PPOA in 2032, capacity payments (FOM and Demand Charges) are modeled to be reduced to 33% of the re-negotiated capacity payments. This amount will cover at least the fixed operation and maintenance costs of the LNG terminal serving EcoEléctrica and the fixed operational cost of the plant. It is also assumed that PREPA will be charged the VOM costs of a typical CCGT post 2032. The program was free to retire the plant after 2032.<sup>4</sup>*

On December 9, 2019, in Case No. NEPR-AP-2019-0001, PREPA filed before the Energy Bureau a document titled *Request for Reconsideration of Resolution and Order on Denial without Prejudice of Approval of Amended and Restated Power Purchase and Operating Agreement with Ecoelectrica and Natural Gas Sale and Purchase Agreement with Naturgy* ("December 9 Filing"). In its December 9 Filing, PREPA requested PREB to:

4  
*...reconsider its Resolution and Order and determine that the Agreements have been approved given PREB's failure to evaluate on the merits within the time frame required by law. PREB had the ministerial duty to evaluate and approve the Agreements submitted by PREPA within the 30-day period established in paragraph (e) of Section 6.32. As discussed above, nothing in Section 6.32 of Act 57-2014 as amended limited PREB's duty to evaluate the Agreement before final Approval of the modified IRP. PREB had the responsibility to evaluate whether the transaction was in accordance with the Puerto Rico Energy Public Policy and not inconsistent with the IRP. The approval of the Agreements is in the best interest of the Public given their compliance with the energy public policy, their consistency with the current and modified IRP and their compatibility with the penetration of renewables as required by Act 17-2019.<sup>5</sup>*

The December 9 Filing is pending before the Energy Bureau and, the applicable terms to entertain or deny the reconsideration petition have not elapsed as of today.

<sup>4</sup> December 6 Supplement, p. 7.

<sup>5</sup> December 9 Filing, pp. 13-14.





## II. Analysis

As part of the majority Resolution and Order in the instant case, they cited the following paragraph from the November 27 Resolution and Order:

*In order to determine whether the Agreements are economic or consistent with the Proposed IRP, additional analysis will be required that mirrors that of the analysis performed as part of the IRP evaluation process. Therefore, if additional information was to be requested under the present case, the Energy Bureau would effectively create a process parallel to the IRP evaluation process. This parallel process will evaluate assets (i.e. EcoEléctrica, a possible Combined Cycle Unit in the same general location and any other effects in the electric system) that are also under evaluation in the IRP process. Since the same type of analysis and model runs are used on both processes, there will be a duplicated investment of resources and efforts. In addition, there is a high risk that such parallel analyses would yield different or inconsistent results. As such, and, given the advanced stages of the IRP evaluation process, as discussed below, this review properly belongs in the IRP proceeding.<sup>6</sup>*

In my dissenting Opinion I clearly stated that

*...Section 6.32 of Act 57-2014, as amended by Act 17-2019, requires PREB to evaluate a petition and decide on it as a standalone process taking into consideration the approved integrated resource plan at the moment the petition is made. According to Section 6.32 (e) PREB has thirty (30) days to act but allows for an extension of up to ninety (90) days, for a total of one hundred twenty days (120) for the whole analysis and determination.<sup>7</sup><sup>8</sup>*

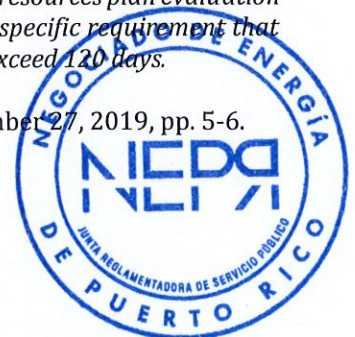
On the other hand, the majority Resolution and Order in the instant case also cited the following paragraph from the November 27 Resolution and Order:

*...in the absence of a robust analysis of the Agreements' terms across different scenarios, as such scenarios are described in the Proposed IRP, and the fact that the Proposed IRP is still under the Energy Bureau's consideration, we cannot determine that the*

<sup>6</sup> *Id.*, pp. 8–9.

<sup>7</sup>The statutory language of Section 6.32 of Act 57-2014, as amended by Act 17-2019 is plain and simple, establishing an evaluation and approval process that the PREB must follow. Such process is clearly intended to be conducted within a time frame not to exceed 120 days. If the PREB does not issue a determination within such time frame, a proposed agreement must be considered as approved. One may argue that the evaluation of a proposed agreement pursuant to Section 6.32 may be conducted as part of an integrated resources plan evaluation procedure, as the majority determined in this case. However, that does not escape the specific requirement that the evaluation and approval (or denial) must be concluded within a time frame not to exceed 120 days.

<sup>8</sup> Chair Edison Avilés-Deliz, dissenting opinion, Case No. NEPR-AP-2019-0001, November 27, 2019, pp. 5-6.





Agreements are consistent with the Proposed IRP."<sup>9</sup> Moreover, as established in the November 27 Resolution and Order, the Agreement's terms were not analyzed as part of the first IRP approval process.<sup>10</sup> The Energy Bureau approved the first IRP through the Final Resolution and Order of September 23, 2016, in Case No. CEPR-AP-2015-0002.<sup>11, 12</sup>

The majority further argues that:

*[i]t is important to note that the Agreement's terms have not been considered as part of the analysis of the new proposed IRP in the instant case. Therefore, given that the Agreement's terms were not considered in the currently approved IRP and given that the evidentiary hearings for the evaluation of the proposed new IRP are imminent, the Energy Bureau finds that it is appropriate to review the Agreement's terms as part of the evaluation process of the proposed IRP. This is especially important due to the changed circumstances in the last several years such as the impacts of Hurricanes Irma and Maria, the approval of the new renewable portfolio standard and the rescission of consideration of the Aguirre Offshore Gas Port, all of which significantly impact the relevance of the current IRP."*<sup>13</sup>

In this respect and related to the cited paragraphs and the majority's argument, it is a fact that the Proposed Agreements' terms are amendments to an existing contract, consequently, they are not being considered in the current or proposed IRP yet, and neither they were considered in the Approved IRP. That was what PREPA asked the Energy Bureau to address in its November 5, 2019 petition. According to 6.32 (a) of Act 57-2014, it is the Energy Bureau duty to evaluate and approve all agreements between electric power service companies, including independent power producers, before the execution thereof. On the other hand, Section 6.32 (d) of Act 57-2014 specifically states that the Energy Bureau must:

*(d) In evaluating every proposal for an agreement between electric power service companies, the Energy Bureau **shall take into account the provisions of the integrated resource plan. The Energy Bureau shall not approve an agreement that is inconsistent with the Integrated Resource Plan,** particularly in all that pertains to renewable energy, distributed generation,*

<sup>9</sup> *Id.*, p. 9.

<sup>10</sup> November 27 Resolution and Order, p. 7.

<sup>11</sup> *Final Resolution and Order on the First Integrated Resource Plan of the Puerto Rico Electric Power Authority, In Re: Integrated Resource Plan for the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2015-0002, September 23, 2016.*

<sup>12</sup> Resolution and Order, Case No. CEPR-AP-2018-0001, December 13, 2019, p. 3.

<sup>13</sup> *Id.*, pp. 3-4.





*conservation and efficiency goals established in the integrated resource plan as well as in the Energy Public Policy. (Emphasis supplied).*

The majority agrees, and I concur with them, that is necessary to perform additional analysis regarding the Proposed Agreements' terms, however, I strongly disagree with the majority's course of action. Article 6.32 language is unambiguous and clearly delineates a 30-day time frame<sup>14</sup> within which the Energy Bureau must issue a final determination, or if needed, request additional information to perform an in-depth analysis of the proposal.

Related to "the changed circumstances in the last several years such as the impacts of Hurricanes Irma and Maria, the approval of the new renewable portfolio standard and the rescission of consideration of the Aguirre Offshore Gas Port, all of which significantly impact the relevance of the current IRP"<sup>15</sup>, cited by the majority as a reason to not evaluate and issue a final determination on PREPA's petition in Case No. NEPR-AP-2019-0001 within the 30-day time frame, it is worth noting because such circumstances were not a deterrent to the Energy Bureau to decide in Case CEPR-AI-2018-0001. On the contrary, in Case CEPR-AI-2018-0001, the majority expressed:

*the Energy Bureau recognized in the Resolution and Order, due to the conditions of the electric system in the aftermath of the Hurricanes and the critical role of the electric service in the economic development of the Island, it is reasonable that until the new IRP is approved, the Energy Bureau does not remain inert in front of certain beneficial initiatives that do not have a significant impact on the Approved IRP while simultaneously promotes the electric system sustainable development in the long term."*<sup>16</sup> (emphasis supplied).

4 Along this line, even the dissenting opinion in Case CEPR-AI-2018-0001 recognized the value of the approved IRP after Hurricanes Irma and Maria and the rescission of consideration of the Aguirre Offshore Gas Port. In his dissenting opinion, Commissioner Rivera de la Cruz expressed that: *I reiterate my position that the proposed conversion of San Juan Units 5 and 6 is an implicit modification of the Approved IRP..."*<sup>17</sup> He further elaborated in his opinion, he stated: *...[s]ince the conversion of San Juan Units 5 and 6 is not consistent with the Approved IRP, it follows that the proposed contract for implementation of such conversion cannot be consisted with it."*<sup>18</sup> (emphasis supplied).

<sup>14</sup> Similar time frame was adopted in section 5(g) of Act 120-2018 as amended by Act 17-2019. It is evident that is the Legislature's intention in both Acts that the Energy Bureau acts promptly with the proposals evaluations in order to achieve the badly needed transformation of the Puerto Rico's electrical system.

<sup>15</sup> Resolution and Order, Case No. NEPR-AP-2018-0001, December 13, 2019, p. 4.

<sup>16</sup> Resolution and Order, Case No. CEPR-AI-2018-0001, January 25, 2019, p. 6.

<sup>17</sup> Associate Commissioner Angel R. Rivera de la Cruz, dissenting opinion, CEPR-AI-2018-0001, January 25, 2019, p. 2

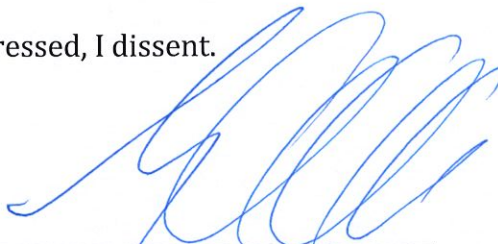
<sup>18</sup> *Id.*





It is my position that the Energy Bureau must not issue the Requirement of Information No. 10, neither order PREPA to provide its answers to it until Case NEPR-AP-2019-0001 reconsideration is addressed, and the Energy Bureau's decision becomes final. Doing otherwise will be a duplicated investment of resources and efforts and will extend even more the Procedural Calendar in the instant case.

For all the reasons expressed, I dissent.



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Edison Avilés-Deliz  
Chair

In San Juan, Puerto Rico, on December 13, 2019.

