

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

SECRETARIA
COMISION DE ENERGIA DE
PUERTO RICO

'18 NOV 21 P3:14

IN RE: REVIEW OF THE PUERTO
RICO ELECTRIC POWER
AUTHORITY INTEGRATED
RESOURCE PLAN

NO. CEPR-AP-2018-0001

SUBJECT: PREPA'S Informative
Motion Responding to ICSE's Motion

PREPA'S INFORMATIVE MOTION RESPONDING TO ICSE'S MOTION

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") and respectfully submits to the honorable Puerto Rico Energy Bureau (the "Energy Bureau")¹, in compliance with the Energy Bureau's Order of October 30, 2018, PREPA's response to the Puerto Rico Economic Competitiveness and Sustainability Institute's ("ICSE") Motion of October 5, 2018. The Energy Bureau should take no action based on the ICSE October 5th Motion because the motion is based on factual and conceptual errors. In support of its response, PREPA states as follows:

1. This response timely complies with the Energy Bureau's October 30th Order.

2. In brief, the ICSE's October 5th Motion was a reaction to: (a) PREPA's September 26, 2018, Informative Motion regarding the timeline for the integrated resource plan ("IRP") filing; and (b) the Energy Bureau's September 28, Resolution and Order directing PREPA to provide by October 13, 2018, a proposed timeline for the IRP. The ICSE expressed concern about whether, if the due date for the IRP were to be

¹ All references herein to the Energy Bureau include the former Puerto Rico Energy Commission, when applicable.

extended, PREPA might make decisions and/or enter into contracts or other actions that might limit the effectiveness of the IRP and limit the role of the Bureau in relation to the IRP. ICSE also asserted concern that PREPA in the IRP is considering "options which, we understand, were already rejected by the Energy Bureau (from PREC), like the AGOP [sic] and others".

3. The ICSE's Motion rests on numerous factual and conceptual errors.

- a. First, the ICSE's Motion confuses including a project, such as the Aguirre Offshore Gasport ("AOGP") project,² as a *sensitivity* in the IRP analysis with *proposing* that project. They are not the same thing at all. The IRP, at its current stage, is an analysis, not a proposal. AOGP is just one of numerous sensitivities being studied in some scenarios of the IRP.
- b. Second, there has been an extraordinarily transparent process to define what will and will not be studied in the IRP analysis. That process has included the Energy Bureau's Reg. No. 9021, the extensive IRP stakeholder processes conducted by PREPA and its IRP consultant Siemens PTI, and the three IRP technical conferences held by the Energy Bureau and the resulting Bureau orders.
- c. Third, the Energy Bureau, in its Regulation and its processes and orders in this docket, has never objected to, much less barred, the inclusion of AOGP as a sensitivity in the IRP analysis. Rather, the

² PREPA assumes that, by "AGOP", the ICSE Motion meant AOGP.

Bureau, through its orders, effectively has approved and required the inclusion of AOGP as a sensitivity.

- d. Fourth, the Energy Bureau never "rejected" the AOGP project. In the 2015 IRP case, the Energy Bureau did not make a final decision on the AOGP project and instead opened a new docket, the Aguirre Site Economic Analysis case, to consider further what to approve for the Aguirre site. In the 2015 Rate Review, the Energy Bureau did not make a final decision on the AOGP project but did authorize up to \$15 million incremental dollars to be spent on the AOGP project and certain related items through certain stages. In the Aguirre Site Economic Analysis case, the Bureau ultimately dismissed the case "without prejudice".
- e. Fifth, the ICSE's Motion, apart from AOGP, does not identify any other "option" that PREPA is "considering" that the Energy Bureau previously allegedly rejected.
- f. Sixth, even if the Energy Bureau had rejected the AOGP or some other "option", that would not prohibit AOGP or the other option being considered as a sensitivity in the current IRP analysis.
- g. Finally, PREPA has not yet developed, much less proposed and filed, an Action Plan that includes any project, much less the AOGP project or any other supposedly "rejected" project in particular

4. With respect to contracts in general, PREPA notes that it is subject to multiple layers of review and approval for significant contracts. Those layers of

regulation include, within the particular jurisdictions and scopes defined by the applicable statutes, regulations, and orders: (a) the Governor's November 8, 2017, Executive Order No. OE-2017-066 that delegated certain receivership powers to the Fiscal Agency and Financial Advisory Authority ("AAFAF") regarding PREPA contracting and contract review and approval and that created the Office for Contract and Procurement Compliance ("OCPC"), both effective immediately; (b) the Financial Oversight and Management Board's November 6, 2017, policy on review of contracts; (c) the Energy Bureau's authority relating to approval of new power purchase agreements and of certain other kinds of contracts under Act 57-2014; (d) the authority of the Public Private Partnership Authority over partnership contracts under Acts 83-1951, 57-2014, 29-2009, and 120-2018; (e) regulations of the Federal Emergency Management Administration ("FEMA") regarding use of FEMA funds; and (f) the authority of the court in the PROMESA "Title III" case.

5. Therefore, for all of the above reasons, the ICSE's Motion lacks merit and the Energy Bureau should take no action based on the Motion.

6. Moreover, the ICSE's Motion also is moot, in any event, subject to one possible new development. On October 15, 2018, PREPA submitted to its compliance filing with a new timeline including an IRP filing date of January 21, 2019. On November 6, 2018, the Energy Bureau issued a Resolution and Order finding PREPA's compliance filing to be complete and changing the due date for the IRP filing to January 21, 2019. Thus, the extension of the IRP timeline about which ICSE was concerned already has occurred.

7. However, even if the ICSE's Motion technically were to be not moot, that would not change that the Motion lacks merit.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully requests that the honorable Puerto Rico Energy Bureau take no action based on the ICSE Motion.

RESPECTFULLY SUBMITTED,

IN SAN JUAN, PUERTO RICO, THIS 20TH DAY OF NOVEMBER, 2018

PUERTO RICO ELECTRIC POWER AUTHORITY



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CERTIFICATION OF FILING AND SERVICE

I hereby certify that on November 20, 2018, I have filed the above Informative Motion with the Puerto Rico Energy Bureau, and on that same date was sent via email to the Clerk via email to secretaria@energia.pr.gov and mcintron@energia.pr.gov, and to the office of the Energy Bureau's internal legal counsel via email to legal@energia.pr.gov and sugarte@energia.pr.gov. The Informative Motion, as a courtesy, also has been emailed to the ICSE's counsel at agraitefe@agrailawpr.com, although the ICSE is not yet an intervenor in this docket.



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