

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 on Not for Profit  
Intervenor's Request for Reconsideration.

**RESOLUTION**

On December 23, 2019, the Not for Profit Intervenor filed with the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") two documents titled *Motion Submitting Supplemental Testimony* and the *Motion Submitting Response of Dr. Eric C. Woychik*. On December 26, 2019, the Puerto Rico Electric Power Authority ("PREPA") filed a document titled *Motion to Strike Written Testimonies* ("Motion to Strike"). In its Motion to Strike, PREPA argued, among other things, that the Not for Profit Intervenor's *Motion Submitting Response of Dr. Eric C. Woychik* were untimely filed. As such, PREPA requested the Energy Bureau to strike from the record both motions.

On January 15, 2020, the Energy Bureau issued an Order granting the Not for Profit Intervenor a term of five (5) days to show cause as to why the motions filed on December 23, 2019, should not be stricken from the record. Such term expired on January 21, 2020. The Not for Profit Intervenor did not comply with the January 15, 2020 Order. On January 27, 2020, the Energy Bureau issued an Order ("January 27 Order") through which it removed from the administrative record of the instant case the *Motion Submitting Supplemental Testimony* and the *Motion Submitting Response of Dr. Eric C. Woychik*.

On January 29, 2020, the Not for Profit Intervenor filed a document titled *Motion for Reconsideration*. In its Motion for Reconsideration, the Not for Profit Intervenor argued that they prepared a motion to be filed in compliance with the January 15, 2020 Order ("Draft Motion") but due to a clerical error, such motion was not filed with the Energy Bureau.<sup>1</sup> The Not for Profit Intervenor included the Draft Motion as an attachment to the Motion for Reconsideration and requested that it be accepted as reply to the original order.<sup>2</sup>

The deadline to comply with the January 15, 2020 Order was January 21, 2020. The Not for Profit Intervenor did not comply with such deadline nor did they file the Draft Motion as a standalone motion in the instant case. Therefore, the Energy Bureau cannot accept such Draft Motion as a reply to the January 15, 2020 Order. Notwithstanding the above, since the Draft Motion was submitted as an attachment to the Motion for

<sup>1</sup> Motion for Reconsideration, pp. 1 – 2, ¶ 2 – 3.

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

Reconsideration, the Energy Bureau will construe the arguments contained therein as being part of the Motion for Reconsideration.

In the Draft Motion, the Not for Profit Intervenor argue that they filed the *Motion Submitting Response of Dr. Eric C. Woychik* as a response to PREPA's *Discovery of the Puerto Rico Electric Power Authority on the Written Testimony Submitted by the Not-for-Profit Intervenor*, dated November 13, 2019 ("PREPA's ROI").<sup>3</sup> On the *Motion Submitting Response of Dr. Eric C. Woychik*, the Not for Profit Intervenor stated that they included with its motion, "the supplemental response of the expert witness Eric Woychik, Senior Vice President, Willdan."<sup>4</sup> Although this statement is vague and could be construed as a submission of additional testimony, the attachment included in the motion specifically states that it is the "Response of Dr. Eric C. Woychik to Discovery of the Puerto Rico Electric Power Authority on the Written Testimony Submitted by the Not-for-Profit Intervenor."<sup>5</sup>

Moreover, the attachment to the *Motion Submitting Response of Dr. Eric C. Woychik* contained a transcription of PREPA's ROI and the corresponding answers.<sup>6</sup> Therefore, the *Motion Submitting Response of Dr. Eric C. Woychik* does not contain untimely additional testimony; it contains the answers to PREPA's ROI. For these reasons, the Energy Bureau **RECONSIDERS** the January 27 Order and **ADMITS into the administrative record of the instant case** the *Motion Submitting Response of Dr. Eric C. Woychik*.

On the other hand, in the Draft Motion, the Not for Profit Intervenor argue that they filed the *Motion Submitting Supplemental Testimony* as a response to the Energy Bureau's December 18, 2019 Resolution and Order.<sup>7</sup> According to the Not for Profit Intervenor, the testimony included in the *Motion Submitting Supplemental Testimony* is the same one filed on December 11, 2019, presented in the format required by the Energy Bureau.<sup>8</sup> It is important to note that in the December 18, 2019 Resolution and Order in the instant case, the Energy Bureau ordered the Not for Profit Intervenor to, within five days of the notification of such order, file Mr. Ackerman's supplemental testimony such that it was in the format of pre-filed testimony and that it was sworn and verified before notary public.

On the *Motion Submitting Supplemental Testimony*, the Not for Profit Intervenor stated that they included with its motion "the supplemental testimony of the expert witness

<sup>3</sup> Draft Motion, p. 1.

<sup>4</sup> *Motion Submitting Response of Dr. Eric C. Woychik*, p. 1.

<sup>5</sup> *Id.*, Attachment, p. 1.

<sup>6</sup> *Id.*, pp. 1 - 4.

<sup>7</sup> Draft Motion, p. 2.

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





Eric Ackerman, Managing Director, New Regulation LLC.”<sup>9</sup> Although this statement is also vague and could also be construed as a submission of additional testimony, the attachment included in the motion contains the same information as the December 11, 2019 Supplementary Testimony, using the pre-filed testimony format.<sup>10</sup>

Since the *Motion Submitting Supplemental Testimony* contains the same information as the December 11, 2019 Supplementary Testimony, but in a different format, and since the Not for Profit Intervenors filed such motion in compliance with the December 18, 2019 Resolution and Order, the Energy Bureau **RECONSIDERS** the January 27 Order and **ADMITS into the administrative record of the instant case** the *Motion Submitting Supplemental Testimony*.

Be it published and notified.

  
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Edison Avilés Deliz  
Chairman  
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Angel R. Rivera de la Cruz  
Associate Commissioner  
\_\_\_\_\_  
Lillian Mateo Santos  
Associate Commissioner  
\_\_\_\_\_  
Ferdinand A. Ramos Soegaard  
Associate Commissioner


<sup>9</sup> *Motion Submitting Supplemental Testimony*, p. 1.

<sup>10</sup> *Id.*, Attachment.

## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 30, 2020. I also certify that on January 30, 2020 a copy of this Resolution was notified by electronic mail to: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@aepr.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, castrodieppalaw@gmail.com, voxpopulix@gmail.com, cfl@mcvpr.com, sierra@arctas.com, tonytorres2366@gmail.com, info@liga.coop, amaneser2020@gmail.com, apagan@mpmlawpr.com, sboxerman@sidley.com, bmundel@sidley.com.

I sign this in San Juan, Puerto Rico, today January 30, 2020.

  
Wanda I. Cordero Morales  
Clerk

