

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



**IN RE:** REQUEST FOR APPROVAL OF  
AMENDED AND RESTATED POWER  
PURCHASE AND OPERATING AGREEMENT  
WITH ECOELECTRICA AND NATURAL GAS  
SALE AND PURCHASE AGREEMENT WITH  
NATURGY

**CASE NO.:** NEPR-AP-2019-0001

**SUBJECT:** Resolution on EcoEléctrica, L.P.'s  
Petition to Intervene

**RESOLUTION**

**I. Introduction**

The Puerto Rico Electric Power Authority ("PREPA") requested the Energy Bureau to review and approve proposed amendments to the following agreements: (a) a power purchase and operating agreement with EcoEléctrica L.P. ("EcoEléctrica")<sup>1</sup> and (b) a gas sale purchase agreement with Naturgy Aprovevisionamientos S.A. ("Naturgy")<sup>2</sup>, hereinafter collectively referred to as the "Proposed Agreements."<sup>3</sup> Copies of the Proposed Agreements were included as part of the Petition. The Petition includes, among others, technical, economic, and legal analysis whereby PREPA purports to justify the approval of the Proposed Agreements.

After evaluating the Petition pursuant to the procedure established in Article 6.32 of Act 57-2014<sup>4</sup>, on November 27, 2019, the Energy Bureau issued a Resolution and Order through which it determined that the Proposed Agreements are contrary to the public interest ("November 27 Resolution and Order"). Consequently, it denied the Petition.<sup>5</sup> The

<sup>1</sup> See *Amended and Restated Power Purchase and Operating Agreement between EcoEléctrica, L.P. and the Puerto Rico Electric Power Authority*.

<sup>2</sup> See *Amended and Restated Natural Gas Sale and Purchase Agreement between Naturgy Aprovevisionamientos S.A. and the Puerto Rico Electric Power Authority*.

<sup>3</sup> See *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 this Letter and Accompanying Attachments*, dated November 4, 2019 and filed before the Energy Bureau on November 5, 2019 ("Petition").

<sup>4</sup> Known as *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>5</sup> See Resolution and Order issued on November 27<sup>th</sup>, 2019 in Case No.: NEPR-AP-2019-0001 ("Resolution and Order").

Energy Bureau further clarified that although it was denying the Petition at the time, it will allow PREPA to refile a request for approval after the Energy Bureau issues a final resolution regarding the proposed Integrated Resource Plan ("IRP") that is pending evaluation and approval in Case No. CEPR-AP-2018-0001.<sup>6</sup>

On December 9, 2019, PREPA requested the Energy Bureau to reconsider the Resolution and Order alleging a myriad of arguments.<sup>7</sup> On December 17, 2019, the Energy Bureau issued a Resolution through which it informed PREPA that it will consider the Request for Reconsideration. Thereafter, PREPA supplemented the Request for Reconsideration and requested a technical hearing to discuss any doubt the Energy Bureau may have regarding the Proposed Agreements as well as the "merits" of the Proposed Agreements. On January 17, 2020 the Energy Bureau issued a Resolution and Order granting PREPA's request for a technical conference and scheduled it for February 14, 2020 at 9:00 a.m. at the Energy Bureau's Hearing Room located at World Plaza Building, 268 Muñoz Rivera Avenue, Eight Floor, San Juan, PR ("Technical Conference").

Pending the Request for Reconsideration, EcoEléctrica filed a petition for intervention before the Energy Bureau.<sup>8</sup> For the reasons stated herein, the Energy Bureau allows EcoEléctricas's participation in the above-captioned proceeding. As further discussed below, EcoEléctrica may: (a) submit written comments, suggestions or any documents as it may deem necessary or helpful, and (b) provide testimony during the Technical Hearing.

## II. EcoEléctrica's Intervention

EcoEléctrica requested the Energy Bureau to evaluate the Petition to Intervene pursuant to the criteria established in Section 5.05 of Regulation 8543<sup>9</sup> and Sections 3.5 and 3.6 of Act No. 38-2017<sup>10</sup>. Accordingly, in the Petition for Intervention EcoEléctrica generally alleges that:

- (a) *it is an interested party and its intervention in this proceeding is necessary to protect its immediate and long-term business relationship with PREPA, and*

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<sup>6</sup> See *Id.*

<sup>7</sup> See *Request for Reconsideration of Resolution and Order on Denial without Prejudice of Approval of Amended and Restated Power Purchase and Operating Agreement with EcoEléctrica and Natural Gas Sale and Purchase Agreement with Naturgy*, dated December 9<sup>th</sup>, 2019 ("Request for Reconsideration").

<sup>8</sup> See *PETITION OF ECOELECTRICA, L.P. TO INTERVENE*, dated December 16<sup>th</sup>, 2019 ("Petition to Intervene").

<sup>9</sup> *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings*, Regulation No. 8543 of December 18<sup>th</sup>, 2014 ("Regulation 8543").

<sup>10</sup> Act 38 of 2017, known as the Uniform Administrative Procedure for the Government of Puerto Rico, as amended ("Act 38-2017")



- (b) *EcoEléctrica's participation [...] will contribute to the development of a more complete record and will assist the [Energy Bureau] in its eventual determination regarding PREPA's motion for reconsideration.*<sup>11</sup>

To support the nature of its interest in this proceeding EcoEléctrica alleges that for nearly twenty years it has been party to a power purchase and operating agreement with PREPA that accounts for nearly seventeen percent (17%) of the electric energy production in Puerto Rico. EcoEléctrica also alleges that the proceeding relates to the review of PREPA's request to renew and extend said agreement for an additional period of ten years and that the proceeding impacts EcoEléctrica's ability to continue providing PREPA with reliable energy. According to EcoEléctrica, the approval [or disapproval] of the Petition will directly impact EcoEléctrica's immediate and long-term business operations.<sup>12</sup>

EcoEléctrica further alleges that its participation in the proceeding will be useful and insightful and will thereby assist the Energy Bureau in the development of a thorough record in this proceeding, particularly by drawing upon the extensive experience it has gained over the years from participating in other Energy Bureau proceedings related to PREPA as well due to its unique expertise and industry knowledge.<sup>13</sup>

### III. Analysis and Determination

At this stage of the proceedings, the Energy Bureau is evaluating PREPA's request for reconsideration of the November 27 Resolution and Order. As part of such evaluation, it has scheduled a Technical Hearing for February 14, 2020. Although this stage of the proceeding is not an adjudicative process, the Energy Bureau **DETERMINES** to grant some participation to EcoEléctrica in this particular case. First, EcoEléctrica's expertise and industry knowledge may benefit the review process, particularly considering its participation in the negotiation of the Proposed Agreements and its vast experience as an independent power producer. Second, PREPA expressly supports the participation of EcoEléctrica in this proceeding. Finally, the kind of participation that we are granting EcoEléctrica does not result in an undue delay in the resolution of the pending Request for Reconsideration.

### IV. Conclusion

For the reasons stated above, the Energy Bureau authorizes EcoEléctrica's participation in the above-captioned proceeding. EcoEléctrica is not afforded an intervenor party designation, because such designation is not consistent with the non-adjudicative nature of this phase of the proceeding. As part of the participation herein granted, EcoEléctrica may: (a) submit written comments, suggestions or any documents as it may deem necessary or helpful, and (b) provide testimony during the Technical Hearing. Any

<sup>11</sup> See Petition to Intervene, p. 1.

<sup>12</sup> See Petition to Intervene, p. 2-3.

<sup>13</sup> See Petition to Intervene, p. 4.

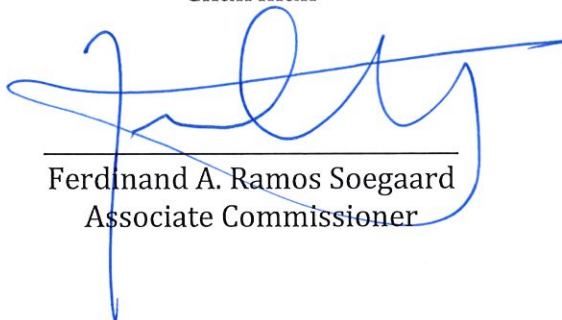


document that EcoEléctrica purports to submit in this case and/or use during the Technical Hearing must be provided to the Energy Bureau and be notified to PREPA at least five (5) days prior to the date of the Technical Hearing.

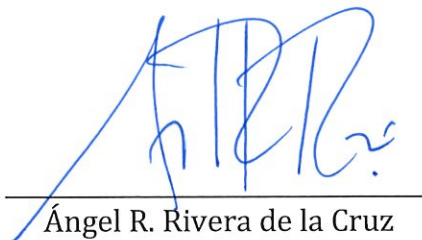
Be it notified and published.

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Edison Avilés Deliz  
Chairman



Ferdinand A. Ramos Soegaard  
Associate Commissioner



Ángel R. Rivera de la Cruz  
Associate Commissioner



Lillian Mateo Santos  
Associate Commissioner

#### CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 28, 2020. I also certify that on January 28, 2020 a copy of this Resolution notified by electronic mail to the following: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@aeep.com, c-aquino@prepa.com and kbolanos@diazvaz.law. I also certify that today, January 28, 2020, I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau and I have sent a true and exact copy to the following:

#### **Puerto Rico Electric Power Authority**

Nitza D. Vázquez Rodríguez  
Astrid I. Rodríguez Cruz  
Jorge R. Ruíz Pabón  
Carlos M. Aquino Ramos  
PO Box 363928  
San Juan, PR 00936-3928

For the record, I sign this in San Juan, Puerto Rico, today January 28, 2020.



Wanda I. Cordero Morales  
Clerk

