

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: Motion to Compel Complete
Discovery Responses by AES-PR; AES
Puerto Rico's Opposition to the LEO's
Motion to Compel Discovery Responses.

RESOLUTION

On February 10, 2020, the Local Environmental Organizations filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Motion to Compel Complete Discovery Responses by AES-PR* ("Motion"). Through the Motion, the Local Environmental Organizations state that, on January 10, 2020, AES Puerto Rico ("AES-PR") provided responses to the Local Environmental Organizations First Request of Information ("ROI #1").

The Local Environmental Organizations allege that after said responses were provided, they sent an email to AES-PR to request additional information and documents necessary to provide complete responses to ROI #1. According to the Local Environmental Organizations, AES-PR has not responded to said email.¹ Furthermore, the Local Environmental Organizations argue that all answers to ROI #1 are required to be true and correct, and if a change of circumstances makes the original answer untrue or incomplete, AES-PR has a continuing duty to supplement its responses.²

Through its Motion, the Local Environmental Organizations include specific objections to several of AES-PR's responses to ROI #1³ and argue that the discovery requests not addressed by AES-PR are relevant to the Integrated Resource Plan, contribute to clarify the issues in dispute, obtain evidence to be used in the administrative process and facilitate the search for truth and perpetuate evidence.⁴ Therefore, the Local Environmental Organizations request the Energy Bureau to compel AES-PR to provide the information and documents requested in the Motion.

On February 12, 2020, AES-PR filed before the Energy Bureau a document titled *AES Puerto Rico's Opposition to the LEO's Motion to Compel Discovery Responses* ("Opposition").

¹ Motion, p. 1.

² *Id.*, p. 2.

³ *Id.*, pp. 4-15.

⁴ *Id.* p. 16.

Through its Opposition, AES-PR states that the Local Environmental Organizations filed their Motion upon the assertion that AES-PR failed to be responsive to the issues raised in the Motion. AES-PR argues that once the Local Environmental Organizations correctly served ROI #1 to AES-PR, it responded to the untimely served discovery within the term established therein. Furthermore, AES-PR argues that upon receiving the Local Environmental Organizations' email requesting additional information, AES-PR reached out to the Local Environmental Organizations by phone and email without a response.⁵

According to AES-PR, the Local Environmental Organizations failed to raise any questions regarding the sufficiency of AES-PR's responses to ROI #1 during the Evidentiary Hearing held on February 3 – 7, 2020 in the instant case, in which the Local Environmental Organizations had ample opportunity to do so. AES-PR stated that the Local Environmental Organizations did not approach AES-PR's counsel to discuss any issues, did not raise any issues with the Commissioners at the Evidentiary Hearing and did not question AES-PR's witnesses about AES-PR's responses to ROI #1 or other related matters.⁶

Additionally, AES-PR argues that the Motion is untimely because the period for discovery in the instant case has ended and the Evidentiary Hearing is over. Therefore, AES-PR requests the Energy Bureau to deny the Local Environmental Organizations Motion and believes that there is no need to respond to the requests made in the Motion.⁷

As part of the instant case, the Energy Bureau has been diligent in establishing a clear procedural calendar and guidelines in order to provide the parties and the Energy Bureau ample opportunity to gather all the necessary information for the parties to have an effective participation in the instant case and for the Energy Bureau to make an informed decision. Notwithstanding the above, the Local Environmental Organizations served ROI #1 outside the timeframe established in the procedural calendar for the discovery on intervenor's written testimony.⁸ To that effect, the Local Environmental Organizations failed to correctly serve ROI #1 to AES-PR. Even though ROI #1 was improperly notified, AES-PR provided information responsive to the Local Environmental Organizations questions in its ROI #1, within the timeframe specified in ROI #1.

Although AES-PR submitted the last follow up answers to ROI #1 on January 23, 2020, the Local Environmental Organizations waited until February 10, 2020 to file its Motion. Moreover, the Local Environmental Organizations did not cross-examine AES-PR's witnesses on their responses to ROI #1 during the Evidentiary Hearing held from February 3, 2020

⁵ Opposition, p. 2.

⁶ *Id.*

⁷ *Id.* p. 3.

⁸ Resolution and Order, PREPA's Urgent Motion to Amend Procedural Calendar, Case No. CEPR-AP-2018-0001, October 16, 2019. The Energy Bureau established that the Discovery on Intervenors' Written Comments begun on October 24, 2019 and ended on November 13, 2019.




until February 7, 2020, nor they raised this issue during the Evidentiary Hearing. Therefore, the Local Environmental Organizations Motion is untimely, since the discovery process in the instant case has ended and the Evidentiary Hearing has been held.

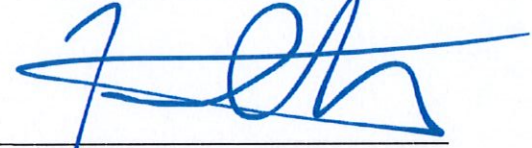
In light of the above, the Energy Bureau **DENIES** the Local Environmental Organizations request. As such, the Motion is **DISMISSED**.

Be it notified and published.


Edison Avilés Deliz
Chairman


Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 24, 2020. I also certify that on February 24, 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, jrivera@cnsldr.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 February 24, 2020.


Wanda I. Cordero Morales
Clerk

