

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 Quash Local  
Environmental Organizations Disallowed  
Discovery.

**RESOLUTION AND ORDER**

On April 20, 2020, 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 *Motion to Quash Local Environmental Organizations Disallowed Discovery* ("Motion"). Through its Motion, PREPA argues that the Local Environmental Organizations' February 9 Request<sup>1</sup> has several requirements of information that have already been denied by the Energy Bureau.<sup>2</sup> PREPA alleges that portions of the Local Environmental Organizations' requests have been previously denied by the Energy Bureau or were not made during the Evidentiary Hearings.<sup>3</sup> Therefore, PREPA requests the Energy Bureau to quash the Local Environmental Organizations' February 9 Request.<sup>4</sup> The Local Environmental Organizations' February 9 Request contained four (4) requirements of information directed to PREPA.

On April 24, 2020, the Local Environmental Organizations filed a document titled *Local Environmental Organizations' Response to PREPA's Motion to Quash* ("Response to Motion"). In its Response to Motion, the Local Environmental Organizations clarified that the February 9 Request included three information requests and that the fourth point was a compilation of other requests made during the Evidentiary Hearing which should not be consider as a request for information made by the Local Environmental Organizations.<sup>5</sup>

Moreover, regarding the second request of information, the Local Environmental Organizations expressed that they acknowledge that the Grid Modernization Plan clearly

<sup>1</sup> See Request of Information to Puerto Rico Electric Power Authority from Local Environmental Organizations, In Accordance with the Bureau's Order, Case No. CEPR-AP-2018-0001, February 10, 2020.

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

<sup>3</sup> *Id.* Through its Motion, PREPA references inquiries from the Local Environmental Organizations regarding hazard or risk analysis of the San Juan Bay from the United States Coast Guard about the conversion of San Juan Units 5 & 6, and questions regarding flood prone areas. See *Id.*, p. 3.

<sup>4</sup> *Id.*

<sup>5</sup> Response to Motion, p. 2.

shows that the proposed Palo Seco plant, depot and accompanying infrastructure would be in a tsunami flood area.<sup>6</sup> As such, the Local Environmental Organizations consider this question settled.<sup>7</sup>

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The first requirement made by the Local Environmental Organizations relates to the percentage of non-technical losses in PREPA's electric system. The Local Environmental Organizations requested PREPA to provide a current, updated figure on the percentage of non-technical losses. In its Response to Motion, the Local Environmental Organizations stated that PREPA did not refute that it agreed to provide this information. As such, the Local Environmental Organizations stated that PREPA's failure to complete the record in this case is another reason for the Energy Bureau to reject PREPA's Preferred Plans and Action Plans.<sup>8</sup>

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The third requirement made in the Local Environmental Organizations' February 9 Request is related to the cost of preliminary permitting and engineering for each of the Yabucoa and Mayagüez Ship-Based LNG Terminal and 302 MW F-Class CCGT.<sup>9</sup> During Panel H of the Evidentiary Hearings, the Local Environmental Organizations legal counsel asked PREPA's witness, Mr. Nelson Bacalao, regarding preliminary permitting and engineering costs for both terminals and CCGTs, which Dr. Bacalao was unable to answer. He referred the question to Mr. Peter Hubbard.<sup>10</sup>

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<sup>6</sup> *Id.*, p. 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*, p. 2.

<sup>9</sup> Local Environmental Organizations' February 9 Request, p. 2.

<sup>10</sup> Evidentiary Hearing Recording, Panel H, February 6, 2020, <https://www.youtube.com/watch?v=UGn8uAvm5NQ>, approximately at minutes 14:54 – 20:53.

(Mr. Murthy: Looking specifically at one item, this is the last thing I want to talk about, this is your response to 1-15 from the Bureau. Request of Information 1-15. They were looking at, the question was what are the costs of preliminary permitting and engineering for the terminals and the CCGTs at Yabucoa and Mayagüez. The answer given was the estimated costs for those terminals themselves. My question is, let's look specifically at the cost of permitting and engineering, not the cost of the terminal but the cost of permitting and engineering. How can we arrive at that cost? And if that's a description of the human resources necessary, the man hours necessary to do that, that would be fine too.)

Dr. Bacalao: That being very particular to a technology, I don't have that information with me. That came from a different specialist, who was here by the way at an earlier part of this week.

Mr. Murthy: Given that that's an item in the ESM plan, I proposed to make an information request for that item.)





At the time, PREPA's legal counsel had no objection on providing such information.<sup>11</sup> As part of the discussion, the Energy Bureau's consultants expressed the importance of having such information as part of the record.<sup>12</sup>

In its Response to Motion, the Local Environmental Organizations stated that PREPA refuses to answer a question that has been repeatedly asked by the Energy Bureau and the Local Environmental Organizations: what is the cost of PREPA's hedge proposal?<sup>13</sup> According to the Local Environmental Organizations, "[t]he time has come and gone for PREPA to provide information in time for parties to react in testimony and briefing."<sup>14</sup> As such, the Local Environmental Organizations request the Energy Bureau to reject PREPA's Preferred Plans and Action Plans.<sup>15</sup>

Based on the above, the Energy Bureau **DETERMINES** the following:

1. Regarding the Local Environmental Organizations first requirement, information on non-technical losses, in terms of GWh and percentage, has been provided by PREPA for every scenario analyzed as part of the instant case.<sup>16</sup> However, the Energy Bureau **ORDERS** PREPA to, on or before May 1, 2020 at 12:00 pm, provide a current, updated figure on the percentage of non-technical losses.
2. To **ELIMINATE** the Local Environmental Organizations second requirement, since they consider this question settled.

<sup>11</sup> *Id.*, approximately at minutes 18:43 – 19:25

(Hearing Examiner: PREPA, do you have an objection, would that number be able to be provided or should they do it in writing? What's your position?

PREPA: I wouldn't have an objection to submit the answer. Written. Because he is not in Puerto Rico anymore, so it would be a little bit difficult that he gets here tomorrow.)

<sup>12</sup> *Id.*, approximately at minutes 19:59 – 20:53.

(Mr. Fagan: I'll just note for the record that that question was of particular importance to us also. We had noticed that the response to 1-15(a) had indicated that there were no further estimated costs, but in thinking through the Action Plan items that would be very helpful information to the extent that Mr. Hubbard or anyone else could expand upon that response to 1-15(a).)

<sup>13</sup> Response to Motion, p. 3.

<sup>14</sup> *Id.*, p. 7.

<sup>15</sup> *Id.*


<sup>16</sup> See, for example, S3S2B\_Metrics\_Base\_SII.xlsx, "Metrics" Tab, June 12, 2019.



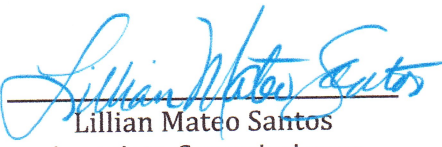
3. Regarding the Local Environmental Organizations third requirement, the Energy Bureau **ORDERS** PREPA to, on or before May 1, 2020 at 12:00 pm, provide the requested additional information **related to the preliminary permitting and engineering costs** for the Yabucoa and Mayagüez terminals and CCGTs.
4. To **ELIMINATE** the Local Environmental Organizations fourth requirement since it represents a compilation of other requests made during the Evidentiary Hearing and should not be considered as a request for information made by the Local Environmental Organizations.<sup>17</sup>
5. The Energy Bureau **ACCEPTS** PREPA's responses provided in Part III of the Motion.

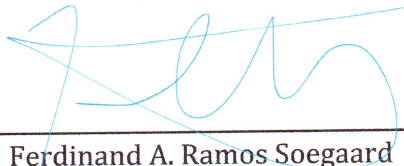
The Energy Bureau **WARNS** PREPA that, pursuant to the provisions of Act 57-2014,<sup>18</sup> as amended, noncompliance with the Energy Bureau orders may result in the imposition of fines of up to twenty-five thousand dollars (\$25,000), per day, per violation, and any other administrative sanction the Energy Bureau deems necessary, in accordance with current statutes and regulations.

Be it published and notified.

  
Edison Avilés Deliz  
Chairman

  
Ángel R. Rivera de la Cruz  
Associate Commissioner

  
Lillian Mateo Santos  
Associate Commissioner

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner



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<sup>17</sup> Response to Motion, p. 2.

<sup>18</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*.



## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on April 28, 2020. I also certify that on April 28, 2020 a copy of this Resolution and Order was notified by electronic mail to: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, mvazquez@diazvaz.law, javier.ruajovet@sunrun.com, carlos.reyes@ecoelectrica.com, mgrpcorp@gmail.com, manuelgabrielfernandez@gmail.com, paul.demoudt@shell.com, agraitfe@agraitlawpr.com, tonytorres2366@gmail.com, apagan@mpmlawpr.com, jfranklin@progression-energy.com, n-vazquez@aeep.com, kbolanos@diazvaz.law, pedrosaade5@gmail.com, ccf@tcmrslaw.com, hriviera@oipc.pr.gov, acasellas@amgprlaw.com, escott@ferraiuoli.com, cfl@mcvpr.com, info@liga.coop, sboxerman@sidley.com, c-aquino@prepa.com, acarbo@edf.org, rmurthy@earthjustice.org, victorluisgonzalez@yahoo.com, jriviera@cnspr.com, corey.brady@weil.com, sproctor@huntonak.com, sierra@arctas.com, amanecer2020@gmail.com, bmundel@sidley.com,

I sign this in San Juan, Puerto Rico, today April 28, 2020.

  
Wanda I. Cordero Morales  
Clerk

