

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

NEPR

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IN RE: REQUEST FOR PROPOSALS FOR
TEMPORARY EMERGENCY GENERATION

CASE NO. NEPR-AP-2020-0001

SUBJECT: MOTION IN
COMPLIANCE WITH ENERGY
BUREAU ORDER, AND REQUEST
FOR EXTENSION OF TIME

**PETITIONERS' MOTION IN COMPLIANCE WITH ENERGY BUREAU
APRIL 27TH RESOLUTION AND REQUEST FOR EXTENSION OF TIME**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW, Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc. - Enlace Latino de Acción Climática, Comité Yabucoeño Pro-Calidad de Vida, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Sierra Club and its Puerto Rico chapter, Mayagüezanos por la Salud y el Ambiente, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., Campamento Contra las Cenizas en Peñuelas, Inc., CAMBIO Puerto Rico, and Unión de Trabajadores de la Industria Eléctrica y Riego (collectively, "Petitioners").

We appreciate the Energy Bureau's decision to allow Petitioners to participate in this case and to listen in the Thursday conference call. On page 8 below, we raise several questions concerning the scope of our participation.

The April 30th technical conference call solidified our arguments for the lack of need for expensive temporary units. Moreover, it provides the Energy Bureau information that sustains the cancellation of the Request for Proposal approval. PREPA must instead complete without delay the repair work on Costa Sur Unit 5 and Aguirre Unit 2. We are going to provide in this motion our analysis of that conference call, and respectfully request for a seven-day extension of time to file additional comments, suggestions, and documents. We have conferred with PREPA's counsel, who does not object to a seven-day extension of this deadline.

In the technical conference call two closely related subjects were broadly addressed. First, the costs and timing for repair of Costa Sur Unit 5. Most importantly, PREPA explained that it expected to have Costa Sur Unit 5 online on August 14th, and that FEMA and insurance coverage would pay for 82.5% of the expected \$25M cost.¹

PREPA representatives stated that they currently had no plans to repair Costa Sur 6. UTIER President Angel Figueroa Jaramillo, listening in on the call, stated his disagreement with that position on Twitter:

Sobre Costa Sur la unidad 6 podría tomar de 30 a 45 días más si se comienzan algunos trabajos paralelos con la unidad 5 pero la

¹ PREPA explained that it would soon have more details on FEMA and insurance contributions to each specific task for Costa Sur Unit 5 repair.

AEE informa que no ha hecho ninguna evaluación o determinación. Como es posible??²

President Figueroa Jaramillo also corrected PREPA's generation director, Engineer Daniel Hernandez, about his assumption that Costa Sur Unit 5 will experience high vibrations and conductivity in the demineralized water of the cooling extractor due to an extended offline period, as has happened to Aguirre Unit 2. In contrast, President Figueroa Jaramillo described steps that UTIER employees took immediately following the earthquake to save equipment at the Costa Sur plant—as well as further steps that PREPA senior management refused to permit:

A diferencia de Costa Sur que los que saben tomaron todas las medidas preventivas como poner en CO2 el generador, la caldera lista y en rotación el generador y turbina para evitar vibraciones al momento de entrar en servicio eso no lo hicieron con Aguirre. Pequeña diferencia³

Aqui la verdad sobre Aguirre #2. El Ing. Daniel Hernández tampoco permitió que en Costa Sur pusieramos ambas calderas en wet storage.⁴

The next topic for the April 30th call was PREPA's application for Energy Bureau approval of up to 500 MW of temporary generation.

The questioners first looked at PREPA's two charts with forecasted demand and forecasted generation for the summer of 2020.⁵ As we heard during the

² <https://twitter.com/jaramilloutier/status/1255876170173886464?s=20>.

³ <https://twitter.com/jaramilloutier/status/1255889643620446208?s=20>.

⁴ <https://twitter.com/jaramilloutier/status/1255889643620446208?s=20>. Information published by Angel Figueroa Jaramillo, president of the UTIER indicates that Aguirre's work is progressing as planned and is about to be completed, minimizing the risk that this unit will not be able to begin operations in the coming weeks.

⁵ It does not appear that these charts were not made available to the public, and are not present in PREPA's May 1st filing. <https://energia.pr.gov/wp-content/uploads/2020/05/2020-04-29-Second-Progress-and-Status-Report-NEPR-AP-2020-0001.pdf>

conference call, Commissioner Aviles stated, and PREPA confirmed, that when Aguirre Unit 2 and Costa Sur Unit 5 are online by mid-August, PREPA will have more than enough capacity not only to meet load but also to comfortably cover a reserve margin.

In Exhibit 1, Petitioners have pieced together the publicly available information on PREPA's schedule for bringing existing generation units online, and compared it to PREPA's highest forecasted summer peak demand of 2,800 MW.⁶ This shows that based on publicly available information, PREPA's schedule will allow for the utility to have nearly 3,300 MW of generation capacity in May and nearly 4,000 MW of generation capacity by the August peak, covering maximum peak demand with a reserve margin exceeding thirty percent.⁷

Moreover, in its schedule and capacity forecast, PREPA appears to have left out currently functional units and planned repairs to improve capacity at others. For instance, UTIER President Angel Figueroa Jaramillo noted that PREPA has cancelled repair work on Cambalache Unit 1 that would have brought 90 MW of capacity at a cost of \$15M.⁸ PREPA's listing of units inexplicably omits other units like San Juan 1-4, which we believe may be in service. Together, these omissions results in an artificially low estimation of PREPA's actual capacity.

⁶ PDF p. 187 of PREPA's April 13th Motion to Submit. <https://energia.pr.gov/wp-content/uploads/2020/04/2020-04-13-AP20200001A20-MOTION-TO-SUBMIT.pdf>

⁷ This corresponds to CEO Ortiz's recent statement that "by May this year we're going to have 3300 [MW of total capacity] and we'll be close to 4000 MW by the end of August. "Puerto Rico and COVID-19: Impact on the Grid" Webinar, week of April 13th, (14:20-15:25)

⁸ <https://twitter.com/jaramilloutier/status/1255849711807979521>

From the timelines provided by PREPA, Commissioner Rivera calculated (and PREPA confirmed) that this temporary generation would not be operational until mid-July, at the earliest. Therefore, it comes out that not only would the temporary generation not arrive in time for the first half of summer peak load, but also it is unnecessary due to the drop in consumption due to the COVID-19 crisis.

After hearing themselves, PREPA representatives speculated, for the first time, in an unsuccessful effort to justify the need for these scandalously expensive temporary units, about the possibility that temporary generation might be necessary if Aguirre 2 or Costa Sur 5 was delayed. However, no representative was able to provide details of that risk, or quantity that risk, or compare the cost of that risk to the cost of the proposed temporary generation. PREPA representatives agreed that this information was missing from the application and agreed to provide it. In demanding this missing data, the Energy Bureau strongly implied that without further information on this new claim, PREPA has not currently provided sufficient justification for any temporary generation at all.

Questioners asked PREPA if it had contacted large commercial and industrial customers about load reduction at peak times. PREPA representatives explained that in May, they would contact large industrial customers about using their approximate 234 MW of self-generation at peak times, and about peak load

reduction separate and apart from that.⁹ But PREPA acknowledged that they had no estimate for peak reduction from these measures, and that they had not contacted large commercial customers at all. Petitioners note that these are all methods of lowering peak demand that are far more cost-effective than renting \$70M of temporary generation per month.

To wrap up the call, Director Acarón and the Commissioners listed the information missing from PREPA's application:

- Correspondence between PREPA and FEMA concerning the eligibility of temporary generation for FEMA funding.
- Correspondence between PREPA and FEMA, and between PREPA and its insurance carriers, proving PREPA's assertions that FEMA and insurance carriers will pay 82% of the costs of Costa Sur repairs.
- Information on whether FEMA is willing to pay for **both** Costa Sur 5 repair **and** temporary generation.
- Copies of correspondence between PREPA and EPA, concerning any agreements concerning waivers of environmental violations from running existing units.
- Updated generation schedule.
- Information on which units PREPA uses on a regular basis for both spinning and non-spinning reserve.

⁹ PREPA estimated that large customers had 234 MW of self-generation in Slide 15 of PREPA's presentation during Panel A of the Integrated Resource Plan evidentiary hearing.
<https://app.box.com/s/fuvsx24ceblv64drlskvohiru8thsywt>

- Any additional information on forecasts and information not provided to PREB re: different scenarios.
- All data from charts in Excel format.
- Will PREPA need any EPA permits or waivers for temporary generation?
- Will the temporary generation need any permits or waivers from any other federal or Puerto Rico agencies, especially EQB?

This would be in addition to the documents that the Energy Bureau has already sought from PREPA, which remain outstanding:

- A study of the impact of adding generation resources to the feeders at the proposed locations for temporary generation.¹⁰
- A study of the existing condition of Costa Sur after the earthquake, the expenses or costs associated with bringing it back to the system, and compare that with the proposal of bringing 500 MW for distribution throughout the island and make a money comparison.¹¹
- A final report assessing the damages of the Costa Sur facility.¹²
- A detailed plan describing the proposed actions to be taken regarding the Costa Sur Facility, including, but not limited to, plans to repair or replace

¹⁰ <https://www.youtube.com/watch?v=pfYfdxwuJ7U&t=14761s> (Emphasis added).

¹¹ *Id.*

¹² Energy Bureau's March 3, 2020 Resolution and Order ("Before Executing any [Lease and Operating Agreement]... PREPA shall provide to the Energy Bureau the final report assessing the damages of the Costa Sur facility").

the Costa Sur Facility as well as any other alternate solution proposed by PREPA to substitute Costa Sur Facility base load generation.¹³

Not only should PREB consider finding that PREPA has not yet complied with the conditions to approve the RFP, but the March 3 Order approval should be withdrawn. Instead of wasting funds on-2019 to achieve a minimum of 40% on or before 2025 of renewable energy resources, as well as the more pressing Law 33-2019, which requires PREPA to achieve a minimum of 20% renewable energy resources by 2022.¹⁴ In light of the upcoming hurricane season, PREPA should use the already approved \$30M (after using the necessary funds to repair Costa Sur),¹⁵ for to invest in rooftop distributed renewable energy projects that would prevent future loss of life due to lack of electricity. New temporary generation units, new gas terminals, and more gas coming into the island is unnecessary and unlawful.

Procedural Questions Concerning Petitioners' Participation

PREB's March 3rd Order was final. Surely PREPA could seek reconsideration of a denial, or even of the conditions imposed by the approval. If it's final for PREPA, it is final for any entity that seeks reconsideration. Practically speaking, it does not seem reasonable for PREB to say that the public has no opportunity at all to make arguments on the terms of the RFP.

¹³ *Id.* (“Before executing any [Lease and Operating Agreement]... PREPA shall provide to the Energy Bureau a detailed plan describing the proposed actions to be taken regarding the Costa Sur Facility, including, but not limited to, plans to repair or replace the Costa Sur Facility as well as any other alternate solution proposed by PREPA to substitute Costa Sur Facility base load generation”).

¹⁴ Law 17-2019, Section 1.6(7), and Law 33-2019, Article 20.

¹⁵ That would be approximately 17.5% or approximately \$4,375,000, taking into consideration the 82.5% covered by FEMA and insurers, as PREPA stated in the technical conference call.

As PREB has already noted, Petitioners have already provided useful information to the docket. Our filings spurred PREPA to provide more information to the public than they otherwise would have. We alerted PREB to the fact that PREPA was violating its public notice requirements. We provided information on the docket stating that Costa Sur Unit 5 would be online far before PREPA's originally predicted date of January 2021, weeks before PREPA admitted this truth. We brought up that in the IRP proceeding it was acknowledged that a study of the conditions of Costa Sur after the earthquake with the analysis of the costs and timing to bring it back online was needed before making a determination, especially to compare that with the RFP temporary generation proposal. In sum, PREB can increase administrative efficiency by proactively seeking public participation, and by requiring advance public notice of RFP filings. We also have to point out the need to have translation in both languages. During the technical conference call, translations were made from Spanish to English but not the other way around. PREPA matters are of high public interest. That's why citizens pushed legislators to established by law a regulatory body that could provide ample public participation¹⁶ as mandated by Law 17-2019—enacted “To promote transparency and citizen participation in every process related to electric power service in Puerto Rico.”¹⁷

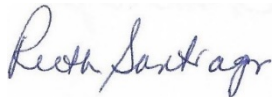
¹⁶ The Notice of the Technical Conference was notified by email around 7:55 P.M. on April 29th, with an instruction to register by 8:30 A.M. the following day.

¹⁷ Law 17-2019, Section 1.5(10)(c).

PREB should remove the May 1st deadline and allow further filings by Petitioners. PREB is of course free to decide the appropriate weight to give Petitioners' filings.

Wherefore, the Petitioners respectfully request the Energy Bureau to provide additional time to submit further filings and at the very least the PREB consider in the near future a finding that PREPA has not complied with the conditions of the approval of the RFP and that said approval be withdrawn. The Petitioners thank the Energy Bureau for the participation granted thus far, while noting that it has failed to rise to the level required by law and by fairness to the people of Puerto Rico. We hope to continue providing pertinent information in this proceeding as full intervenors in the interest of the public.

Respectfully submitted, in San Juan on this day May 1, 2020.



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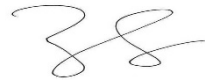


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CERTIFICATE OF SERVICE

I hereby certify that on May 1st, 2020, we have filed this Motion via the Energy Bureau's online filing system, and sent to the Puerto Rico Energy Bureau Clerk and legal counsel to: secretaria@energia.pr.gov, astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@aeepr.com, c-aquino@prepa.com, and kbolanos@diazvaz.law.

Respectfully submitted on this day May 1st, 2020.

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