

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

NEPR

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IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY
INTEGRATED RESOURCE PLAN

CASE NO.: CEPR-AP-2018-0001

SUBJECT:
V-Financial LLC and EIF PR Resource
Recovery LLC Petition for Intervention

**OPPOSITION TO BELATED PETITION FOR INTERVENTION OF
V-FINANCIAL LLC AND EIF PR RESOURCE RECOVERY LLC**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority through the undersigned legal representation and respectfully sets forth and prays as follows:

I. INTRODUCTION

On September 11, 2020, V-Financial LLC (VF) and EIF PR Resource Recovery LLC (EIF PR) (hereinafter referred to collectively as VF), filed a *Motion for Reconsideration* in the case of caption requesting the Energy Bureau of Puerto Rico of the Public Service Regulatory Board (the “Energy Bureau”) to reconsider its *Final Resolution and Order on the Puerto Rico Electric Power Authority’s Integrated Resource Plan* (the “Final IRP Resolution”).

On September 28, 2020, the Puerto Rico Electric Power Authority (the “Authority”) filed a *Motion to Strike Motion for Reconsideration of V-Financial LLC and EIF PR Resource Recovery LLC* requesting the Energy Bureau to strike from the record the Request for Reconsideration because, under applicable laws and regulations, there is no provision for reconsideration of a final order by a person or entity which is not a “party”.

On September 25, 2020, this Honorable Bureau notified a Resolution whereby, among other things, it clarifies that VF was not an intervening party in this proceeding, and therefore had

no right to file a reconsideration regarding the Final IRP Resolution. As a consequence, VF filed a belated petition for intervention which, for the following reasons, the Energy Bureau should deny.

II. VF’S PETITION FOR INTERVENTION AT THIS JUNCTION IS UNTIMELY

There should be no doubt that VF’s request to intervene at this stage of the proceedings is beyond untimely. As stated in our Motion to Strike the Motion for Reconsideration filed by VF, this case began when, on March 15, 2018, the Energy Bureau issued a *Resolution and Order* commencing this proceeding and authorizing the Authority to file an updated integrated resource plan (“IRP”) prior to the mandatory review established in Act 57-2014, in order to determine the impacts of hurricanes Irma and María that devastated the Island (Case No. CEPR-AP-2018-0001). This is the second Authority IRP proceeding and follows the previously approved IRP of 2015. The Authority’s IRP was filed on February 13, 2019, along with supporting work papers and other documentation in these proceedings. On July 3, 2019, the Energy Bureau issued an Order **setting forth the procedural schedule in accordance with Regulation 9021¹**.

In the July 3, 2019 Order, it was clearly stated that: “Any interested person may file, **on or before August 2, 2019**, a petition to intervene or a petition to appear as *amicus curiae* in the instant proceeding. The petition to intervene or to appear as *amicus curiae* must comply with the provision of sections 5.05 and 7.01 of Regulation No. 8543, as applicable.² All potential intervenors must demonstrate the existence of a substantive interest in the proceeding. The *amicus*

¹ Energy Bureau, *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, No. 9021 (April 24, 2018).

² Energy Bureau and the Authority, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings*, No. 8543 (Jan. 16, 2015).

curiae Brief required by Section 7.01 of Regulation No. 8543 must be filed **on or before September 20, 2019.**” (Emphasis in the original)

It is important also to emphasize that from July 12, 2019 to August 9, 2019 the Energy Bureau granted intervention status to eighteen (18) intervenors.³ The Energy Bureau also granted Amicus Curiae status to three (3) entities.

After the technical, evidentiary and public hearings held from August 13, 2019 through February 25, 2020, all intervenors were given the opportunity to file legal briefs, which were submitted by March 6, 2020. During the process, the Energy Bureau ensured ample public participation and insight in the process and heard comments from the public regarding numerous issues.

Finally, after a careful analysis and investigation into the proposed IRP and the Authority’s application, the Energy Bureau issued its Final IRP Resolution approving in part and rejecting in part the proposed IRP on August 24, 2020. As the record shows, **VF did not file a request for intervention, nor did they participate in the administrative process.** As a consequence, they are not a “party adversely affected by” the Final IRP Resolution issued by the Energy Bureau. Thus, they have no right to file a motion for reconsideration pursuant to Regulation 8543 and applicable provisions of Act 38-2017, known as the Uniform Administrative Procedure Act of the Government of Puerto Rico.

³ The Environmental Defense Fund, Sunrun, Inc., Local Environmental Organizations, Comité de Dialogo Ambiental, Inc. El Puente Williamsburg, Inc. - Enlace Latino de Acción Climática, Comité Yabucoño 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 AntiIncineración, Inc. Amigos del Rio Guaynabo, Inc. Campamento Contra las Cenizas de Peñuelas, Inc. and CAMBIO Puerto Rico, EcoEléctrica, L.P.; Grupo WindMar; Independent Office, Empire Gas Company, Inc., AES Puerto Rico, LP; National Public Finance Guarantee Corp., Progression Energy, Shell NA LNG LLC, Wartsilä North America, Centro Unido de Detallistas, Cámara de Mercadeo, Industria y Distribución de Alimentos, Puerto Rico Manufactures Association, Cooperativa de Seguros Múltiples de Puerto Rico, Unidos Por Utuado, Instituto de Competitividad y Sostenibilidad Económica de Puerto Rico, Caribe GE International Energy Services, Corp., Solar and Energy Storage Association of Puerto Rico, League of Cooperatives of Puerto Rico and AMANESER 2025, Inc., and Arctas Capital Group, LP.

It is also clear from the record that, even though the Energy Bureau granted intervention status to eighteen (18) intervenors, and also granted *amicus curiae* status to three (3) entities, VF did not file on time a written, duly grounded application requesting to be allowed to intervene or participate in this proceeding. Thus, under applicable law and regulations, and the Energy Bureau's order setting for the procedural schedule in accordance with Regulation No. 9021, VF's petition for intervention is clearly untimely. VF elected to wait until after the Final IRP Resolution had been entered to request leave to intervene. If VF had a substantive interest in this proceeding, they should have filed the appropriate petition during the period granted for such intervention. The Energy Bureau should not condone this conduct, as VF had enough time to request intervention in this case but choose to wait until the Energy Bureau had entered the Final IRP Resolution.

This case has been evaluated and decided, and the Final IRP Resolution is the result of a careful analysis and investigation of the proposed IRP. Not only did VF's request for reconsideration ignore the rules and regulations applicable to such motions, but its request for intervention at this moment shows a complete disregard and indifference to the years of administrative resources and efforts the Energy Bureau and the Authority have put into these proceedings. VF's intervention at this juncture, when the case before the Energy Bureau has almost been completed, is unwarranted. At the time the Energy Bureau entered its IRP Resolution, only the "parties" in the case, as envisioned by Act 38-2017, had the right to file a request for reconsideration or be heard regarding the IRP Resolution. Simply put, VF's failure to request leave to intervene in the case **on or before August 2, 2019**, has the implicit consequence that they cannot be considered a party at this stage for the purpose of the rights afforded by Act 38-2017.

III. CONCLUSION

WHEREFORE, the Authority requests the Energy Bureau to deny VF's belated petition for intervention.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26th day of October 2020.

s/ Katuska Bolaños
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CERTIFICATE OF SERVICE

It is hereby certified that, on this same date I have filed the above motion using the Energy Bureau's Electronic Filing System, at the following address: <http://radicacion.energia.pr.gov> and that a courtesy copy of the filing was sent via e-mail to: sierra@arctas.com; tonytorres2366@gmail.com; cfl@mcvpr.com; gnr@mcvpr.com; info@liga.coop; amaneser2020@gmail.com; hrivera@oipc.pr.gov; jrivera@cnslpr.com; carlos.reyes@ecoelectrica.com; ccf@tcmrslaw.com; manuelgabrielfernandez@gmail.com; acarbo@edf.org; pedrosaade5@gmail.com; rmurthy@earthjustice.org; rstgo2@gmail.com; larroyo@earthjustice.org; jluebkmann@earthjustice.org; acasellas@amgprlaw.com; loliver@amgprlaw.com; epo@amgprlaw.com; robert.berezin@weil.com; marcia.goldstein@weil.com; jonathan.polkes@weil.com; gregory.silbert@weil.com; agraitfe@agraitlawpr.com; maortiz@lvprlaw.com; rnegron@dnlawpr.com; castrodieppalaw@gmail.com; voxpopulix@gmail.com; paul.demoudt@shell.com; javier.ruajovet@sunrun.com; escott@ferraiuoli.com; SProctor@huntonak.com; GiaCribbs@huntonak.com; mgrpcorp@gmail.com; aconer.pr@gmail.com; axel.colon@aes.com; rtorbert@rmi.org; apagan@mpmlawpr.com; sboxerman@sidley.com; bmundel@sidley.com.

In San Juan, Puerto Rico, this 26th day of October 2020.

s/ Katuska Bolaños
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