

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



IN RE: IMPLEMENTATION OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY INTEGRATED RESOURCE
PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Request for Confidential
Designation and Treatment.

RESOLUTION

On December 23, 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 *Request for Confidential Designation and Supporting Memorandum of Law*. As part of its filing, PREPA requested confidential designation and treatment to the documents attached to the *Motion in Compliance with Order Submitting Final Procurement Plan and Associated Request for Proposal* ("Motion in Compliance with Order") submitted by PREPA on December 22, 2020. The documents include the following appendices:

1. 01 Procurement Plan-05 (PREB Submittal Version)¹;
2. 02 Procurement Plan Appendix B_22Dec2020²;
3. 03 RE RFP_02B (PREB Submittal Version II)³
 - a. 03 RE RFP_Appendix H MTRs⁴;
 - b. 03 RE RFP_Appendix C_Proposal Data Forms⁵;
 - c. 03 RE RFP_Appendix I_Interconnection_BEES⁶;

¹ 01 Procurement Plan_05 - Draft, pages 1-44 (PREB Submission version).

² 02 Appendix B- 02 Procurement Plan Appendix B_ 22 Dec 2020, Procurement Process Questions and Ongoing Technical Issues for Parallel Resolution, pages 1-7. (submitted under seal)

³ 03 RE RFP_02B- (PREB Submittal Version II) Request for Proposals, Renewable Energy Generation Resources and Energy Storage Systems, Tranche 1, pages 1-63. (submitted under seal)

⁴ a. 03 RE RFP_Appendix H_MTRs- Minimum Technical Requirements for Interconnection of Photovoltaic (PV) Facilities, pages 1-37. (submitted under seal)

⁵ b. 03 RE RFP_Appendix C_ Proposal Data Forms, pages 1-267. (submitted under seal)

⁶ c. 03 RE RFP_Appendix I_ Interconnection_ BESS- Annex A, BESS Information Request Form, pages 1-6. (submitted under seal)



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- d. 03 RE RFP_Appendix I_Interconnection_Solar⁷;
 - e. 03 RE RFP_Appendix I_Interconnection_Wind⁸;
 - f. 03 RE RFP_Appendix J_Preferred Location of Energy Resources⁹;
 - g. 03 RE RFP_Appendix F Form of Energy Storage Services Agreement¹⁰; and
 - h. 03 Solar PPOA_RE RFP_02 - Appendix E_Form os Solar PPOA¹¹.
- 4. 04 SL Renewable Integration Study of Puerto Rico, 22Dec2020-Final¹²;
 - 5. 05 Utility Scale Interconnections Preferred Locations¹³; and
 - 6. 06 Utility Scale RE and BESS Preferential Locations Maps.¹⁴

PREPA alleged that the Appendices contain information that qualifies as proprietary information of PREPA, that they include trade secrets and Critical Energy Infrastructure Information (CEII), which is protected under Puerto Rico law. PREPA also alleges that the appendices are part of a draft request for proposals and publishing these documents would give an unfair advantage to potential proponents which would disrupt future proceedings. For these reasons, PREPA requests the Energy Bureau to grant confidential designation and treatment to the referenced Appendices.

On January 7, 2021, the Energy Bureau issued a Resolution and Order in which it granted partial confidential designation and treatment to the Appendices attached to the Motion in Compliance with Order, pursuant to the provisions of Article 6.15 of Act 57-2014 ("January 7 Resolution"). More specifically, in the January 7 Resolution, the Energy Bureau ordered PREPA to:

- 1. Submit, on or before Monday January 11, 2020 at 12:00 pm, a redacted/public version all of the of the Appendices submitted with the Motion in Compliance with Order including, but not limited to, the RFP and all its attachments.

⁷ d. 03 RE RFP_Appendix I_Interconnection_Solar- Annex A, PV Generation Information Request Form, pages 1-7. (submitted under seal).

⁸ e. 03 RE RFP_Appendix I_Interconnection Wind- Annex A, Wind Generation Information Request Form, pages 1-7. (submitted under seal).

⁹ f. 03 RE RFP_Appendix J-Preferred Location Energy Resources, pages 1-2. (submitted under seal).

¹⁰ g. 03 Appendix F- Form of Energy Storage Services Agreement, pages 1-140. (submitted under seal).

¹¹ h. 03 Solar PPOA_RE-PFP_02 Appendix E_ Form of Solar PPOA, pages 1-142. (submitted under seal).

¹² 04 SL Renewable Integration Study of Puerto Rico, 22Dec2020-Final, pages 1-66. (submitted under seal).

¹³ 05 Utility Scale Interconnections Preferred Locations, pages 1-2. (submitted under seal).

¹⁴ 06 Utility Scale and BESS Preferential Locations Maps, pages 1-3. (submitted under seal).



2. Ensure that the redaction required should be limited and restricted to those items of information or images that explicitly and clearly divulge CEII information. In the case of documents containing CEII information such as coordinates and/or map locations, PREPA shall provide a list of municipalities where the preferred sites are located and the number of sites per municipality.

The Energy Bureau determined that its decision was aligned and consistent with the provisions of Act 57-2014, that required the Energy Bureau to protect confidential information in a manner that least affects the public interest, transparency, and the rights of the parties involved in the instant case.

On January 11, 2021, PREPA filed a document titled *Motion in Compliance with Order Submitting Redacted Public Versions of Request for Proposal (RFP) and Appendices* ("Compliance Motion"). In the Compliance Motion PREPA states that it is submitting redacted/public versions of the following documents attached to the December 22 Motion in Compliance:

1. 01 Procurement Plan_05 (PREB Submission Version)
2. 02 Procurement Plan Appendix B_22Dec2020
3. 03 RE RFP_02B (PREB Submittal Version II)
 - a. 03 RE RFP_Appendix H_MTRs
 - b. 03 RE RFP_Appendix C_Proposal Data Forms
 - c. 03 RE RFP_Appendix I_Interconnection_BESS
 - d. 03 RE RFP_Appendix I_Interconnection_Solar
 - e. 03 RE RFP_Appendix I_Interconnection_Wind
 - f. 03 Appendix F_Form of Energy Storage Services Agreement – Appendix F_Form of Energy Storage Services Agreement
 - g. 03 Solar PPOA_RE RFP_02 - Appendix E_Form of Solar PPOA.

4. 04 SL Renewable Integration Study of Puerto Rico 22Dec2020_Final¹⁵

Furthermore, in the Compliance Motion, PREPA stated that in the case of documents containing CEII information such as coordinates and/or map locations, the Energy Bureau ordered PREPA to provide the list of municipalities where the preferred sites are located and the number of sites per municipality. According to PREPA, "in consideration to the inherent concerns regarding disclosure of interconnection preferred locations, including their protection as CEII, on this same day PREPA has filed *"Motion for Reconsideration and Modification of January 7, 2021 on Request for Confidential Designation and Treatment of Identifying Preferred Locations for Interconnection"* which addresses and discusses PREPA's apprehensions with divulging the preferred locations included in documents identified as 03 RE RFP Appendix J Preferred Location of Energy Resources; 05 Utility Scale Interconnections Preferred Locations; and 06 Utility Scale RE and BESS Preferential Locations Maps in the

¹⁵ See Compliance Motion, p. 1.

December 22 Motion in Compliance.”¹⁶ The foregoing confirms that PREPA did not comply with the January 7 Resolution.¹⁷



That same day, PREPA filed a document titled *Motion for Reconsideration and Modification on January 7, 2021 Resolution on Request for Confidential Designation and Treatment of Identifying Preferred Locations for interconnection* (“Motion for Reconsideration”).

In the Motion for Reconsideration PREPA asks the Energy Bureau to reconsider its determination that PREPA must publicly file *at this time* information identifying locations of preferred sites for the interconnection of renewable and battery energy storage resources. According to PREPA, the documents containing such information are:

- i. 03 RE RFP_Appendix_J_Preferred Location of Energy Resources;
- ii. 04 SL Renewable Energy Integration Study of Puerto Rico 22Dec2020;
- iii. 05 Utility Scale Interconnections Preferred Locations; and
- iv. 06 Utility Scale RE and BESS Preferential Locations Maps.¹⁸

PREPA alleges that by directing PREPA to file publicly, at this time, a list of municipalities where preferred sites for interconnection are located, specifying the number of such sites per municipality, the Energy Bureau may inadvertently impede achievement of the goal of minimizing the cost of renewable and energy storage resources bid into PREPA's Tranche 1 RFP. PREPA bases its allegation in their argument that with the information the Energy Bureau has directed PREPA to make public, prospective developers will be able to identify immediately, before the upcoming RFP is even issued, the locations at which interconnection is likely to be most advantageous. According to PREPA, interest in these locations can be expected to lead to bidding wars for sites in their vicinity, with the cost of securing rights to such sites being bid up, perhaps substantially. Real estate speculators may attempt to obtain sites for the purpose of profiting by flipping them to bona fide energy project developers. PREPA expressed that entities that obtain exclusive rights to sites at the preferred locations will gain an immediate competitive advantage and will be able to position themselves to foreclose competitors or to increase the costs bona fide developers must incur to gain access to the sites.¹⁹

PREPA's arguments are not unreasonable. Nonetheless, the Energy Bureau finds that PREPA has not exhausted potential alternatives to try to strike a reasonable balance between safeguarding the competitive bidding process and the public's access to information. It is

¹⁶ *Id.*

¹⁷ The Energy Bureau reminds PREPA that the effectiveness of an order issued by the Energy Bureau and PREPA's obligation to comply with the same is not paused by the filing of a motion to reconsider an order.

¹⁸ See Motion for Reconsideration, p. 2.

¹⁹ *Id.*, pp. 2-3.

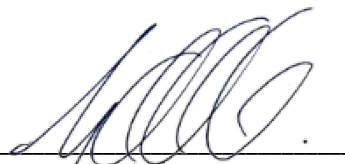
important to note that this argument about potential land pricing wars due to publicity of generic information was not brought forward by PREPA in the December 23 Request. The December 23 Request was focused in PREPA's allegations that (i) the information is Critical Energy Infrastructure Information; (ii) the publication of the information now would give an unfair advantage to potential proponents and (iii) the appendixes are draft forms subject to the Energy Bureau's approval and therefore, are communications leading to a competitive procurement process, that, if disclosed at this time, would disrupt the future proceedings.²⁰

The Energy Bureau partially **GRANTS** PREPA's Motion for Reconsideration to maintain confidential *at this time* the four (4) files that contain information identifying locations of preferred sites for the interconnection of renewable and battery energy storage resources and **ORDERS** PREPA to file, on or before January 13, 2021 at 12:00pm a map divided into the eight (8) PREPA regions and indicate the number of sites per region. The Energy Bureau notifies PREPA that once the Energy Bureau approves the Tranche 1 RFP and related documents, it will be at that time that the Energy Bureau shall determine which documents shall be made public and which shall be maintained confidential regarding the four (4) files stated in this Resolution and Order and mentioned below:

- i. 03 RE RFP_Appendix_J_Preferred Location of Energy Resources;
- ii. 04 SL Renewable Energy Integration Study of Puerto Rico 22Dec2020;
- iii. 05 Utility Scale Interconnections Preferred Locations; and
- iv. 06 Utility Scale RE and BESS Preferential Locations Maps.²¹

The Energy Bureau **WARNS** PREPA that, pursuant to the provisions of Act 57-2014 and applicable regulations, noncompliance with any provision of this Resolution and Order, may result in the imposition fines of up to twenty-five thousand dollars (\$25,000) per day, per violation and/or any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it notified and published.



Edison Avilés Deliz
Chairman

²⁰ See *Request for Confidential Designation and Supporting Memorandum of Law*, December 23, 2020.

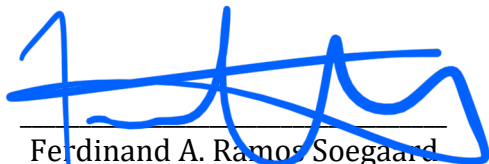
²¹ See Motion for Reconsideration, p. 2.



Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 12, 2021. I also certify that on January 12, 2021 a copy of this Resolution was notified by electronic mail to the following: fabiola.rosa@prepa.com, marisol.pomales@prepa.com, vilmarie.fontanet@prepa.com, jorge.ruiz@prepa.com, mvazquez@diazvaz.law, kbolanos@diazvaz.law and jmarrero@diazvaz.law. I also certify that today, January 12, 2021, I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today January 12, 2021.



Sonia M. Seda Gaztambide
Clerk

