

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

<b>NEPR</b> 0140 <b>Received:</b>  Jan 11, 2021  3:33 PM
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**IN RE:** HIGHLY EFFICIENT FOSSIL  
GENERATION DEFINITION

**CASE NO.:** CEPR-MI-2016-0001

**SUBJECT:**

Compliance report for the year 2019;  
Order to Show Cause

**MOTION TO SUBMIT THE HIGHLY EFFICIENT GENERATION  
COMPLIANCE REPORT AND TO SHOW CAUSE**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW, the Puerto Rico Electric Power Authority, through its counsel and respectfully submits:

1. On March 20, 2019, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (the “Energy Bureau”) issued a *Resolution*<sup>1</sup> in the instant case. The March 2019 Resolution established that the Puerto Rico Electric Power Authority (“PREPA”) and any other party who owns and operates any fossil-fueled generation units that injects power to the PREPA’s grid, must file its compliance report with the Energy Bureau on or before March 31<sup>st</sup>, following the reporting year. The Highly Efficient Generation Compliance Report (“HEG Compliance Report”) for the natural year 2019 was due on or before March 31, 2020.

2. As mandated in the March 2019 Resolution, PREPA respectfully includes the HEG Compliance Report for the year 2019, as follows:

- a. Annex I - Yearly unit total cost of generating electricity. Jan 2021 data requirement.
- b. Annex I - Yearly unit total cost of generating electricity Jan 2021 data requirement.<sup>2</sup>

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<sup>1</sup> *Resolution* dated March 20, 2019 ( the “March 2019 Resolution”).

<sup>2</sup> Financial data included is preliminary and has not be audited.

- c. Annex II - 2019 Average Annual Rate of Carbon Dioxide Emissions from PREPAs generating unit.

A. Arguments in support of PREPA's compliance with the Order to Show Cause

3. On November 9, 2020, the Energy Bureau issued a Resolution and Order<sup>3</sup> directing the PREPA to file the HEG Compliance Report for the year 2019, as well as ordering to show cause why the Energy Bureau should not impose a fine or sanction of \$25,000 for the non-compliance with the March 2019 Resolution, within 30 days.

4. On January 4, 2021, the Energy Bureau proceeded to issue a Resolution and Order<sup>4</sup> ordering PREPA to show cause, within five (5) days, as to why PREPA did not meet the deadline to file the HEG Compliance Report for the year 2019 and for PREPA to state the reasons why the Energy Bureau should not impose a \$5,000 fine for each day that PREPA fails to file the HEG Compliance Report. The deadline to Show Cause is today.

5. PREPA is aware of the importance of the information required by the Energy Bureau in the March 2019 Resolution as well as the authority of the Energy Bureau. However, the submission of the HEG Compliance Report originally due on March 31, 2020, was affected by the government mandated lockdown in response to the COVID-19 pandemic.

6. Regrettably, upon return, due to PREPA's employee attrition the tract for the HEG Compliance Report to comply with the March 2019 Resolution was lost. Similarly, the November 9, 2020 Order was omitted by inadvertence and was not assigned. PREPA ordinarily is expeditious to assign the Energy Bureau's orders and identify the PREPA officials responsible for providing the requested information.<sup>5</sup>

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<sup>3</sup>Resolution and Order dated November 9, 2020 (the "November 9, 2020 Order").

<sup>4</sup>Resolution and Order dated January 4, 2021 (the "Order to Show Cause").

<sup>5</sup> As evidenced in the instant case, PREPA received a Resolution dated November 12, 2020 directing PREPA to submit its comments on the proposed definition of the term *Highly Efficient Generation* for purposes of Act 60-2019 and

7. Upon receiving the January 4, 2021 Order to Show Cause, PREPA became aware of the non-compliance with the March 2019 Resolution and worked incessantly and arduously in the collection and compilation of the data herein presented.

8. PREPA's non-compliance with the March 2019 Resolution is in no way a voluntary disregard for the Energy Bureau's Orders or authority, consequently PREPA respectfully requests the Energy Bureau to not issue a fine or sanction. Any fine or sanction would be money that comes out of PREPA's pockets, which ultimately are costs borne by PREPA's costumers.

9. PREPA in good faith moves the Energy Bureau to determine that the non-compliance with the March 2019 Resolution and the November 9, 2020 Order was due to excusable neglect, since no party was prejudiced as well as it was not PREPA's intention to delay the case of caption. PREPA also moves the Energy Bureau to accept the HEG Compliance Report for the year 2019 and determine no sanction or fine shall be enforced.

WHEREFORE, PREPA respectfully submits the Energy Bureau the HEG Compliance Report for the year 2019 and requests the Energy Bureau to find PREPA in compliance with the Order to Show Cause and for no fine or sanction to be imposed.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 11<sup>th</sup> day of January 2021.

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Annex I

[https://diazvaz-my.sharepoint.com/:f:/g/personal/jmarrero\\_diazvaz\\_law/Eq4WJ05MmNdNnF1mIlW0IW0BkVwS6bjOgTMji8La4Uiug?e=rTHgJ](https://diazvaz-my.sharepoint.com/:f:/g/personal/jmarrero_diazvaz_law/Eq4WJ05MmNdNnF1mIlW0IW0BkVwS6bjOgTMji8La4Uiug?e=rTHgJ)

Annex II

[https://diazvaz-my.sharepoint.com/:f/g/personal/jmarrero\\_diazvaz\\_law/ElquMm5lsw5Og18vGM4sH1MBzfE4JtaYaH2w2LRsE5AgQA?e=UxSZO8](https://diazvaz-my.sharepoint.com/:f/g/personal/jmarrero_diazvaz_law/ElquMm5lsw5Og18vGM4sH1MBzfE4JtaYaH2w2LRsE5AgQA?e=UxSZO8)