

**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: Amendments to confidential
designation of specific exhibits.

RESOLUTION AND ORDER

On June 7, 2019, the Puerto Rico Electric Power Authority ("PREPA") filed a document titled *PREPA's Verified Motion for Confidential Treatment of Portions of its Integrated Resource Plan ("IRP") Filing* ("June 7 Filing") before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau"). As part of the June 7 Filing, PREPA requested confidential treatment of portions of its IRP under federal and Puerto Rico law, including Regulation 9021¹ and under Section 6.15 of Act 57-2014² and Act 80-2011³. Such documents included PREPA Ex. 1.01 Siemens PTI Report Number: R015-19, 2018 Integrated Resource Plan Appendix 1: Transmission and Distribution (Confidential) ("Ex. 1.01A Siemens Report").

On June 10, 2019, the Energy Bureau issued a Resolution and Order⁴ ("June 10 Resolution") and stated:

Upon examining PREPA's arguments, the Energy Bureau **GRANTS** confidentiality designation request for the items submitted as part of the IRP filing. However, the Energy Bureau makes one exception regarding the "minigrids" files. As the Energy Bureau stated in the March 14, 2019 Resolution and Order having access to the information related to PREPA's "minigrid" proposal for the configuration of the Island's transmission system is of critical importance to the Energy Bureau and to the public, since it represents one of the options for the Preferred Resource Plan. In recognition of the importance of having access to the information related to the "minigrid" proposal, the Energy Bureau **ORDERS** PREPA to develop and file by **Friday June 14, 2019 no later than 12:00 p.m.**, a version that is not confidential yet conveys the essentials of "minigrid" identification,

¹ Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority, April 24, 2018.

² The Puerto Rico Energy and Transformation and RELIEF Act, as amended.

³ Law for the Protection of Commercial and Industrial Secrets of Puerto Rico, as amended.

⁴ See Resolution and Order, *In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan* Case No. CEPR-AP-2018-0001, June 10, 2019.



design, and associated considerations. This modified version shall include much of the material presented, including discussions of resource selection and the designation of categories of load and associated levels of services.

On June 21, 2019, PREPA filed a document titled *PREPA's (1) Updated Motion for Confidential Treatment of Portions of its Integrated Resource Plan Filing and (2) Compliance Filing* ("June 21 Motion"), after the Energy Bureau ordered PREPA to file a detailed, specific and coherent list of the documents related to the revised proposed IRP filing for which PREPA was seeking confidential designation and treatment.⁵ PREPA labeled the documents for which it was seeking confidential designation and treatment and included them as part of the June 21 Motion. PREPA also included an updated list of the documents it had filed until June 19, 2019. In such list, PREPA identified the documents and workpapers for which it requested confidential designation and treatment.

On July 3, 2019 the Energy Bureau issued Resolution and Order⁶ ("July 3 Resolution") granting PREPA's confidential designation and treatment for the items specified in the June 21 Motion.

On August 24, 2020, the Energy Bureau issued its Final Resolution and Order ("IRP Order") regarding the Integrated Resource Plan ("IRP") of the PREPA. As part of the IRP Order, the Energy Bureau noted that it would commence an Optimization Proceeding.⁷

On December 22, 2020, the Energy Bureau issued a Resolution and Order⁸ through which it opened the Case No. NEPR-MI-2020-0016 for the purpose of addressing the commencement of an *Optimization Proceeding* of the PREPA's Approved IRP and Modified Action Plan.⁹ Part of the process entailed under Case No. NEPR-MI-2020-0016 is the analysis of the proposed investments on transmission and distribution of the Minigrid construct presented by PREPA in the IRP.

Act 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any

⁵ See, *Resolution and Order, Documents with Confidential Treatment Designation*, June 18, 2019, Case No. CEPR-AP-2018-0001.

⁶ See *Resolution and Order, In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001, July 3, 2019.

⁷ IRP Order, p.19, ¶117.

⁸ See *Resolution and Order, In Re: Optimization Proceeding of Minigrid Transmission and Distribution Investments*, Case No. NEPR-MI-2020-0016, December 22, 2020. Page 1.

⁹ See *Resolution and Order, In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001, August 24, 2020.



information that the submitting party understands deserves such protection.¹⁰ Specifically, Act 57-2014 requires the Energy Bureau to confidentially treat the submitted information provided that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected”.¹¹ In such case, the Energy Bureau “shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”¹²

Under the Energy Bureau’s policy on management of confidential information in procedures before the Energy Bureau,¹³ the following rules apply for each type of Confidential Information:

1. Trade Secret Information

Any document designated by the [Energy Bureau] as Validated Confidential Information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

2. Critical Energy Infrastructure Information ("CEII")

The information designated by the [Energy Bureau] as Validated Confidential Information on the grounds of being CEII may be accessed by the parties' authorized representatives only after they have executed and delivered the Nondisclosure Agreement.

Those authorized representatives who have signed the Non-Disclosure Agreement may only review the documents validated as CEII at the [Energy Bureau] or the Producing Party's offices. During the review, the authorized representatives may not copy or disseminate the reviewed information and may bring no recording device to the viewing room.

3. Attorney-Client Privilege

In those cases in which the [Energy Bureau] determines there is sufficient basis to determine that the information for which confidentiality treatment is sought pursuant to the attorney-client or attorney work-product privilege

¹⁰ Section 6.15 of Act 57-2014, as amended.

¹¹ *Id.*

¹² *Id.*

¹³ See, *Resolution, Policy on Management of Confidential Information in Procedures before the [Bureau]*, August 31, 2016, Case No. CEPR-MI-2016-0009.



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falls within one of the exceptions to this privilege, such information will be reviewed by an external Administrative Law Judge (“ALJ”) who shall review such claims.

The ALJ will notify its final determination to all parties in a proceeding before the [Bureau]. Said decision will be final and will be subject to reconsideration and/or judicial review under the Uniform Administrative Procedure Act. In case the ALJ determines that the confidentiality claims are not warranted, that information related to the ALJ's determination will be disclosed in thirty (30) days from the notification of the determination, unless the Producing Party obtains another remedy or seeks reconsideration and/or judicial review.

When, in evaluating a document, the ALJ accepts certain confidentiality claims but rejects others, the ALJ may propose to disclose a redacted version of the document in which Validated Confidential Information is redacted, while information rejected confidentiality treatment is disclosed. In those cases, the ALJ, in notifying its determination, will provide a copy of the document as redacted by the ALJ so the Producing Party can revise it and accept or object the ALJ's determination.

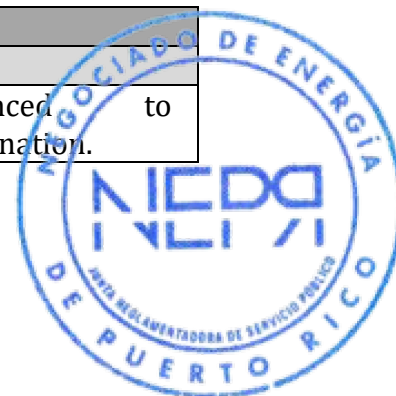
Any document that the ALJ validates as Confidential Information because it is protected under the attorney-client privilege or because it is attorney work product will not be available to any party, to the [Bureau], or to the general public.

In the June 10 Resolution and July 3 Resolution, the Energy Bureau granted PREPA’s request for confidential designation and treatment for the Ex. 1.01 Siemens Report specified in the June 21 Motion. Upon further review of the confidential designation and treatment for the Ex. 1.01A Siemens Report in the June 21 Motion, the Energy Bureau **AMENDS** the designation as follows:

The Energy Bureau **DETERMINES** that the exhibits in the Ex. 1.01A Siemens Report and specified in Table 1 below, which are in the file “IRP 2019 – Appendix 1 – Transmission and Distribution 06072019 CONFIDENTIAL.pdf” of the June 7 Filing **shall not be designated as confidential information.**

Table 1. Documents not designated as confidential.

Exhibit	Reason
Exh. 2-9	PREPA renounced to confidentiality designation.




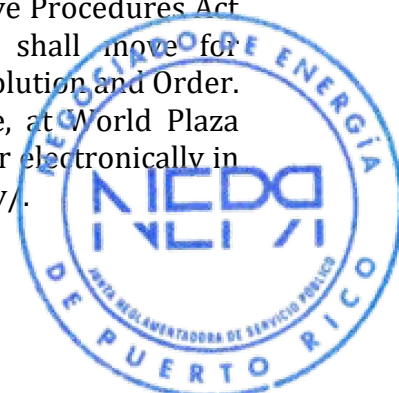


Exhibit	Reason
Exh. 2-11	PREPA renounced to confidentiality designation.
Exh. 2-12	PREPA renounced to confidentiality designation.
Exh. 2-53	PREPA renounced to confidentiality designation.
Exh. 2-54	PREPA renounced to confidentiality designation.
Exh. 2-59	PREPA renounced to confidentiality designation.
Exh. 2-60	PREPA renounced to confidentiality designation.
Legend on page 2-68	PREPA renounced to confidentiality designation.
Exh. 2-61	PREPA renounced to confidentiality designation.
Exh. 2-62	PREPA renounced to confidentiality designation.
Exh. 2-64	PREPA renounced to confidentiality designation.
Exh. 2-69	PREPA renounced to confidentiality designation.
Exh. 2-70	PREPA renounced to confidentiality designation.
Legend on page 2-79	PREPA renounced to confidentiality designation.
Exh. 2-71	PREPA renounced to confidentiality designation.

Under the August 31, 2016 Resolution in Case Number CEPR-MI-2016-0009, the Energy Bureau will disclose as public the information in Table 1 within **five (5) days** from the notification date of this Resolution and Order, unless PREPA notifies the Energy Bureau within said five (5) days PREPA's intent to object and request reconsideration, judicial review, or any other remedy it deems appropriate, which will interrupt the referenced five-day term.

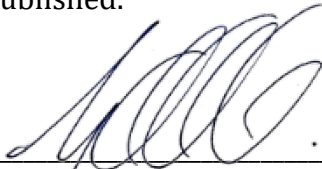
Any party affected by this determination may move for reconsideration of this Resolution and Order before the Puerto Rico Energy Bureau under Section 11.01 of Regulation 8543, and Act 38-2017, known as the Uniform Administrative Procedures Act of the Government of Puerto Rico ("UAPA"). The affected party shall move for reconsideration within the term of twenty (20) days from filing this Resolution and Order. Such request must be presented to the Energy Bureau Clerk's Office, at World Plaza Building, 268 Ave. Muñoz Rivera, Level Ste. 202, San Juan, P.R. 00918, or electronically in the Energy Bureau's digital platform at <https://radicacion.energia.pr.gov/>.



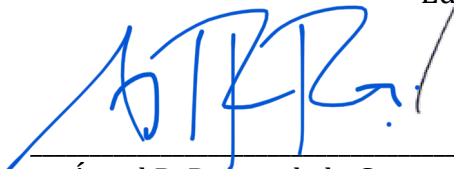
The Energy Bureau shall consider said motion within fifteen (15) days of its filing. Should the Energy Bureau reject it forthright or fail to act upon it within fifteen (15) days, the term to request review shall recommence from notice of such denial, or from the expiration of the fifteen (15)-day term. If a determination is made in its consideration, the term to petition for review shall commence from the date when a copy of the notice of the Energy Bureau's resolution definitively resolving the motion to reconsider is filed in the record. Such resolution shall be issued and filed in the record within ninety (90) days after the motion to reconsider has been filed. If the Energy Bureau accepts the motion to reconsider but takes no action regarding the motion within ninety (90) days of its filing, it shall lose jurisdiction on the motion and the term to file judicial review shall commence upon the expiration of the ninety (90)-day term, unless the Energy Bureau, for just cause and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.

Any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date the copy of the notice of this Resolution and Order was filed in the record of the Energy Bureau. Under Section 11.03 of Regulation 8543, and the dispositions of the UAPA and the Court of Appeals Regulation.

Be it hereby notified and published.



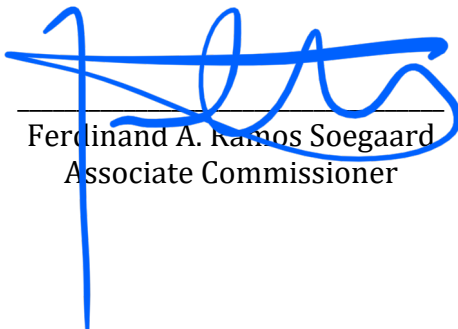
Edison Avilés Deliz
Chairman



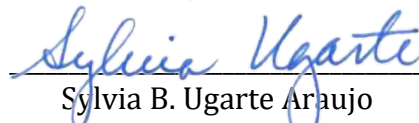
Ángel R. Rivera de la Cruz
Associate Commissioner



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 February 12, 2021. I also certify that on February 12, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com; jorge.ruiz@prepa.com; n-vazquez@aeepr.com; c-aquino@prepa.com; mvazquez@diazvaz.law; axel.colon@aes.com; kbolanos@diazvaz.law; acarbo@edf.org; jrj@conecta.pr; javrua@gmail.com; pedrosaade5@gmail.com; rmurthy@earthjustice.org; carlos.reyes@ecoelectrica.com; ccf@tcmrslaw.com; victorluisgonzalez@yahoo.com; mgrpcorp@gmail.com; hrivera@oipc.pr.gov; jrivera@cnspr.com; manuelgabrielfernandez@gmail.com; acasellas@amgprlaw.com; corey.brady@weil.com; paul.demoudt@shell.com; escott@ferraiuoli.com; sproctor@huntonak.com; agraitfe@agraitlawpr.com; cfl@mcvpr.com; sierra@arctas.com; info@liga.coop; amaneser2020@gmail.com; apagan@mpmlawpr.com; sboxerman@sidley.com; bmundel@sidley.com; gnr@mcvpr.com; rstgo2@gmail.com; larroyo@earthjustice.org; jluebkmann@earthjustice.org; loliver@amgprlaw.com; epo@amgprlaw.com; Robert.berezin@weil.com; marcia.goldstein@weil.com; jonathan.polkes@weil.com; Gregory.silbert@weil.com; maortiz@lvprlaw.com; rnegron@dnlawpr.com; castrodiappalaw@gmail.com; voxpopulix@gmail.com; giacribbs@huntonak.com; aconer.pr@gmail.com; rtorbert@rmi.org; rtoro@toro-arsuaga.com. I also certify that today, February 12, 2021, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

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



Sonia Seda Gaztambide
Clerk

