

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

NEPR

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

CASE NO.: NEPR-MI-2020-0012

**SUBJECT: Urgent Motion for
Reconsideration of the June 30, 2021 Order**

URGENT MOTION FOR RECONSIDERATION OF THE JUNE 30, 2021 ORDER

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

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

1. On June 24, 2021, the Honorable Energy Bureau of the Public Service Regulatory Board entered a Resolution and Order (the “June 24 Order”) through which it ordered PREPA to:

...

(ii) File, on or before July 1, 2021, “a presentation discussing the changes incorporated in the Updated Procurement Plan and related documents and the reasons for such changes, as well as PREPA’s proactive, effective and opportune solutions to overcome any challenges identified by PREPA that could affect PREPA’s timely compliance with the Renewable Energy Portfolio Requirements;” and

(iii) Arrange for “[a]ll PREPA representatives in charge of the preparation of the Updated Procurement Plan and related documents” to attend a Technical Conference on July 6, 2021, at 1:30 pm, at which these representatives are to “have available all relevant documents and to be ready to answer, under oath, questions that the Energy Bureau staff and/or Commissioners may have.”^{1 2}

¹ June 24 Order, at pp. 1-2.

² The June 24 Order also ordered PREPA to file, on or before June 28, 2021, a redline of the Updated Procurement Plan reflecting the changes to its Renewable Energy Generation and Energy Storage Procurement Plan which PREPA proposed through a submission made in this proceeding on June 15, 2021. On June 28, 2021, PREPA filed a *Motion in Compliance with Order Entered on June 14, 2021 Submitting Redline Version of the Updated Procurement Plan* submitting a redlined version of the Updated Procurement Plan filed with the Energy Bureau on June 15, 2021. Therefore, PREPA has partially complied with the June 24 Order.

2. The Energy Bureau further stated that “since the procurement contemplated in the Approved IRP and Modified Action Plan may influence the operation of the PREPA [t]ranmission and [d]istribution [s]ystem, which is currently operated and maintained by LUMA Energy ServeCo, LLC (“LUMA”), it was ordering “LUMA to attend the above-mentioned Technical Conference hereby scheduled for July 6, 2021, at 1:30 pm.” June 24 Order, p. 2 (Original emphasis omitted). However, the Energy Bureau did not serve the Order on LUMA. *Id.* at Certification.

3. On June 29, 2021, PREPA filed a request to extend the deadline to file the presentation and to continue the Technical Conference scheduled to be held on July 6, 2021 (the “June 29 Motion”).³ PREPA, acting in the most responsible manner, informed the Energy Bureau that its advisors required additional time beyond the dates established in the second and third of the directives listed in the June 24 Order to complete the necessary work to responsibly comply with the Energy Bureau’s requirements. It was further explained that PREPA personnel and technical advisors from the firm Sargent & Lundy were currently working around the clock to complete the initial technical evaluation of the 70 project proposals received by PREPA on June 18, 2021 in response to its Tranche 1 RFP. This “Phase I Quality Control Review” is intended (as outlined in Section 6 of the Tranche 1 RFP) to confirm that each proposal complies with the technical requirements set forth in the Tranche 1 RFP documents, that all information required by those documents has been submitted as to each proposal, and that all submitted information has been presented in the form required to permit PREPA and its advisors to evaluate and compare the proposals on technical, financial and legal basis. The “Phase 2 Project Committee Review and Recommendation” process will include, for projects passing the Phase 1 screening, a qualitative evaluation, a pricing evaluation and an interconnection feasibility evaluation. Under the RFP

³ *Request of [PREPA] for Extension of Time to File Presentation on Changes Incorporated in Updated Procurement Plan and for a Continuance of the Technical Conference Currently Scheduled for July 6, 2021.*

Evaluation Timeline PREPA has established, the Phase 1 review must be completed and proposals selected for Phase 2 evaluation by July 15, 2021. This second phase review cannot commence as to any project until the Phase 1 Quality Control Review is completed.

4. The statements made in the June 29 Motion are still true today and therefore, the constraints to comply with the June 24 Order have not changed.

5. The preparation of the presentation can only be done by PREPA personnel and members of the Sargent & Lundy team advising them who are currently performing Phase 1 evaluations. These individuals will be extraordinarily hard pressed to complete the Phase 1 evaluation work that must be done by July 15 even if they are not required to divert their attention to other matters. Having to pause their work on the Phase 1 evaluation and selection process to prepare a formal report explaining the revisions proposed in the Updated Procurement Plan will only delay their completion of their Phase 1 evaluation and selection work, quite possibly beyond the July 15 deadline PREPA has established. Delays in meeting this deadline would cascade through the remainder of the RFP Tranche 1 project evaluation schedule, putting what is already an extremely ambitious schedule at significant risk. PREPA reiterates and submits that **this result would be entirely inconsistent with achievement of the goal – which PREPA and the Energy Bureau share – of completing the process of negotiating and finalizing contracts with successful proponents of RFP Tranche 1 projects by September 2021**. In summary, it is highly likely that the RFP Tranche 1 milestones goals will have to be altered to adjust to the reality of the situation.

6. The same individuals required to develop the presentation the Energy Bureau has requested, along with PREPA legal advisors from the firms Díaz & Vázquez and King & Spalding, are the “PREPA representatives in charge of the preparation of the Updated Procurement Plan and

related documents.” June 24 Order at p. 2. As such, they are required to attend the Technical Conference established by the June 24 Order which is currently scheduled for July 6. Preparing for, attending and participating in the Technical Conference would require these representatives to **put aside the important work they are currently performing in the Phase 1 Quality Control Review** for at least two full days, and therefore having to participate in a Technical Conference on July 6 can be expected to delay completion of the Phase 1 evaluation process and the selection of projects to proceed to Phase 2 by at least this amount of time (on top of the delay which pausing to prepare the required report would introduce). There is simply no way that PREPA and its advisors can hope to complete their Phase 1 evaluation work by July 15, as PREPA’s evaluation timeline requires, if they must prepare for, attend and participate in a Technical Conference just a few days before this deadline.

7. PREPA requested the Energy Bureau to extend the deadline to file the presentation until June 22, 2021 and continue the Technical Conference until June 27, 2021. Yesterday, at 6:20 p.m, the Energy Bureau entered a Resolution and Order denying the requests made by PREPA in the June 29 Motion. The Energy Bureau informed that the extensions of time requested are not reasonable (the “June 30 Order”). The June 30 Order was served on LUMA. Id. at Certification.

8. PREPA respectfully asks the Energy Bureau to reconsider the June 30 Order. PREPA herein adopts by reference the statements made by PREPA in the June 29 Motion as these are still true today. Moreover, the efforts to complete the presentation and attending the Technical Conference are now more substantially altered because the King and Spalding and Sargent & Lundy firms professional services agreements with PREPA expired yesterday. Most government contracts expire at the end of each fiscal year and as the Energy Bureau knows, PREPA’s are no

different. The audit and oversight of public funds is of the utmost importance to Puerto Rico and this makes the government contracting process very strict and therefore, complicated.

9. PREPA, as a covered entity under PROMESA⁴ and now a party to the OMA⁵, has more steps than other governmental entities that must be completed before executing contracts. Even though the two firms' professional services agreements have been approved by the PREPA Governing Board, the draft agreements must be approved by the Federal Oversight and Management Board for Puerto Rico and the Puerto Rico Public-Private Partnerships Authority before it can be executed by the parties. There is no assurance that these contracts will be executed by the parties next week.

10. Further, as the Energy Bureau notes in the June 24 Order, there are several issues regarding the Updated Procurement Plan that are related to transmission and distribution, systems that are now operated by LUMA. *Id.* The Authority is in the process of coordinating with LUMA their participation of its teams in the preparation of the presentation and the participation in the Technical Conference.

11. Accordingly, PREPA herein requests the Energy Bureau to reconsider the June 30 Order and grant an extension of time, until July 22, 2021, for the filing of the report on the updated Procurement Plan required by the June 24 Order, and (ii) to continue the date for the Technical Conference established by the June 24 Order from July 6, 2021 to July 27, 2021.

12. PREPA submits and reiterates that the request made herein is made in good faith and after reasonable efforts to identify alternatives to asking for an extension or continuance. It is hereby

⁴ *The Puerto Rico Oversight, Management, and Economic Stability Act*, 48 U.S.C. § 2101 *et seq.*

⁵ *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* dated as of June 22, 2020 by and among the Puerto Rico Electric Power Authority as Owner, the Puerto Rico Public-Private Partnerships Authority as Administrator, Luma Energy, LLC as ManagementCo, and Luma Energy ServCo, LLC as ServCo (the OMA). The OMA can be accessed at <https://www.p3.pr.gov/wp-content/uploads/2020/06/executed-consolidated-om-agreement-td.pdf>

certified that the reasons for the extension and continuance herein sought have not been caused by PREPA and are outside the reasonable control of PREPA. Further, PREPA submits that the extension herein sought is what PREPA understands as reasonable to comply with the June 24 Order.

WHEREFORE, the Puerto Rico Electric Power Authority request the Energy Bureau (i) to reconsider the June 30 Order, (ii) to grant it an extension of time, to July 22, 2021, for the filing of the report on the updated Procurement Plan required by the June 24 Order, and (iii) to continue the date for the Technical Conference established by the June 24 Order from July 6, 2021 to July 27, 2021.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 1st day of July 2021.

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