

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

**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: Target Date for Issuance of
Tranche 2 RFP.**

RESOLUTION AND ORDER

I. Introduction

On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued the Final Resolution and Order on the Puerto Rico Electric Power Authority’s (“PREPA”) Integrated Resource Plan (“IRP Final Resolution and Order”) under Case No. CEPR-AP-2018-0001.¹ Through the IRP Final Resolution and Order, the Energy Bureau approved in part and rejected in part PREPA’s proposed IRP. Also, the Energy Bureau ordered the adoption and implementation of the Modified Action Plan as set forth therein.

As part of the Modified Action Plan, the Energy Bureau ordered PREPA to develop competitive solicitation processes for the procurement of new renewable resources and battery energy storage resources in support of, among other things, meeting Act 17-2019 targets for renewable energy installations.² The Energy Bureau established a schedule for minimum quantities of renewable resources and battery energy storage resources to be required through Request for Proposals (“RFP”) processes. Specifically, the Energy Bureau required PREPA to include at least 1,000 MW of solar PV (or energy-equivalent renewable resource) and at least 500 MW (2,000 MWh or equivalent) battery energy storage for the tranche 1 RFP.³ For tranche 2, the Energy Bureau required PREPA to include at least 500 MW of solar PV (or energy-equivalent renewable resource) and at least 250 MW (1,000 MWh or equivalent) battery energy storage.⁴

¹ *In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No.: CEPR-AP-2018-0001.

² IRP Final Resolution and Order, p. 266, para 859.

³ *Id.*, p. 268, para 860.

⁴ *Id.*



After the review⁵ of the procurement plan submitted by PREPA to the Energy Bureau, and other procedural incidents, on January 26, 2021, the Energy Bureau issued a Resolution and Order (“January 26 Resolution”) through which, among other things, ordered PREPA to issue the RFP for Tranche 1 as soon as possible.⁶

The RFP for Tranche 1 was issued by PREPA on February 22, 2021.⁷ Based on the delay in issuing the RFP for Tranche 1, and other procedural incidents, the Energy Bureau has rescheduled the target date for issuing the RFP for Tranche 2 on several occasions.

On August 26, 2021, the Energy Bureau issued a Resolution and Order through which it ordered PREPA to provide, on or before September 9, 2021, information related to the results of the Selection of Proposals for Phase III Evaluation and copies of such proposals. The Energy Bureau also rescheduled the target date for issuance of the Tranche 2 RFP for September 20, 2021.

On September 8, 2021, PREPA filed before the Energy Bureau a document titled *Motion for Extension of Time to Submit Information Requested on Resolution and Order Dated August 26, 2021, Including Information Related to Pricing* (“September 8 Motion”). PREPA states that the PREPA Evaluation Committee is in the process of evaluation for the selection of those proposals that will proceed to Phase II Evaluation. Further, based on the confidential nature of the RFP Process, PREPA requested leave to submit the proposals selected for Phase II with the contracts that will be submitted as part of the Energy Bureau contract approval process contemplated in Joint Regulation 8815.⁸

PREPA also stated that the Evaluation Committee is analyzing the pricing information submitted with the proposals to submit prices of each technology group based on the proposals selected to proceed to Phase III. PREPA requested an extension of time, until September 20, 2021, to submit the information to the Energy Bureau.

Based on the fact that PREPA has not provided the information requested by the Energy Bureau, the Energy Bureau **RESCHEDULES** the target date for the issuance of the

⁵ See Resolution and Order, *In Re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, December 8, 2020. See, also, Resolution and Order, *In Re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, January 5, 2021.

⁶ See Resolution and Order, *In Re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, January 26, 2021, pp. 2-3.

⁷ See Motion Informing Issuance of Renewables RFP Tranche 1, *In Re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, February 22, 2021.

⁸ *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet.*




Tranche 2 RFP to October 15, 2021. The foregoing shall not be construed in any manner as an additional extension of time for PREPA to submit the pricing information required by the Energy Bureau.

Be it notified and published.


Edison Avilés Deliz
Chairman


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 September 17, 2021. Associate Commissioner Ángel R. Rivera de la Cruz dissented with a written opinion. I also certify that on September 17, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com, kbolanos@diazvaz.law; mvazquez@diazvaz.law. I also certify that today, September 17, 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 September 17, 2021.


Sonia Seda Gaztambide
Clerk



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SUBJECT: Target Date for Issuance of
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Associate Commissioner Ángel R. Rivera de la Cruz, dissenting

Today, the majority of the Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order through which it rescheduled to October 15, 2021 the target date for issuing the Tranche 2 Request for Proposal (“RFP”) for the acquisition of at least 500 MW of solar PV (or energy-equivalent renewable resource) and at least 250 MW (1,000 MWh or equivalent) battery energy storage, as established in the Modified Action Plan of the approved Integrated Resource Plan¹ (“IRP”). For the reasons expressed herein, I dissent.

* * *

Through the approved IRP, the Energy Bureau established an aggressive schedule to acquire at least 3,750 MW of renewable energy generation resources and at least 1,500 MW of battery energy storage. The first RFP was scheduled to be issue on or about December 2020, with five more RFPs issued every six months thereafter. Notwithstanding, the first RFP was issued on February 22, 2021, about two months behind schedule.²

The second RFP or Tranche 2 RFP was originally scheduled for June 2021. However, after several extensions, the Energy Bureau rescheduled its target date for September 20, 2021.³

Article 2.3 of Act No. 82-2010⁴ establishes that by 2025, forty percent (40%) of the electricity generated in the Commonwealth must come from renewable sources. Currently,

¹ See Final Resolution and Order on the Puerto Rico Electric Power Authority’s Integrated Resource Plan, In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, August 24, 2020.

² See Motion Informing Issuance of Renewables RFP Tranche 1, In Re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan, Case No. NEPR-MI-2020-0012, February 22, 2021.

³ See Resolution and Order, In Re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan, Case No. NEPR-MI-2020-0012, August 26, 2021 (“August 26 Order”).

⁴ *The Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act*, as amended (Act 82-2010).



only about 2.5% of the electricity generated in Puerto Rico comes from renewable sources. Therefore, it is imperative that all stakeholders, and in particular the Puerto Rico Electric Power Authority (“PREPA”) take assertive and timely actions to meet the requirements set forth in Act 82-2010.

As stated before, in the approved IRP, the Energy Bureau established an aggressive schedule to acquire a substantial amount of renewable generation resources. The driving factor for such aggressive schedule was to provide a path to meet the forty percent (40%) requirement established in Act 82-2010, based on the current level of renewable generation resources.

Any undue delay in the implementation of the above referenced schedule will put at risk PREPA’s ability to comply with the requirements of Act 82-2010. This might result in fines and penalties that will ultimately be paid by all PREPA customers.

On September 8, 2021 PREPA filed a motion⁵ through which it requested an extension to file certain information requested by the Energy Bureau in the August 26 Order.

After reviewing PREPA’s September 8 Motion, I see no reason to approve the extension required therein nor for rescheduling the Tranche 2 RFP target date. Since the beginning of the implementation of the RFP schedule, PREPA has demonstrated a lack of urgency, if not disdain, towards this process.

The majority of the Energy Bureau determined that, since PREPA has not provided the information requested, it must reschedule the Tranche 2 RFP target date. Rescheduling the due date for issuing the Tranche 2 RFP based on PREPA’s shortcomings represents a reward for PREPA’s actions and an incentive for PREPA to continue to drag its feet during this process.

As such, I would have ordered PREPA to submit the information requested in the August 26 Order in the shortest term possible and to issue the Tranche 2 RFP as scheduled.

Therefore, I dissent.


Ángel R. Rivera de la Cruz
Associate Commissioner



In San Juan, Puerto Rico, on September 17, 2021.

⁵ Motion for Extension of Time to Submit Information Requested on Resolution and Order Dated August 26, 2021, Including Information Related to Pricing, In Re: The Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan, Case No. NEPR-MI-2020-0012, September 8, 2021 (“September 8 Motion”).