

**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 17-2019² targets for renewable energy installations.³ 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 ("Tranche 1").⁴ 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 ("Tranche 2").⁵

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

² Known as the *Puerto Rico Energy Public Policy Act*.

³ IRP Final Resolution and Order, p. 266, para 859.

⁴ *Id.*, p. 268, para 860.

⁵ *Id.*



After the review⁶ 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.⁷

The RFP for Tranche 1 was issued by PREPA on February 22, 2021.⁸ 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 (“August 26 Order”). 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 8815.⁹

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.

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, 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.

⁷ 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.

⁸ 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.

⁹ *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.*



On September 20, 2021, PREPA filed with the Energy Bureau a document titled *Motion To Submit Proposals Under Seal and Request for Confidential Designation* ("September 20 Motion"). In compliance with the August 26 Order, as part of the September 20 Motion, PREPA submitted documents included as part of the Proposals as well as any information requests that were made by proponents. PREPA limited the information provided to the Energy Bureau to the proposals that advanced to Phase III of the Tranche 1 RFP process. Nevertheless, PREPA did not include any comparison or pricing evaluation per technology group of the selected proposals. According to PREPA the evaluation of the Proposals has not finished and the evaluation, award and negotiation of contracts is still ongoing.¹⁰ PREPA argued that since the process has not been completed, it has the obligation to preserve the confidentiality of the Proposals and asked the Energy Bureau to (i) grant confidential designation and treatment to the Proposals; and (ii) direct Energy Bureau's Secretary to maintain the Proposals under seal.

The procedural background of this case plainly shows a pattern of delays on PREPA's completion of the Tranche 1 RFP process. The Energy Bureau considers the results of the Tranche 1 RFP an important information component which could and would enlighten the next procurement tranches. Therefore, based on the fact that PREPA has not completed Tranche 1 RFP process, the Energy Bureau **RESCHEDULES** the target date for the issuance of the Tranche 2 RFP to **October 31, 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. The Energy Bureau **GRANTS** confidential designation and treatment to the Proposals submitted as part of the September 20 Motion.

Although PREPA requested until September 20, 2021¹¹ to submit the prices of each technology group based on the proposals selected to proceed to Phase III information to the Energy Bureau, this information was not included as part of the September 20 Motion. Therefore, the Energy Bureau **DETERMINES** that PREPA has not fully complied with the August 26 Order.

Given the dire state of the PREPA generation fleet and the adverse impacts such situation is causing to consumers, the importance of completing the renewable energy procurement in a timely manner has been further validated. In light of the foregoing, the Energy Bureau **CAUTIONS** PREPA that it is actively considering the possibility of conducting the RFP process for the remaining procurement tranches, including Tranche 2.

Be it notified and published.

¹⁰ September 20 Motion, ¶10.

¹¹ See September 8 Motion.





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 October 12, 2021. Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. I also certify that on October 12, 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, October 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 October 12, 2021.



Sonia Seda Gaztambide
Clerk

