

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

IN RE: REVIEW OF THE PUERTO RICO  
ELECTRIC POWER AUTHORITY'S 10-YEAR  
INFRASTRUCTURE PLAN - DECEMBER 2020

CASE No.: NEPR-MI-2021-0002

SUBJECT: Motion to Submit Fourth Group  
of Generation Projects

**RESOLUTION AND ORDER**  
**NUNC PRO TUNC**

On November 15, 2021, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Service Regulatory Board ("Energy Bureau") a document titled *Motion to Submit Fourth Group of Generation Projects* ("November 15 Motion"). As part of the November 15 Motion, PREPA presents a list of "repairs works projects" allegedly required for its existing generation fleet ("Proposed Generation Projects").<sup>1</sup> The List of Proposed Generation Projects includes, for each Proposed Generation Project the following information: (a) identification of the facility, (b) location of the facility, (c) identification of the Proposed Generation Project, (d) a brief description of the Proposed Generation Project, and (e) the estimated cost the Proposed Generation Project.<sup>2</sup> PREPA argues that most of the Proposed Generation Projects are included in the document titled *Current Status of PREPA Generation Fleet* ("Status of Generation Fleet") filed on October 23, 2021 in Case No. NEPR-MI-2020-0001, *In Re: The Puerto Rico Electric Power Permanent Rate*.<sup>3</sup> PREPA further alleges that it will seek reimbursement of the estimated cost of the Proposed Generation Projects from applicable FEMA programs.<sup>4</sup>

Through the November 15 Motion, PREPA seeks the Energy Bureau to approve the Proposed Generation Projects. Notwithstanding, PREPA suggests that, in accordance with the *Resolution and Order* issued by the Energy Bureau on March 26, 2021 in the instant case, it is only required to inform the Energy Bureau of the projects presented before COR3 and FEMA.<sup>5</sup> To be clear, that is not the case. All PREPA's capital projects expenses require the Energy Bureau's approval. PREPA's capital as well as all other expenses (including, without limitation, maintenance, conservation, repairs, and retrofitting expenses) must be complainant and aligned with the Approved IRP and Modified Action Plan<sup>6</sup> as well as PREPA's approved budget.<sup>7</sup>

The Energy Bureau will promptly issue a resolution evaluating the Proposed Generation Projects. However, as a preliminary matter, the Energy Bureau considers that most of the Proposed Generation Projects entail capital and/or maintenance-related investments

<sup>1</sup> See November 15 Motion, Attachment A ("List of Proposed Generation Projects").

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See November 15 Motion, p. 2.

<sup>5</sup> ["Even though the March 26 Order directs PREPA to present to the Energy Bureau new capital investment projects, PREPA is committed in keeping its regulator informed of all the projects that will be submitted to COR3 and FEMA for reimbursement and have its leave to move forward with the corresponding requests for reimbursement under the applicable programs"]. *Id.* November 15 Motion, p. 3.

<sup>6</sup> See, in general, *Final Resolution and Order* issued on August 24, 2020, Case No. CEPR-AP-2018-0001, *In Review of the Integrated Resource Plan* ("Approved IRP").

<sup>7</sup> See, in general, *Resolution and Order* issued on May 31, 2021, Case No.: NEPR-MI-2021-0004, *In Re: Review of LUMA's Initial Budgets*. ("Initial Budgets").



inconsistent with the Approved IRP and Modified Action Plan as well as PREPA's approved budget.

In general, PREPA proposes substantial capital and/or maintenance- related expenses for thermal generation units that should be retired within the next five (5) years. As PREPA is aware, there are strong energy public policies behind the retirement of certain thermal generation units during the next five (5) years. Compliance with the renewable portfolio standard (RPS); reduction the dependence on costliest, less efficient, and most polluting fossil fuels; and substitution of deteriorated generation infrastructure which useful life extension is not economically sound.<sup>8</sup>

Moreover, PREPA represented during the IRP process and provided data and evaluations to establish the need to retire certain thermal generation units to comply with applicable environmental laws and regulations (e.g., MATS, NAAQS SO<sub>2</sub>). The Energy Bureau emphasizes that the Approved IRP is in full force and effect, therefore all PREPA actions must be consistent and in accordance with its provisions, until such time the Energy Bureau modifies it in accordance with the procedure established in the applicable laws and regulations.

The Energy Bureau agrees with PREPA that a safe and reliable electric service must be provided to the People of Puerto Rico. However, the supply of such reliable electric service must be compliant with applicable laws and regulations, at a reasonable cost. It is unreasonable and unacceptable to implement actions such as the ones described in the November 15 Motion, without the proper evaluation of the projects that could potentially have the effect of increasing the cost of the electricity service in Puerto Rico in the medium and long term. This, particularly considering that they have the potential to perpetuate the use of costly and polluting fossil fuels.

Considering the foregoing, the Energy Bureau will evaluate the Proposed Generation Projects with the urgency that circumstances require. In the meantime, however, PREPA is BARRED from executing further activities regarding the Proposed Generation Projects, provided however, that PREPA may execute those activities which are specifically covered in the generation budget approved by the Energy Bureau for Fiscal Year 2022.<sup>9</sup>

As previously stated, the IRP shall be subject to the rules established by the Energy Bureau and approved by the same. All actions taken by PREPA regarding generation and related matters must be consistent with the Approved IRP and the Approved Action Plan. Any changes or amendments to the IRP shall be approved by the Energy Bureau. The IRP may not be eliminated or altered by anyone under any circumstances, until a plan review process is thus carried out before the Energy Bureau and evidence thereof is furnished.

The Energy Bureau TAKES NOTICE of the November 15 Motion and its Attachment A. However, the Energy Bureau WARNS PREPA that failure to abide by, or to comply with, the Approved IRP or the Approved Action Plan, will result in the imposition of administrative sanctions and/or a referral for the commencement of the penal process established in paragraph (e) of Article 6.36 of Act 57-2014.

Be it notified and published.



<sup>8</sup> Note that PREPA consistently has represented to the Energy Bureau that it is not economically feasible to extend the useful life of units such as San Juan 7, 8, 9 and 10.

<sup>9</sup> See Initial Budgets, Attachment A.

Edison Aviles Deliz  
Chairman

Ángel R. Rivera de la Cruz  
Associate Commissioner

*(Unavailable for signature)*

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 November 18, 2021. I also certify that on November 22, 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, November 22, 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 November 22, 2021.

Sonia Seda Gaztambide  
Clerk

