

**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: Resolution and Order to Motion
to Submit Third Group of Generation
Projects Initial SOWs and request of
confidential designation.

RESOLUTION AND ORDER

I. Introduction

On March 26, 2021, the Energy Bureau issued a Resolution and Order (“March 26 Resolution”) through which it ordered the Puerto Rico Electric Power Authority (“PREPA”) to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan (“IRP”) and Modified Action Plan^{1,2}. The Energy Bureau required PREPA to submit the specific projects for approval at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency (“COR3”) and the Federal Emergency Management Agency (“FEMA”).³

On November 8, 2021, PREPA filed before the Energy Bureau a document titled *Motion to Submit Third Group of Generation Projects Initial SOWs* (“November 8 Motion”). Through the November 8 Motion, PREPA submitted three (3) Exhibits, Exhibit A through Exhibit C, containing initial Scopes of Work (“SOW”) for several generation projects associated with the Costa Sur Steam Plant earthquake repairs. The Exhibits contain three groups of projects: (i) Exhibit A includes projects related to the Costa Sur Water and Diesel Tanks; (ii) Exhibit B includes projects related to Costa Sur Power Plant Discharge Channels; and (iii) Exhibit C includes projects related to Costa Sur Work Completed Earthquake Repairs.

On the November 8 Motion, PREPA alleged that these SOWs include critical energy infrastructure information (“CEII”) that varies between architectural, survey, demolition, structural and civil drawings, design plans, and global positioning system data, that mustn’t be disclosed to the public. Therefore, PREPA requested confidential treatment and designation to portions of Exhibit A through Exhibit C.

II. Evaluation of PREPA’s November 8 Motion

The SOWs presented in Exhibits A through Exhibit C of the November 8 Motion, include projects mainly related to the restoration of several diesel and water tanks, the plant discharge channels, and completed repair works in several areas of the Costa Sur Power Plant. They are intended to restore all the damaged equipment to pre-disaster function within the corresponding approved codes and standards. As part of the SOWs, PREPA included three (3) Project Scopes of Work with Cost Estimates, which describe the contractor scopes for each project.

¹ See, *In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority*, Case. No. CEPR-AP-2018-0001, Final Resolution and Order, August 24, 2020 (“August 24 Resolution”).

² See, *In Re: Review of the Puerto Rico Electric Power Authority’s 10-Year Infrastructure Plan – December 2020*, Case. No. NEPR-MI-2021-0002, Resolution and Order, March 26, 2021. (“March 26 Resolution”).

³ March 26 Resolution, pp. 14-15. The Energy Bureau determined that this directive equally applies to LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, “LUMA”). See, *In Re: Review of the Puerto Rico Electric Power Authority’s 10-Year Infrastructure Plan – December 2020*, Case. No. NEPR-MI-2021-0002, Resolution and Order, June 8, 2021.



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Exhibit A of the November 8 Motion contains three (3) SOWs for work to be performed on the Raw Water Tanks 1 & 2, Demi Water Tanks 5 & 6, and the Diesel Service Tank. Exhibit B includes an SOW related to work to be performed on the Plant Discharge Channels. Exhibit C includes the SOWs of seven (7) Completed Earthquake Repairs that required immediate attention to get the units back on-line. These projects are related to repairs completed in Control Room 5&6; Main Power Transformers 4, 5, & 6; Boilers 5&6; Condensate Water Tank 5; New Condensate Water Tank 6; Structural Repair to Units 1-4; and the Old Demi Plant. The SOWs have the objective to (i) restore the water, diesel, and condensate storage capacity of several reservoirs; and (ii) restore the facilities to pre-disaster function and approved codes and standards.

Upon review of the November 08 Motion, the Energy Bureau **DETERMINES** that the projects presented are necessary to improve the reliability of the system. Therefore, the Energy Bureau **APPROVES** the projects in Attachment A of this Resolution and Order. The Energy Bureau notes this approval represents \$18.259 MM based on the Cost Estimates and completed repairs submitted by PREPA through the November 8 Motion.⁴

III. PREPA's Request of Confidential Treatment

In support of its request for confidential treatment, PREPA alleged that Exhibits A through Exhibit C of the November 8 Motion include certain confidential information in the form of critical energy infrastructure information or critical electric infrastructure information ("CEII") that garners protection from public disclosure pursuant to federal statutes and regulations.⁵ For these reasons, PREPA requests the Energy Bureau to grant confidential designation and treatment to portions of the referred Exhibits A, B and C. Table 1 below details the portions of Exhibits A, B and C for which PREPA requested confidential designation and treatment.

Table 1

Exhibit	Description	Confidential Information	Summary of Legal Basis for Confidentiality Protection, if applicable
Exhibit A	Costa Sur Water and Diesel Tanks	Architectural, survey, demolition, structural and civil drawings, and design plans (.PDF file pp. 12-55) and global positioning system data	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674
Exhibit B	Costa Sur Power Plant Discharge Channels	Final preliminary plans for design (.PDF file pp. 9-19) and global positioning system data	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674
Exhibit C	Costa Sur Work Completed Earthquake Repairs	Global positioning system data	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674

Act 57-2014⁶ establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the

⁴ The Energy Bureau has approved a total of \$4,425.58 MM = \$1,240.77 MM + \$1,789.58 MM + \$1,376.97 MM + \$18.259 MM up to date based on the Cost Estimates and incurred costs submitted by PREPA and LUMA as part of this process.

⁵ 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).

⁶ *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.



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party submitting understands deserves such protection.⁷ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information provided that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected”.⁸ 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.”⁹

Upon review of PREPA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to portions of Exhibit A through Exhibit C as described in Table 1 above, pursuant to Article 6.15 of Act 57-2014. The Energy Bureau **TAKES NOTICE** that PREPA has submitted a redacted (*i.e.*, public) version of Exhibits A through C.

IV. Conclusion

The Energy Bureau **APPROVES** the projects included as part of the **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize its approval process. These projects were approved based on the information provided by PREPA, should the scope of the project change, PREPA **SHALL** immediately seek the Energy Bureau’s approval of such changes.

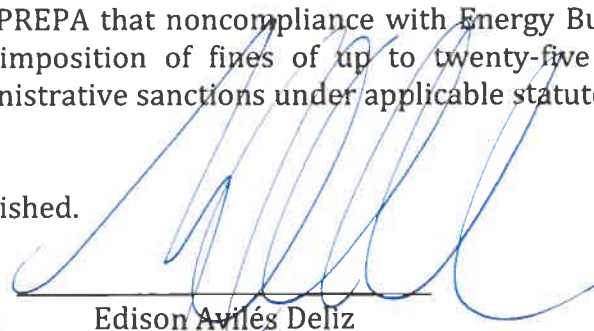
The Energy Bureau **ORDERS** PREPA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in Attachment A, which shall contain the costs obligated for each project, **within ten (10) days of receipt of such approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each project approved in the Attachment A, **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

The Energy Bureau **GRANTS** confidential designation and treatment to portions of Exhibit A through Exhibit C as described in Table 1 above.

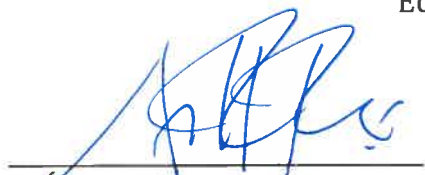
The directive established in the March 26 Resolution related to the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

The Energy Bureau **WARNS** PREPA that noncompliance with Energy Bureau’s orders and regulations may carry the imposition of fines of up to twenty-five thousand dollars (\$25,000.00) and other administrative sanctions under applicable statutory and regulatory provisions.

Be it notified and published.



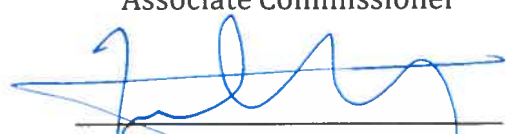
Edison Avilés Deliz
Chairman



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

⁷ Section 6.15 of Act 57-2014.

⁸ *Id.*

⁹ *Id.* (Emphasis added).



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 1st, 2021. I also certify that on December 1st, 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, December 1st, 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 December 1st, 2021.



Sonia Seda Gaztambide
Clerk



Attachment A
Projects Approved by the Energy Bureau for Costa Sur Permanent Repairs

	Category	Initial SOW Document (November 08, 2021) - Project Name	Cost Estimate (\$ MM) *Incurred costs	Comments
1	Generation	Raw Water Tanks 1 & 2	\$ 3.000	Approved as requested.
2	Generation	Demin Water Tanks 5 & 6	\$ 4.098	Approved as requested.
3	Generation	Diesel Service Tank	\$ 1.000	Approved as requested.
4	Generation	Water Discharge Channel	\$ 6.700	Approved as requested.
5	Generation	Control Room 5 & 6	\$ 0.414*	Approved as requested.
6	Generation	Main Power Transformers 4, 5 & 6	\$ 0.080*	Approved as requested.
7	Generation	Boilers 5 & 6	\$ 0.709*	Approved as requested.
8	Generation	Condensate Water Tank 5	\$ 0.345*	Approved as requested.
9	Generation	New Condensate Water Tank 6	\$ 0.845*	Approved as requested.
10	Generation	Structural Repairs Units 1-4	\$ 0.855*	Approved as requested.
11	Generation	Old Demi Plant	\$ 0.213*	Approved as requested.
TOTAL			<u>\$ 18.259</u>	

