

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

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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: Motion Requesting
Expedited Appointment of the PREB
Independent Coordinator and
Resolution and Order Detailing
PREPA Role in Anticipation for the
Tranche 2 RFP

**MOTION REQUESTING EXPEDITED APPOINTMENT OF THE PREB
INDEPENDENT COORDINATOR AND RESOLUTION AND ORDER DETAILING
PREPA ROLE IN ANTICIPATION FOR THE TRANCHE 2 RFP**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

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

1. Long-term electrical system planning is critical for implementing the Energy Public Policy set forth in Act 17-2019¹ and furthering the sustainable development of the people of Puerto Rico through the Electrical System.² This planning will allow the electric power system to be reliable and accessible.³ Act 17-2019 establishes a revised renewable portfolio standard (“RPS”) in which PREPA is directed to move away from generating power with fossil fuels “by integrating orderly and gradually alternative renewable energy while safeguarding the stability of the [e]lectrical [s]ystem and maximizing renewable energy resources.”⁴ To reach said objective, the RPS

¹ *Puerto Rico Energy Public Policy Act*, Act No. 17 of April 11, 2019, 22 L.P.R.A. §§ 1141-1141f (“Act 17-2019”)

² *Id.* at § 1.9 (1).

³ *Id.* at *Statement of Motives*.

⁴ *Id.* at § 1.6(7).

establishes the following metrics to be achieved as a minimum of renewables: 40% on or before 2025; 60% on or before 2040; and 100% on or before 2050.⁵

2. In furtherance of the requirements of Act 17-2019, in compliance with Puerto Rico Act 57-2014⁶ and the directives of the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") PREPA prepared an integrated resource plan ("IRP") intended to consider all reasonable resources to satisfy the demand for electrical services over a twenty (20) year planning horizon. On February 13, 2019, PREPA filed its IRP along with supporting work papers and other documentation with the PREB. This IRP was subsequently amended and refiled on June 7, 2019.

3. On August 24, 2020, the Energy Bureau issued the Final Resolution and Order on the PREPA Integrated Resource Plan ("IRP Final Resolution and Order") under Case No. CEPR-AP-2018-0001. 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.

4. The Final Order's Modified Action Plan contains specific directives and requirements. A key directive is the formulation of a Renewable Resource and Battery Energy Storage Resource Procurement Plan (Procurement Plan). As summarized in Section I(A)(3) of the Final Order, the PREB Ordered, among others, the following:

- a. Development by PREPA, with the Energy Bureau's guidance and approval, of a detailed procurement plan for renewable resources and battery energy storage to achieve compliance with the RPS;

⁵ *Id.*

⁶ *Puerto Rico Energy Transformation and RELIEF Act*, Act no. 57 of May 27, 2014, 22 L.P.R.A. §§ 1051-1056 ("Act 57").

- b. PREPA to issue a series of RFPs for provision of renewable energy in support of Act 82[-2010]⁷ RPS goals, and for the provision of battery energy storage in support of capacity requirements needed to meet PREPA's peak load requirements and in support of integration requirements for renewable energy generation;
- c. that the competitive procurements to obtain Power Purchase and Operating Agreements (PPOA) for these resources must be open to all forms of renewable energy, including, but not limited to, wind, hydro, solar PV, VPP, and storage ... that PREPA should not unnecessarily limit the level of overall procurement to 250 MW blocks, but rather needs to pursue a strategy that attempts to procure the amount of resources required under S3S2B.

5. Accordingly, 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.⁸ As part of the IRP, 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, which would be executed in six tranches. 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").⁹

6. 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").¹⁰

7. After various procedural milestones, on October 12, 2021, the Energy Bureau issued a Resolution and Order in the captioned case (the "October 12 Resolution") in which, on its own

⁷ *Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act*, Act 17 of July 29, 2010.

⁸ IRP Final Resolution and Order at p. 266, ¶ 859.

⁹ *Id.* at p. 268, ¶ 860.

¹⁰ *Id.*

motion, it rescheduled the target date for PREPA's issuance of its Tranche 2 RFP for renewable generation and energy storage resources from October 15, 2021 to October 31, 2021.

8. The Energy Bureau informed that the rationale for such a rescheduling was that the finalization of Tranche 1 was still pending, and the Energy Bureau considered the results of Tranche 1 to provide important information components, which "could and would enlighten the next procurement tranches." October 12 Resolution at p. 3.

9. On October 15, 2021, PREPA filed before the Energy Bureau a document titled *Motion Submitting Tranche 2 Request for Proposals for Renewable Energy Generation and Energy Storage Resources (RFP)* ("Tranche 2 RFP Submittal Motion"). As part of the Tranche 2 RFP Submittal Motion, PREPA submitted a document titled *Request for Proposals No. 128568[*] Renewable Energy Generation and Energy Storage Resources Tranche 2 of 6*, identified as Exhibit A ("Tranche 2 RFP"). The Tranche 2 RFP consisted of a Draft Publication Version and various documents identified as Appendixes A through AA. As part of its Tranche 2 RFP Submittal Motion, PREPA requested the Energy Bureau to find PREPA in compliance with Joint Regulation 8815¹¹ related to the procurement of renewable energy competitive bidding processes and to approve the Tranche 2 RFP for publication.

10. The filing of the Tranche 2 RFP Submittal Motion was in response to and in compliance with the October 12 Resolution.

11. Thereafter, on October 29, 2021, the Energy Bureau issued a Resolution and Order in the captioned case (the "October 29 Resolution") in which, on its own motion, it determined to appoint an independent coordinator for the Tranche 2 RFP.

¹¹ See generally PREB and PREPA, 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, Regulation No. 8815 (Nov. 9, 2016).

12. As part of the October 29 Resolution, the Energy Bureau stated that it would:

execute the Tranche 2 RFP through an independent coordinator ("PREB-Independent Coordinator") [but that] PREPA will keep a significant role in the Tranche 2 RFP process since it is required to provide all the technical and administrative resources necessary for the successful execution of the Tranche 2 RFP process. This action will allow the Energy Bureau to execute a direct role in overseeing the process, and will implement compliance actions required for the successful, swift and transparent implementation of the procurement process.

October 29 Resolution at p. 14.

13. The Energy Bureau further stated that

In a separate resolution, the Energy Bureau will set the detailed powers and duties of the PREB-Independent Coordinator as well as the role of PREPA in the Tranche 2 RFP process. The Energy Bureau will specify the timeline the PREB-independent Coordinator must follow to achieve the overall goals of renewable energy integration public policy. The Energy Bureau will also detail any required modification to the current PREPA Draft Tranche 2 RFP to account for the execution of the process through the PREB-Independent Coordinator. Nevertheless, in general terms, all phases of the Tranche 2 RFP will be conducted by the PREB-Independent Coordinator, and the PREB-Independent Coordinator will coordinate with the Energy Bureau staff throughout the RFP process to ensure that it is undertaken in a fair and unbiased manner, and in accordance with the Energy Bureau's approved Tranche 2 RFP, Updated Renewables Procurement Plan as well as any applicable order or resolution issued by Energy Bureau in connection with the Tranche 2 RFP and/or the Updated Renewables Procurement Plan. PREPA and its consultants will review and discuss with the PREB-Independent Coordinator, without limitation, all decisions regarding the Tranche 2 RFP procedural matters, evaluation, disqualification, non-selection, and selection of proposals. The role of the PREB-Independent Coordinator, will include, without limitation: (a) conduct all steps of the competitive bidding process; (b) manage all communications with proponents; (c) manage all communications protocols with proponents; (d) assure adherence to the applicable code of conduct; (e) submit comments and recommendations, if any, to the Energy Bureau concerning the Tranche 2 RFP process; (f) develop in coordination with PREPA the proposal evaluation methodology, models, criteria, and assumptions; (g) conduct the evaluation of proposals; (h) conduct contract negotiations with proponents ; (i) report to the Energy Bureau on monitoring results during each stage of

the RFP process; and (j) assure that the goals of the Tranche 2 RFP and related Updated Renewable Procurement Plan provisions were achieved.

Id.

14. PREPA is committed to the launching of the Tranche 2 process and implementing those lessons it has learned from managing Tranche 1. This, with the intent of complying with the requirements of Act 17-2019. Further, PREPA welcomes the appointment of the PREB-Independent Coordinator and the assistance of the Energy Bureau for the purpose of accomplishing a successful renewable energy and battery storage procurement process.

15. Accordingly, PREPA wishes to issue the Tranche 2 RFP as soon as possible and for this purpose seeks both the expedited appointment of the PREB-Independent Coordinator and the detailing of the tasks and work streams PREPA will continue to be responsible for during that process. Especially, knowing PREPA's tasks and responsibilities will help PREPA to coordinate and provide the necessary technical and administrative assistance to the PREB-Independent Coordinator.

16. As detailed in the October 29 Resolution, the Energy Bureau contemplates PREPA keeping "a significant role in the Tranche 2 RFP process since it is required to provide all of the technical and administrative resources necessary for the successful execution of the process." October 29 Resolution at p. 14. PREPA's contracting requirements includes various layers of approval involving, among others, the Puerto Rico Fiscal Oversight and Management Board. This fact compels PREPA to coordinate and seek approval of any consultants it needs in a timely fashion to engage both the technical and administrative resources needed in anticipation to the successful implementation of Tranche 2.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully requests that the Energy Bureau expedite the appointment of the PREB-Independent Coordinator and issue the

Resolution and Order detailing the technical and administrative resources PREPA needs to engage for its role in the Tranche 2 RFP as soon as possible.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 13th day of December 2021.

/s Maralíz Vázquez-Marrero

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CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and a courtesy copy of the filing was sent to LUMA through its legal representatives at margarita.mercado@us.dlapiper.com and laura.rozas@us.dlapiper.com.

In San Juan, Puerto Rico, this 13th day of December 2021.

s/ Maralíz Vázquez-Marrero
Maralíz Vázquez-Marrero