

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

NEPR Received: Jan 4, 2022 10:12 AM
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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 Reiterate Request for
Approval of Generation Projects and/or
Technical Conference

**MOTION TO REITERATE REQUEST FOR APPROVAL OF GENERATION
PROJECTS AND/OR TECHNICAL CONFERENCE**

COMES NOW the Authority¹, through its counsel of record, and respectfully submits and requests as follows:

1. On November 15, 2021, PREPA filed a *Motion to Submit Fourth Group of Generation Projects* (the “November 15 Motion”). Along with the November 15 Motion, PREPA submitted a comprehensive list of Generation Projects which consist of repair work projects of generation assets and for which PREPA will seek reimbursement under several FEMA programs. *See*, November 15 Motion at Attachment A. The Generation Projects list includes the generation facility name and location, name and description of the work, and the corresponding cost estimates. *Id.* at p. 3, ¶ 7. PREPA affirmed that it is of the utmost importance that the Energy Bureau approved the Generation Projects included in Attachment A of the November 15 Motion, so that PREPA can move forward and make the relevant requests for reimbursement of those projects because, among other reasons, the People of Puerto Rico should not have to pay for the costs associated with the Generation Projects when there are funds available to cover those expenses. *Id.* In the November 15 Motion, PREPA also asserted that the execution of the Generation Projects will serve the People of Puerto Rico and will allow PREPA to follow its responsibility and duty to

¹ Capitalized terms not defined herein shall be considered with the meaning provided to them in the November 15 2021, Motion.

provide reliable and continuous electric service. *Id.*

Consequently, PREPA requested the Energy Bureau to approve the Generation Projects to allow PREPA to present them to COR3 and FEMA to obtain the funds.

2. On November 22, 2021, the Energy Bureau entered a *Resolution and Order Nunc Pro Tunc*² partially addressing the November 15 Motion (the “November 22 Order”). In the November 22 Order, the Energy Bureau clarified that all PREPA’s capital projects expenses require the Energy Bureau’s approval. *See*, November 22 Order at p. 1, ¶ 2. Further, the Energy Bureau stated that “[t]he 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 inconsistent with the Approved IRP and Modified Action Plan as well as PREPA’s approved budget.” *Id.* at pp. 1-2, ¶

3. The Energy Bureau also emphasized on the fact that PREPA must follow the strong energy public policies that are behind the retirement of certain generation units during the new five (5) years, the reduction of dependance on certain types of fuels and the substitution of the generation infrastructure. *Id.* at p. 2 ¶ 1. The Energy Bureau further stated that PREPA must adhere to the Approved IRP. *Id.* at ¶ 2.

3. In the November 22 Order, the Energy Bureau informed that it would evaluate the Generation Projects with the urgency that circumstances require. *Id.* at p. 2, ¶ 4. Nevertheless, it stated that the Generation Projects included in the November 15 Motion could not be implemented without a proper evaluation since they “could potentially have the effect of increasing the cost of the electricity service in Puerto Rico in the medium and long term.” *Id.* at ¶ 3. The Energy Bureau also determined the PREPA was barred “from executing further activities regarding the Proposed

² This *Resolution and Order* amended the *Resolution and Order* entered by the Energy Bureau on November 18, 2021.

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.” *Id.* ¶ 4. At last, the Energy Bureau emphasized “that all actions taken by PREPA regarding generation and related matters must be consistent with the Approved IRP and the Approved Action Plan.” *Id.* at ¶ 5 (emphasis in the original removed).

4. On November 29, 2021, PREPA filed a *Motion to Clarify and Request for Technical Conference* (the “November 29 Motion”) to address that its November 15 Motion did not have the intention of changing or amending the Approved IRP and Modified Action Plan, nor to be inconsistent with these plans. Ultimately, the motion intended to provide additional information in an effort to aid the Energy Bureau in its evaluation of the Generation Projects submitted. On that note, PREPA’s November 15 Motion reiterated its objective to pursue projects that comply and follow both plans. Therefore, PREPA requested the Energy Bureau to schedule, as it has done in the past³, a Technical Conference to further discuss the concerns and questions the latter may have relating to those projects.

5. As stated in the November 29 Motion, the Generating Projects in PREPA’s November 15 Motion were submitted in pursuance of its commitment to transition from fossil fuels to clean and renewable energy. *See*, November 29 Motion at p. 3, ¶ 6. They were also tendered in accordance

³ On August 30, 2021, LUMA’ filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) a document titled *Motion Requesting Clarification of a Portion of the Energy Bureau’s Resolution and Order Entered on August 20, 2021 and Submitting Updated List of Transmission and Distribution Projects and Twenty-Nine \ Scopes of Work* (“August 30 Motion”). *See*, *Resolution and Order* entered on October 14, 2021 (the “October 14 Order”). LUMA stated that it completed the planning phase and project definition for twenty-nine (29) projects to be submitted to the FEMA and the COR3. On September 22, 2021, the Energy Bureau issued a Resolution and Order (“September 22 Resolution”) through which it approved several projects in the August 30 Motion. *Id.* at p. 1. Regarding the SOWs for projects under the buildings category that were included in with the August 30 Motion, the Energy Bureau deemed necessary to obtain additional information from LUMA before completing the evaluation. *Id.* The Energy Bureau ordered LUMA to attend a Technical Conference on September 30, 2021, at 1:00 p.m. *Id.* On October 7, 2021, the Energy Bureau held the Technical Conference. *Id.* During the Technical Conference, LUMA personnel explained to the Energy Bureau the work to be performed under the SOWs related to the buildings category, and the reasons why such work is necessary. *Id.* Thereafter, the Energy Bureau entered the October 14 Order approving the projects submitted by LUMA with the August 30 Motion. *Id.* at p. 2, Sec. III.

with the Resolution and Order entered by the Energy Bureau on March 26, 2021 (the “March 26 Order”), where the Energy Bureau stated that all capital investments, regardless of the source of funding, need to be previously approved by the Energy Bureau before they can progress. *Id.* at ¶ 7. Regarding those “projects to be funded with FEMA funds and/or any other federal funds”, it must also be noted that PREPA has to “submit the specific projects to the Energy Bureau at least thirty (30) calendar days prior to its submittal to COR3, FEMA and/or any other federal agency.” *See*, March 26 Order at pp. 18-19, ¶ 10.

6. As noted in the November 15 Motion, PREPA’s goal to move in a direction that leads to lower costs and cleaner energy requires maintaining its system’s reliability and stability during such transition. Consequently, the projects listed for the Energy Bureau’s review and approval consist of repair works *necessary* to increase the current dependable available generation and provide the People of Puerto Rico a safe and reliable electrical service –while the integration of reliable new resources is completed– and thus prevent future major outages in compliance with the SOP and POR reliability criteria. In conclusion, the Generation Projects proposed are *crucial* for PREPA to maintain the reliability of the generation system during the process of integrating new resources.

7. Bearing in mind the Energy Bureau’s responsibility –as the independent regulator in charge of the implementation and enforcement of Puerto Rico’s energy public policy pursuant to Act 57-2014 and Act 17-2019– to foresee and regulate PREPA’s next steps in the development of any capital project, such as the submitted by PREPA’s in the November 15 Motion, the latter reiterates the need to move forward with the proposed projects in order to make the corresponding funding requests, since PREPA does not have enough funds to cover the expenses the Generation Projects entail. To that end, PREPA needs the Energy Bureau’s approval and leave. *See*, March 26 Order

at p. 19, ¶ 12.

8. Considering the foregoing, PREPA respectfully requests the Honorable Energy Bureau to promptly evaluate and/or schedule a Technical Conference through which PREPA representatives can discuss the Generation Projects included in Attachment A of its November 15 Motion. During the proposed hearing, PREPA's personnel shall address any concerns or questions the Energy Bureau may have, so these projects are approved and PREPA can move forward and make the relevant funding requests to COR3 and FEMA.

WHEREFORE, PREPA respectfully requests the Honorable Energy Bureau to note the statements made in this motion and reiterates its request for a prompt decision regarding the Generation Projects included in Attachment A of the November 15 Motion and/or for the scheduling of a Technical Conference to discuss the projects proposed and answer any concerns or questions the Energy Bureau may have.

RESPECTFULLY SUBMITTED.

In San Juan Puerto Rico, this 4th day of January 2022.

s/ Maralíz Vázquez-Marrero
Maralíz Vázquez-Marrero
mvazquez@diazvaz.law
TSPR No. 16,187

s/ Katuska Bolaños-Lugo
Katuska Bolaños-Lugo
kbolanos@diazvaz.law
TSPR No. 18,888

DÍAZ & VÁZQUEZ LAW FIRM, P.S.C.
290 Jesús T. Piñero Ave.
Oriental Tower, Suite 803
San Juan, PR 00918
Tel. (787) 395-7133
Fax. (787) 497-9664

CERTIFICATE OF SERVICE

It is hereby certified that I have filed the foregoing with the Clerk of the Energy Bureau using the electronic filing system using <https://radicacion.energia.pr.gov/login> and also, that I have served a copy on LUMA Energy, LLC and LUMA Energy ServCo, LLC through their counsel of record at laura.rozas@us.dlapiper.com and margarita.mercado@us.dlapiper.com.

In San Juan Puerto Rico, this 4th day of January 2022.

s/ Katuska Bolaños-Lugo
Katuska Bolaños-Lugo