

**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:** Evaluation of PREPA's January  
25, 2022 Request for approval of ten (10)  
SOWs and Request for Confidential  
Designation and Treatment.

**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<sup>1,2</sup> The Energy Bureau required PREPA to submit the specific projects to the Energy Bureau 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").<sup>3</sup>

On November 15, 2021, PREPA filed before the Energy Bureau a document titled *Motion to Submit Fourth Group of Generation Projects* ("November 15 Motion"). Through the November 15 Motion, PREPA submitted one hundred-four (104) Work descriptions in Attachment A ("Proposed Generation Projects") containing a general description of works of conservation, repairs, and retrofitting of generation units and their auxiliary equipment, including, without limitation, boilers, turbines, rotors, generators, motors, pumps, breakers, and control systems for their generation power plants. The works are to be performed in the following Plants: San Juan Power Plant, Aguirre Power Plant and Combined Cycle, Costa Sur Power Plant, Palo Seco Steam Plant, Hydrogas Turbine Peakers, Cambalache, Mayaguez Gas Turbines, and a list of jobs to be performed in all the power plants. PREPA prepared a comprehensive list of repairs works projects of its generation assets and for which PREPA will seek reimbursement under several FEMA programs (*i.e.*, Section 404, Section 428 Public Assistance, etc.).

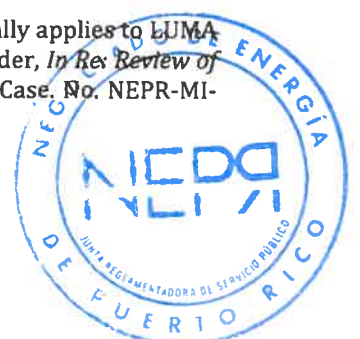
On January 4, 2022, the Energy Bureau issued a Resolution and Order ("January 4 Resolution") through which it conditionally approved the generation projects described in Attachments A to H of the January 4 Resolution, pending the submittal by PREPA of the Scope of Works ("SOWs") of each project. To complete the evaluation on the Proposed Generation Projects, the Energy Bureau requested the following:

1. The status of each unit in the Proposed Generation Projects;
2. If and how the expenditure will help bring the unit back to availability for operation;
3. When the unit would be available for operation if the expenditure was made;

<sup>1</sup> Resolution and Order, *In re: Review of the Puerto Rico Electric Power Authority's 10- Year Infrastructure Plan*, Case No. NEPR-MI-2021-0002, March 26, 2021 ("March 26 Resolution").

<sup>2</sup> Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 ("IRP Order").

<sup>3</sup> 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, Resolution and Order, *In Re: Review of the Puerto Rico Electric Power Authority's 10-Year Infrastructure Plan – December 2020*, Case No. NEPR-MI-2021-0002, June 8, 2021.



4. The expected duration of availability status of the unit after the expenditure is made, and any other required explanation;
5. An updated snapshot of the status of repairs and expected availability over the next three years for the units at San Juan, Palo Seco, Costa Sur and Aguirre; and
6. Either the "Draft released to PREPA" of the "10-Year Thermal Generation Retirement, Addition and Conversion Plan" as listed on page 7 of the December 2021 Status Report scheduled for finishing by March 2022<sup>4</sup> or a synopsis of PREPA's current understanding of how planned retirements of the fossil fleet are considered when requesting approval for maintenance and capital investment funding through the instant procedure.

On January 13, 2022, PREPA filed before the Energy Bureau a document titled *Partial Compliance with the January 4 Order and Request for Extension of Time* ("January 13 Motion"). Through the January 13 Motion, among other, PREPA submitted twenty-five (25) initial SOWs for certain Proposed Generation Projects for the review and approval of the Energy Bureau. Out of the twenty-five (25) SOWs, twenty-four (24) were conditionally approved while one (1) was classified as Deferred Project, as stated in the January 4 Order. Attachment A of the January 13 Motion describes the Proposed SOWs for these twenty-five (25) Proposed Generation Projects.

On January 25, 2022, PREPA filed before the Energy Bureau a document titled *Motion to Submit Additional Generation Projects SOWs* ("January 25 Motion"). Through the January 25 Motion, among other, PREPA submitted ten (10) additional SOWs for the review and approval of the Energy Bureau. Of these Generation SOW's, seven (7) were conditionally approved while three (3) were classified as Deferred Project, as stated in the January 4 Order. Attachment A of the January 25 Motion describes the Proposed SOWs for these ten (10) Proposed Generation Projects.<sup>5</sup>

In the January 25 Motion, **PREPA also requested confidential designation and treatment of Attachment A** for certain global positioning system ("GPS") information for the projects. PREPA states that such GPS information is considered critical energy infrastructure information or critical electric infrastructure information ("CEII") and is therefore confidential. PREPA also states that the general public should have access to the redacted version filed by PREPA in the January 25 Motion.<sup>6</sup>

On January 28, 2022, PREPA filed before the Energy Bureau a document titled *Second Motion to Submit Additional Generation Projects SOWs* ("January 28 Motion"). Through the January 28 Motion, among other, PREPA submitted twenty (20) additional SOWs for the review and approval of the Energy Bureau.<sup>7</sup> Of these Generation SOW's, nineteen (19) were conditionally approved while one (1) was classified as Deferred Project, as stated in the January 4 Order. Attachment A to the January 28 Motion describes the Proposed SOWs for these twenty (20) Proposed Generation Projects.<sup>8</sup>

On February 2, 2022, PREPA filed before the Energy Bureau a document titled *Third Motion to Submit Additional Generation Projects SOWs* ("February 2 Motion"). Through the February 2 Motion, among other, PREPA submitted fourteen (14) additional SOWs for the review and

<sup>4</sup> See Motion to Submit December 2021 Status Report in Compliance with Order, *In re. Preliminary Studies for New Combined Cycle Power Plant in Palo Seco*, Case. No. NEPR-MI-2021-0003, December 15, 2021.

<sup>5</sup> January 25 Motion, p. 2.

<sup>6</sup> *Id.*, p.4.

<sup>7</sup> The Energy Bureau is presently evaluating the twenty (20) SOWs filed.

<sup>8</sup> January 28 Motion, p. 2.



approval of the Energy Bureau.<sup>9</sup> Of these Generation SOW's, twelve (12) were conditionally approved while two (2) were classified as Deferred Projects, as stated in the January 4 Order. Attachment A to the February 2 Motion describes the Proposed SOWs for these twenty (20) Proposed Generation Projects.<sup>10</sup>

On February 8, 2022, PREPA filed before the Energy Bureau a document titled *Fourth Motion to Submit Additional Generation Projects SOWs* ("February 8 Motion"). Through the February 8 Motion, among other, PREPA submitted ten (10) additional SOWs for the review and approval of the Energy Bureau.<sup>11</sup> Of these Generation SOW's, four (4) were conditionally approved while six (6) were classified as Deferred Projects, as stated in the January 4 Order. Attachment A to the February 8 Motion describes the Proposed SOWs for these twenty (20) Proposed Generation Projects.<sup>12</sup>

On February 10, 2022, the Energy Bureau issued a Resolution and Order ("February 10 Resolution") through which it evaluated and addressed the January 13 Motion. In the February 10 Resolution the Energy Bureau, among other, approved twenty-four (24) SOWs as described in Attachment A therein. The Energy Bureau determined not to approve SOW 4069 as described in Attachment B of the February 10 Resolution.

On February 14, 2022, PREPA filed before the Energy Bureau a document titled *Motion to Complete Generation Projects SOWs Submittal and Partial Responses to RFI and Request for Extension of Time to Submit Additional Responses to RFI* ("February 14 Motion"). Through the February 14 Motion, among other, PREPA submitted twenty-three (23) additional SOWs for the review and approval of the Energy Bureau. Of these Generation SOW's, twenty-two (22) were conditionally approved while one (1) was classified as Deferred Projects, as stated in the January 4 Order. Attachment A of the February 14 Motion describes the Proposed SOWs for these twenty-three (23) Proposed Generation Projects.<sup>13</sup>

## II. PREPA's Request for Confidential Information Designation and Treatment ("January 25 Motion")

In the January 25 Motion PREPA requested confidential designation and treatment of Attachment A for certain global positioning system ("GPS") information for the projects. PREPA alleged that the SOWs in Attachment A of the January 25 Motion contains GPS coordinates of the power plants, which is confidential information in the form of critical energy infrastructure information or critical electric infrastructure information ("CEII") that garners protection from public disclosures pursuant to federal statutes and regulations.<sup>14</sup>

To protect such confident information, PREPA states they redacted the GPS information from the Generation Projects SOWs submitted with the January 25 Motion and requests the Energy Bureau to determine that the GPS information is CEII and thus, confidential and to maintain the public files with the redaction already provided. PREPA requests the Energy Bureau to grant confidential designation and treatment to the referred GPS information in Attachment A of the January 25 Motion. Table 1 below details the list of the GPS information for which PREPA requested confidential designation and treatment:

<sup>9</sup> The Energy Bureau is presently evaluating the fourteen (14) SOWs filed.

<sup>10</sup> February 2 Motion, p. 3.

<sup>11</sup> The Energy Bureau is presently evaluating the ten (10) SOWs filed.

<sup>12</sup> February 2 Motion, p. 3.

<sup>13</sup> February 14 Motion, pp. 3-4.

<sup>14</sup> 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).



**Table 1: PREPA's Request for Confidential Information Designation and Treatment**

SOW NO.	PROJECT DESCRIPTION	CONFIDENTIAL INFORMATION	REQUEST FOR CONFIDENTIALITY LEGAL BASIS
2041	Inner Barrel Bundle	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII
3056	Replacement of Excitation System Units 5 and 6	GPS Location Page 4, Sec. 2.1 Pag. 9, Sec. 10.3	CEII
3065	Unit 6 LP-B Installation Work (Failure)	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII
4071	Fuel Tanks Level Measurement System	GPS Location Page 4, Sec. 2.1 Page 11, Sec. 10.3	CEII
4072	Water Retention Tank Num. 3	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII
4073	Unit PS 4 Refractory, Insulation, scaffolding and Painting Application Works	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII
4074	Contract, on request, for Crane Services PS4	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII
4075	Procurement Turning Gear System, Units 3 and 4	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII
4078	Upgrade OSI DCS	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII
4080	Unit 4, Superheater Header Num. 5 Material and Installation	GPS Location Page 4, Sec. 2.1 Page 9, Sec. 10.3	CEII

Act 57-2014<sup>15</sup> 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 party submitting understands deserves such protection.<sup>16</sup> 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".<sup>17</sup> 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."<sup>18</sup>

Upon review of PREPA's arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the GPS information as described in Table 1 above, for the reasons stated by PREPA, pursuant to the provisions of Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that PREPA has submitted a revised redacted (*i.e.*, public) version of the documents described in Table 1.

### III. Evaluation of PREPA's January 25 Motion

As part of the January 25 Motion, PREPA included ten (10) Work descriptions for the generation plants in Aguirre Power Plant, Costa Sur Power Plant, and Palo Seco Steam Plant. Attachment A of the January 25 Motion contains a Proposed Scope of Work of all ten (10) works to be performed in the power plants. Out of the ten (10) Generation Projects SOWs, seven (7) were conditionally approved while three (3) were classified as deferred projects

<sup>15</sup> Puerto Rico Energy Transformation and RELIEF Act, as amended ("Act 57-2014").

<sup>16</sup> Section 6.15 of Act 57-2014.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* (Emphasis added).



(SOWs No. 4073, 4075, 4080 of Attachment B for the Palo Seco Steam Plant) as stated in the January 4 Order. These proposed generation projects were classified as deferred since they are work intended for units included in the Retirement Plan<sup>19</sup>.

According to PREPA, the ten (10) SOWs have the objective to (i) improve the generation asset's reliability, increasing their availability, and providing a continuous generation service, (ii) repair all the damages to equipment and areas within all the Plants; and (iii) restore the facilities to pre-disaster function and approved codes and standards. PREPA states it will seek reimbursement under several FEMA programs (*i.e.*, Section 428 Public Assistance Program, Section 404 Program).

All SOWs included the detailed descriptions of the project and work that is to be performed, with the corresponding Cost Estimates, equipment specifications, bidding process for those works that requires the method, or corresponding documentation for those that are performed by unique or sole supplier. Attachment A of this Resolution and Order contains the difference between the original estimate in the November 15 Motion, and the estimate in the January 25 Motion. The difference represents a total cost increase of \$908,851.00, relative to the cost estimates originally presented in the November 15 Motion.

Upon review of the SOWs, the Energy Bureau **DETERMINES** that the seven (7) SOWs filed in the January 25 Motion, which were classified as Conditionally Approved in the January 4 Order, are necessary to maintain and improve the reliability of the systems in the related PREPA Plants. These seven (7) SOWs include descriptions and justifications for the corresponding units, the type of project and the corresponding Codes and Standards that are impacted. Therefore, the Energy Bureau **APPROVES** these seven (7) SOWs projects as described in **Attachment A** of this Resolution and Order. The Energy Bureau notes this approval represents an investment of \$9,658,851.00, based on the proposed works that were presented by PREPA through the January 25 Motion.<sup>20</sup>

The Energy Bureau **DETERMINES to not approve** SOWs No. 4073, 4075, and 4080 for the Palo Seco Steam Plant, as described in **Attachment B** of this Resolution and Order. These SOWs were classified as Deferred Proposed Generation Projects in the January 4 Resolution. Their evaluation is deferred, pending more specific information regarding the units' availability and actual conditions and/or a synopsis of PREPA's current understanding of how planned retirements of the fossil fleet are considered when requesting approval for maintenance and capital investment funding through the instant procedure. These SOWs shall be discussed in the proposed Technical Conference that shall be scheduled once PREPA responds to all ROIs stated in the January 4 Resolution.

#### IV. Conclusion

The Energy Bureau **APPROVES** the projects included as part of **Attachment A** of 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 changes, 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 of this Resolution and Order, 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 such Attachment A, **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

<sup>19</sup> See Approved IRP, p.284 ("Retirement Plan").

<sup>20</sup> The Energy Bureau has approved a total of \$4,689.156 MM = \$1,240.77 MM + \$1,789.58 MM + \$1,376.97 MM + \$18.257 MM + \$5.189 MM + \$253.775 MM (January 4 Resolution) + \$3.707 MM (February 10 Resolution) + \$0.908 MM up to date based on the Class Cost Estimates submitted by PREPA and LUMA as part of this process.



The directive instated 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.

Be it notified and published.



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Edison Avilés Deliz  
Chairman



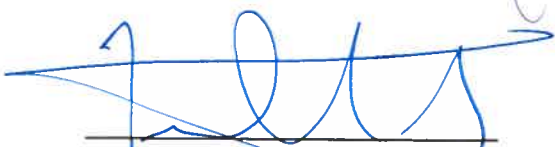
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Ángel R. Rivera de la Cruz  
Associate Commissioner



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Lillian Mateo Santos  
Associate Commissioner



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Ferdinand A. Ramos Soegaard  
Associate Commissioner



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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 February 18, 2022. I also certify that on February 18, 2022 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, February 18, 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 February 18, 2022.



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Sonia Seda Gaztambide  
Clerk



**Attachment A**  
**Works Approved by the Energy Bureau for the Power Plants Permanent Repairs**

SOW NO.	Facility	Project Name	Proposed Scope of Work	Original Estimate <sup>21</sup>	Presented Estimate <sup>22</sup>	Diff	Page at Attachment A
2041	Aguirre Power Plant	Inner Barrel Bundle	Engineering and manufacture of an inner barrel bundle of the boiler feed water pump to be used in Units 1 or 2.	\$1,700,000.00	\$1,625,954.00	(\$74,046.00)	p. 1-86
3056	Costa Sur Power Plant	Replacement of Excitation System Units 5 and 6	Procurement and installation of an upgrade for the excitation system. The manufacturer ceases the production of spare parts.	\$1,500,000.00	\$2,760,934.00	\$1,260,934.00	p. 87-124
3065	Costa Sur Power Plant	Unit 6 LP-B Installation Work (Failure)	Installation and commissioning of the repaired Low-Pressure Rotor-B of the Power Turbine of Unit 6	\$2,000,000.00	\$2,076,415.00	\$76,415.00	p. 125-194
4071	Palo Seco Steam Plant	Fuel Tanks Level Measurement System	Procurement and delivery of an integrated measurement, accounting, control, monitoring and temperature system for the power plant's fuel tanks.	\$550,000.00	\$550,000.00	\$ 0.00	p. 195-217
4072	Palo Seco Steam Plant	Water Retention Tank Num. 3	Removal of existing steel water condensate storage tank. Design and Build of a new 150,000 gallons steel water retention tank, including interior and exterior coating application, instrumentation system for reading water levels and improvements to the existing tank's concrete base.	\$800,000.00	\$800,000.00	\$0.00	p. 218-259

<sup>21</sup> November 15 Motion.

<sup>22</sup> January 25 Motion.



SOW NO.	Facility	Project Name	Proposed Scope of Work	Original Estimate <sup>21</sup>	Presented Estimate <sup>22</sup>	Diff	Page at Attachment A
4074	Palo Seco Steam Plant	Contract, on request, for Crane Services PS4	Service of heavy equipment such as 30 Ton, 50 Ton, 70 Ton, 100 Ton and 350 Ton cranes, including mobilization for the performance of repairs and major maintenance works of the main and auxiliary components of Units 3 and 4.	\$700,000.00	\$700,000.00	\$0.00	p. 300-327
4078	Palo Seco Steam Plant	Upgrade OSI DCS	Supply and installation of new Human Machine Interphase for operation and GIS control for both units 3, 4, Mega Gens 1, 2, 3 and Gas Turbines 1-6.	\$1,500,000.00	\$1,145,548.00	(\$354,452.00)	p. 361-379
<b>TOTAL</b>				<b><u>\$8,750,000.00</u></b>	<b><u>\$9,658,851.00</u></b>	<b><u>\$908,851.00</u></b>	





**Attachment B**  
**Works Not Approved by the Energy Bureau for the Power Plants Permanent Repairs**

SOW NO.	Facility	Project Name	Proposed Scope of Work	Original Estimate <sup>23</sup>	Presented Estimate <sup>24</sup>	Diff	Page at Attachment A
4073	Palo Seco Steam Plant	Unit PS 4 Refractory, Insulation, scaffolding and Painting Application Works	Service of scaffolding installation, removal and installation of boiler's refractory and painting of stacks and other components of the Unit 4	\$1,000,000.00	\$700,000.00	(\$300,000.00)	p. 260-299
4075	Palo Seco Steam Plant	Procurement Turning Gear System, Units 3 and 4	Purchase of new turning gear system for Units 3 or 4 replacement.	\$300,000.00	\$295,381.60	(\$4,618.40)	p. 328-360
4080	Palo Seco Steam Plant	Unit 4, Superheater Header Num. 5 Material and Installation	Purchase and installation of Superheater 5 component of the Unit's 4 boiler.	\$3,000,000.00	\$2,243,385.00	(\$756,615.00)	p. 380-423
<b>TOTAL</b>				<b><u>\$4,300,000.00</u></b>	<b><u>\$3,238,766.60</u></b>	<b><u>(\$1,061,233.40)</u></b>	

<sup>23</sup> November 15 Motion.

<sup>24</sup> January 25 Motion.

