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

IN RE: PRELIMINARY STUDIES FOR NEW COMBINED CYCLE POWER PLANT IN PALO SECO	**CASE NO.:** NEPR-MI-2021-0003 **SUBJECT:** Public Comments Regarding the Preliminary Studies for New Combined Cycle Power Plant in Palo Seco

PUBLIC COMMENTS REGARDING THE PRELIMINARY STUDIES FOR NEW COMBINED CYCLE POWER PLANT IN PALO SECO

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW, Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc. -Enlace Latino de Acción Climática, Comité Yabucoeño Pro-Calidad de Vida, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Sierra Club and its Puerto Rico chapter, Mayagüezanos por la Salud y el Ambiente, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., Campamento Contra las Cenizas en Peñuelas, Inc., and CAMBIO Puerto Rico, Inc., (collectively, "Local Environmental Organizations"), to inform the Puerto Rico Energy Bureau ("PREB") through Public Comment about the Puerto Rico Electric Power Authority ("PREPA") Preliminary Studies, and the need to prohibit PREPA from spending public monies on any gas plant analysis not explicitly authorized by the approved Integrated Resource Plan.

I. PREB's August 2020 Integrated Resource Plan Order authorized a strictly limited Preliminary Studies of a possible future gas plant, specifically at PREPA's Palo Seco Complex.

PREPA first sought approval to begin preliminary studies for a gas plant at the utility's Palo Seco Complex in its July 2019 draft Integrated Resource Plan.[1] In that document, PREPA described a proposed 302 MW gas-fired Combined-Cycle Gas Turbine powerplant at the Palo Seco power plant complex already owned by PREPA:

Source: Imagery ©2022 CNES / Airbus, Maxar Technologies, U.S. Geological Survey, Map data ©2022

[1] Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Resolution and Order, CEPR-AP-2018-0001, June 19, 2019, https://energia.pr.gov/wp-content/uploads/sites/7/2019/06/IRP2019-Main-Report-REV2-06182019-wERRATA.pdf. Hereinafter "PREPA June 2019 Draft IRP".

To be clear, PREPA did not describe a power plant generally "in the San Juan area" or in "the north,"[2] but rather a gas-fired power plant at one specific location: State Highway 165, km 31.8, Toa Baja, PR 00949. As detailed below, PREPA has now determined that a gas plant is not feasible at that location—the only location for which this preliminary assessment was authorized.

PREPA also claimed that planning for the Palo Seco plant had to begin right away, in order to put a new Palo Seco plant into service before the next Integrated Resource Plan was to be filed: "The [Energy System Modernization] plan calls for a new natural gas fueled 302 MW CCGT at Palo Seco by January 2025. January 2025 is also the earliest practical date the unit could be in service. However, to meet this operation date the project would need to begin immediately."[3] As detailed below, a new gas plant application could no longer be submitted before the next Integrated Resource Plan development starts.

In sum, PREPA sought approval to begin planning a Palo Seco gas plant based on the specific location of the PREPA Palo Seco complex, and the claimed ability to have a plant in service before the next Integrated Resource Plan process began. Since both of those claims were ultimately not true, PREPA is no longer justified in continuing the limited Preliminary Studies.

[2] PREPA's filings in the NEPR-MI-2021-0003 use these general terms, which exceed the limited locations allowed for the Preliminary Studies.
[3] PREPA June 2019 Draft IRP, *supra* note 1, at sec.10.1.5.1.

II. The limited Preliminary Studies authorized by PREB have concluded – PREPA has determined that a gas plant is NOT feasible at the Palo Seco Complex.

PREB's August 2020 Integrated Resource Plan order ultimately concluded that "PREPA has not supported inclusion of a new combined cycle (CC) at Palo Seco by 2025 in a least-cost plan."[4] Nevertheless, out of an "abundance of caution and coupled with strict oversight", PREB allowed limited preliminary studies of the feasibility of a gas plant at PREPA's Palo Seco complex.[5] PREB did not approve preliminary studies of a gas plant in San Juan generally or "the north" generally; rather the studies were limited to a gas plant specifically at the Palo Seco property already owned by PREPA. In its order approving a final Integrated Resource Plan, PREB emphasized that "[t]he objective of the scoping and feasibility analysis shall be to develop a revised and **tailored** proposal to the Energy Bureau for options regarding the Palo Seco site."[6]

Through that scoping and feasibility analysis, PREPA has determined that a gas plant is **not feasible** at the Palo Seco complex. We know this because in the November 2021 report, PREPA explained that the utility would be proposing

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[4] Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Resolution and Order, CEPR-AP-2018-0001, August 24, 2020, at paras,643, 659, 879, https://energia.pr.gov/wp-content/uploads/sites/7/2020/08/AP20180001-IRP-Final-Resolution-and-Order.pdf. Hereinafter "PREB August 2020 IRP Order".

[5] *Id.* at paras. 14, 56, 73, 74, 92, 110, 879-883. PREB also emphasized that Palo Seco gas plant planning could not interfere with integration of renewables. Given PREPA's repeated delays on the first RFP tranche and PREB's takeover of the second RFP tranche, one must wonder whether PREPA's obsession with gas plants did ultimately distract the utility from those RFP tranches.

[6] *Id.* at para. 880 (emphasis added).

"relocation of the proposed combined cycle plant".[7] In the motion accompanying the December 2021 Report, PREPA reiterated that it was reviewing "a proposed new location for the combined cycle plant near the San Juan steam plant."[8]

That conclusion, that a gas plant is not feasible at the Palo Seco complex, must mark the end of the "Preliminary Studies for New Combined Cycle Power Plant in Palo Seco." The purpose of the Preliminary Studies was to assess the feasibility of a gas-fired power plant **specifically** at the Palo Seco complex. It did. With that purpose fulfilled, PREPA is without any justification or authorization to spend any further money on the tasks laid out in the utility's "New Combined Cycle Planning and Studies". Investigation of a gas plant in a different location would exceed the limits placed on the Preliminary Studies by PREB's August 2020 Order, and further would violate the Integrated Resource Plan.

[7] Motion to Submit November 2021 Status Report in Compliance with Order Entered on February 1, 2021, *In Re:* Preliminary Studies for New Combined Cycle Power Plant in Palo Seco, NEPR-MI-2021-0003, at Attach. 3 (Nov. 15, 2021), https://energia.pr.gov/wp-content/uploads/sites/7/2021/11/Motion-to-Submit-November-2021-Status-Report-in-Compliance-with-Order-Entered-on-February-1-2021-NEPR-MI-2021-0003-1-1.pdf.

[8] Motion to Submit December 2021 Status Report in Compliance with Order, *In Re*: Preliminary Studies for New Combined Cycle Power Plant in Palo Seco, NEPR-MI-2021-0003, at 3 (Dec. 15, 2021), https://energia.pr.gov/wp-content/uploads/sites/7/2021/12/Motion-to-Submit-December-2021-Status-Report-in-Compliance-with-Order-NEPR-MI-2021-0003.pdf.

III. PREPA's proposal to start a new analysis of a gas plant at a different location exceeds the strictly limited preliminary studies for a Palo Seco gas plant analysis allowed by PREB, and would violate the approved Integrated Resource Plan.

In this docket, PREB has had to repeatedly emphasize the limited nature of the allowed preliminary studies.[9] Furthermore, through this same docket and elsewhere, PREB has also had to remind PREPA that any exceedance of those limits, or evaluation of new generation not approved in the IRP, would violate Law 17-2019 and the Approved Integrated Resource Plan.[10] The Approved Integrated Resource Plan only allowed limited, preliminary feasibility analysis for a gas plant at PREPA's Palo Seco complex. Now that PREPA has concluded that a gas plant at Palo Seco is not feasible, any further gas plant analysis violates the approved Integrated Resource Plan. PREB must reject PREPA's proposal for a new analysis of a new location.

PREPA erroneously attempts to support its proposal for a brand new analysis at a new location, with vague claims about the need for another gas-fired power plant in "the San Juan area" or in "the north." PREB already rejected these claims in the August 2020 Order that set up the current Integrated Resource Plan, determining that a new San Juan gas plant was **not** part of a least-cost, least-risk resource plan.[11]

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[9] *In Re:* Preliminary Studies for New Combined Cycle Power Plant in Palo Seco, Resolution and Order, NEPR-MI-2021-0003, February 1, 2021, at 1-3, https://energia.pr.gov/wp-content/uploads/sites/7/2021/02/20210201-MI20210003-Resolution-and-Order-Palo-Seco-Reports.pdf.
[10] *In Re:* Preliminary Studies for New Combined Cycle Power Plant in Palo Seco, Resolution and Order, NEPR-MI-2021-0003, November 18, 2021, https://energia.pr.gov/wp-content/uploads/sites/7/2021/11/20211118-MI20210003-Resolution-and-Order.pdf.
[11] PREB August IRP 2020 Order *supra* note 4, at paras. 643, 659, 879.

A new analysis at a new location would not be a "tailored proposal to the Energy Bureau for options regarding the Palo Seco site" and therefore exceeds the limited authorization given by PREB. To the contrary, it would be yet another "**collateral attack on the Approved [Integrated Resource Plan] and Modified Action Plan and a defiance to the August 24 Resolution.**"[12]

This is not the first time PREPA has attempted to illegally sidestep the Approved Integrated Resource Plan's limitations on Preliminary Studies of a San Juan gas plant: PREPA's original 10-Year Plan improperly included "the construction of a dual fuel ... 400 MW Combined Cycle Generation Plan near San Juan, instead of the execution of studies and permitting ordered in the IRP",[13] among other gas-fired resources that were rejected in the approved Integrated Resource Plan. Upon learning of the 10-Year Plan, PREB prohibited PREPA from moving forward with these resources, stating unequivocally: "**None of these actions are consistent with the Approved IRP and Modified Action Plan**."[14] It appears that PREB needs to reiterate that prohibition, with further steps to ensure that PREPA does not waste public money on resources that were not already explicitly approved by PREB.

In addition, PREB's allowance for limited preliminary studies of a Palo Seco gas plant repeatedly emphasized that PREPA was required to demonstrate a reliable

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[12] *In Re:* Review of PREPA's 10 Year Infrastructure Plan-December 2020, Resolution and Order, NEPR-MI-2020-0002, January 25, 2021 https://energia.pr.gov/wp-content/uploads/sites/7/2021/01/20210125-MI20210002-RO-10-YR-Plan-1.pdf (emphasis in original).
[13] *Id.* at 9.
[14] *Id.* at 10 (emphasis in original).

fuel supply for the Palo Seco plant.[15] PREPA has never done so, most likely because there is no reliable gas supply in San Juan – New Fortress Energy's LNG Terminal has experienced a parade of delays, contract violations, technical problems, and outages, including a four-month outage that started on October 15, 2021 and continued through January 2022.[16] PREPA's failure to identify a reliable gas supply is another reason to end the Preliminary Studies.

If PREPA wants to propose a new gas plant, in a new location, that proposal must first be evaluated and approved by PREB and stakeholders through development of the new Integrated Resource Plan, which is scheduled to begin in March of this year.[17]

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[15] *In Re:* Review of PREPA's 10 Year Infrastructure Plan-December 2020, *supra* note 9, at 3. ("Preliminary economic, siting, permitting and planning analysis for a CCGT should include its associated infrastructure, including but not limited to, fuel delivery infrastructure. [...] The fuel delivery infrastructure analysis specifics are of the [utmost] important to the Energy Bureau. [. . .]").
[16] PREPA Governing Board, *PREPA's Governing Board Meeting Nov. 17, part 1 of 3*, (Nov. 22, 2021), https://www.youtube.com/watch?v=DrciDR3tEHQ&t=3036s.
[17] Motion to Submit Report on Resource Planning Process for Next IRP Cycle, *In RE:* Implementation of PREPA's IRP and Modifies Action Plan, NEPR-MI-2020-0012, (Dec. 17, 2021), https://energia.pr.gov/wp-content/uploads/sites/7/2021/12/Motion-to-Submit-Report-on-Resource-Planning-Process-for-Next-IRP-Cycle-and-Draft-RFQ-RFP-for-Consultant-and-Request-for-Confidential-Treatment-NEPR-MI-2020-0012.pdf.

CONCLUSION

For the reasons detailed above, Local Environmental Organizations request that PREB issue an order requiring PREPA to immediately end the Preliminary Studies, and prohibiting PREPA from spending public monies on any gas plant analysis not explicitly authorized by the approved Integrated Resource Plan.

Respectfully submitted. In San Juan Puerto Rico, February 17, 2022.

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CERTIFICATION OF SERVICE

I hereby certify that on February 17, 2022, I have filed this Informative Motion via the Energy Bureau's online filing system, and sent to the Puerto Rico Energy Bureau Clerk and legal counsel to: secretaria@energia.pr.gov; kbolanos@diazvaz.law; and jmarrero@diazvaz.law

Respectfully submitted on this day February 17, 2022.

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