

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

<b>NEPR</b>  <b>Received:</b>  <b>Jan 25, 2022</b>  <b>10:02 PM</b>
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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:** Third Motion to Reiterate  
Request For Entry Of Resolution And  
Order Detailing PREPA’s Role In The  
Tranche 2 RFP Process

**THIRD MOTION TO REITERATE REQUEST FOR ENTRY OF RESOLUTION AND  
ORDER DETAILING PREPA’S ROLE IN THE TRANCHE 2 RFP PROCESS**

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. On January 14, 2022, the PREPA filed with the Energy Bureau<sup>1</sup> *Motion to Reiterate Request for entry of Resolution and Order Detailing PREPA’s Role in the Tranche 2 RFP Process* (the “January 14 Motion”). The January 14 Motion was filed as a result of the Energy Bureau’s January 13, 2022, launching of a portal to publish and receive information for the upcoming procurement processes including the Tranche 2 RFP but failing to have entered the resolution and order needed to *adequately* and *formally* allocate the responsibilities both PREPA and the PREB-Independent Coordinator will have in this process.

2. PREPA hereby incorporates and adopts by reference the arguments and request for relief made in the *Motion Requesting Expedited Appointment of the PREB PREB-Independent Coordinator and Resolution and Order Detailing PREPA Role in Anticipation for the Tranche 2*

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<sup>1</sup> Capitalized terms not defined herein shall be ascribed the same meaning provided to them in the motions listed in the January 14 Motion.

*RFP* filed on December 13, 2021 and later reiterated in the January 14 Motion, including the procedural history of both the IRP Final Order and the Tranche 1 RFP process.

3. To this day the Energy Bureau has failed to enter the resolution and order detailing the legal responsibilities PREPA, the PREB-Independent Coordinator or any other entity will have in the Tranche 2 RFP process.

4. However, on January 13, 2022 PREPA's Executive Director, Eng. Josue Colón, received an emailed letter by the Energy Bureau's President, Edison Avilés (the "January 13 letter"), identifying the designation of the PREB-Independent Coordinator for Tranche 2 & 3 and stating that the Energy Bureau had "selected Accion Group ("Accion") as the PREB-Independent Coordinator to handle the RFP process for the procurement of renewable energy [and that] Accion will be reaching out to [PREPA] representatives shortly to obtain any information necessary." Further, the letter informed PREPA that it "expects PREPA's prompt attention and response to the inquiries and information requests from Accion."

5. PREPA hereby requests the Energy Bureau to clarify whether the January 13 letter is the only formal communication PREPA is expected to receive related to the Tranche 2 & 3 renewables RFP.

6. As stated before, this is not the type of formal response PREPA was expecting from the Energy Bureau related to the designation of the PREB-Independent Coordinator and allocation of responsibilities for the parties involved.

7. The October 29 Resolution issued by the Energy Bureau informed that it would "execute the Tranche 2 RFP through an PREB-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.” October 29 Resolution at p. 14. The Energy Bureau added that the appointment of the PREB-Independent Coordinator would 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.” *Id.* (emphasis provided). For this purpose, the Energy Bureau further stated that, “[i]n a separate **resolution, [it would] set the detailed powers and duties** of the PREB-Independent Coordinator as well as the role of PREPA in the Tranche 2 RFP process.” *Id.* (emphasis added). Further, the Energy Bureau resolved that “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.” *Id.* (emphasis added).

8. To this day the Energy Bureau has failed to enter the expected resolution and order detailing these responsibilities and as such the current process for Tranche 2 & 3 has no legally identified formal process to be carried out.<sup>2</sup>

9. As stated in the January 14 Motion, it was through media news outlets<sup>3</sup> that PREPA became cognizant of what the Energy Bureau intends to do regarding the renewables RFP process. Through the news it furthered transpired that the Tranche 2 will be *administered and evaluated* by Accion, who hosts the referenced platform, and which will serve as the required vehicle for the Tranche 2 RFP.<sup>4</sup>

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<sup>2</sup> In the January 13 2022 letter PREPA is informed that the independent coordinator will apparently be responsible for both Tranche 2 & 3.

<sup>3</sup> Energy Bureau, *Negociado de Energía Promueve Transparencia y Uniformidad en Procesos de Subastas* <https://twitter.com/JuntaJRSP/status/1481618757957169152?s=20> (Last visited Jan. 14, 2022)

<sup>4</sup> The Star Staff, *RFP to be issued for PREPA green generation & storage projects, the San Juan Daily Star, Jan. 13, 2022*, <https://www.sanjuandaily.com/post/rfp-to-be-issued-for-prepa-green-generation-storage-projects> (Last visited Jan. 14, 2022)

10. Both the news media information and January 13 letter stated process materially deviate from what the October 29 Order contemplated as to the process expected to be followed by the Energy Bureau to detail and allocate both the roles and responsibilities of the PREB-Independent Coordinator and PREPA. This fact is further compounded by the Energy Bureau's failure to detail with formal clarity the contemplated RFP process. Unfortunately, this renders the process on questionable legal footing.

11. As the Energy Bureau may appreciate, it is of the utmost public interest to understand what responsibilities the Energy Bureau will give to a private, stateside corporation in what is the innate purview of a public corporation. Accordingly, and in the spirit of transparency, PREPA once again requests the Energy Bureau to enter a formal resolution and order detailing the legal allocation of responsibilities that will be carried out by the parties involved in the Tranche 2 RFP and/or later tranches.

12. It must be stressed that both PREPA and the Energy Bureau are bound by the confines of the legal procurement processes contemplated in the law. At present, specific laws and regulations determine the procurement process to be followed by both PREPA and the Energy Bureau. Failing to clarify the role of the PREB-Independent Coordinator for the purpose of determining whether that role could be at odds with the current legal procurement structure will only further delay the Tranche 2 & 3 processes and their ultimate success.

13. As stated before PREPA welcomes the appointment of the PREB-Independent Coordinator, and any overseeing of the process by the Energy Bureau for the purpose of accomplishing a successful renewable energy and battery storage procurement process. Notwithstanding, for the assurance that a legal and effective process is carried out, PREPA asks the Energy Bureau, once again, to enter a resolution and order detailing the legal responsibilities

the PREB-Independent Coordinator, the Energy Bureau, PREPA or any other entity will have in the process.

**WHEREFORE**, the Puerto Rico Electric Power Authority respectfully requests that the Energy Bureau issue a formal resolution and order detailing the role of PREPA, the PREB-Independent Coordinator, the Energy Bureau or any other entity will have in the Tranche 2 or other RFP processes.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 25<sup>th</sup> day of January 2022.

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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](mailto:margarita.mercado@us.dlapiper.com) and [laura.rozas@us.dlapiper.com](mailto:laura.rozas@us.dlapiper.com).

In San Juan, Puerto Rico, this 25<sup>th</sup> day of January 2022.

*s/ Maralíz Vázquez-Marrero*  
Maralíz Vázquez-Marrero