

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

NEBR Received: Aug 15, 2022 7:31 PM
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IN RE: PRELIMINARY STUDIES FOR
NEW COMBINED CYCLE POWER PLANT
IN PALO SECO

CASE NO.: NEPR-MI-2021-0003

SUBJECT: Motion to Submit the August
2022 Status Report and Evidence of
Compliance with the August 3 Order

**MOTION TO SUBMIT THE AUGUST 2022 STATUS REPORT AND
EVIDENCE OF COMPLIANCE WITH THE AUGUST 3 ORDER**

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 June 23, 2018, PREPA filed the *Puerto Rico Integrated Resource Plan 2018-2019, Draft for the Review of the Puerto Rico Energy Bureau, Prepared for the Puerto Rico Electric Power Authority, June 7, 2019* (“Proposed IRP”)¹. The Proposed IRP proposed different scenarios, including developing or acquiring new generation resources. One of these resources was a new gas-fired combined cycle at Palo Seco by 2025 (“Palo Seco CC”).

2. On August 24, 2020, the Puerto Rico Energy Bureau of the Public Service Regulatory Board entered the *Final Resolution and Order on the Puerto Rico Electric Power Authority Integrated Resource Plan* (“Final IRP Order”).² Regarding the Palo Seco CC, the Energy Bureau found that PREPA did not fully support the inclusion of Palo Seco CC by 2025 as part of a least-cost plan. IRP Order at pp. 3-4, ¶ 14. However, out of an abundance of caution, the Energy Bureau

¹ Filed in case no. CEPR-AP-2018-0001, *In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*.

² *Id.*

allowed PREPA may begin preliminary work on a new fossil fuel-powered unit and/or energy storage at Palo Seco, subject to the constraints outlined in the Modified Action Plan. *Id.*

3. On February 1st, 2021, the Energy Bureau entered a *Resolution and Order* (“February 1 Order”), opening the captioned matter and directing the PREPA to file reports on the status of the development of the studies for a new combined cycle gas turbine in the San Juan area (“New CCGT”), every month. Over more than one (1) year, PREPA submitted over fourteen (14) Monthly Reports in compliance with the IRP Order and the February 1 Order.

4. On July 15, 2022, PREPA submitted the New CCGT Feasibility Study. *See Attachment B of the Motion to Submit Feasibility Study and July 2022 Status Report.*

5. On August 3, 2020, the Energy Bureau entered a *Resolution and Order* (“August 3 Order”) in which, among other things, determined:

that out of an abundance of caution, there is a need to determine the costs and timeframe of availability of a new combined cycle gas turbine, to gauge the current market trends for resource costs, and compare against the costs of ongoing solar PV and battery energy resource deployment, however delayed, to attain the goals set in the Approved IRP to meet the energy public policy goals and serve electricity customers' best interests.

August 3 Order at p. 7.

6. The Energy Bureau further ordered PREPA to notify the Puerto Rico Public-Private Partnerships Authority (P3A), within the next five (5) business days from the August 3 Order, about the Energy Bureau’s determination regarding the establishment of a P3 RFP for a new CCGT. *Id.* at p. 8. Also, the Energy Bureau directed PREPA to, on or before today, file before the Energy Bureau evidence that PREPA complied with such order.

7. In compliance with the section of the August 3 Order cited above, on August 10, 2022, PREPA sent P3A notice of the order. *See Exhibit A.*

8. In the August 3 Order, the Energy Bureau also stated that it reaffirmed PREPA’s obligation

to continue filing monthly reports on the status of the development of the studies for the new CCGT in the San Juan area, supplemental to the feasibility study filed on July 15, 2022, and to include the actions taken by PREPA to amend the request for federal funds to be now utilized for the development of an energy storage project at Palo Seco. In compliance with this order, PREPA hereby submits the *New Combined Cycle Planning and Studies Monthly Progress Status Report* dated August 15, 2022. See Exhibit B.

WHEREFORE, PREPA respectfully requests the Energy Bureau to note the filing of the *New Combined Cycle Planning and Studies Monthly Progress Status Report* dated August 15, 2022, and PREPA's compliance with the August 3 Order.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 15th day of August 2022.

/s/ Katuska Bolaños-Lugo
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Exhibit A

From: [Richard W Cruz Franqui](#)
To: [Torres Sterling, Sheila A. \(AAPP\)](#); [De Jesús Rivera, Shylene \(AAPP\)](#)
Cc: [Perez, Isis \(AAPP\)](#); [Fontanés Gómez, Fermín E. \(AAPP\)](#); [Mary C Zapata Acosta](#); [Katuska Bolaños](#)
Subject: Órdenes NEPR Sobre Nuevo CC y Conversiones SJ 7-10
Date: Wednesday, August 10, 2022 7:29:16 PM
Attachments: [image001.png](#)
[Notification to P3A - PREB Order 08-03-2022.pdf](#)
[20220803 MI20210003 Resolution and Order - Order to initiate RFP.pdf](#)

Please refer to attached letter and notice from the PREB.



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GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY

August 10, 2022

Fermin.Fontanes@p3.pr.gov

Fermín E. Fontanés Gómez
Executive Director
Puerto Rico Public-Private Partnerships Authority

Dear Mr. Fontanés:

Re: Puerto Rico Energy Bureau Order of August 3, 2022

On August 3, 2022, the Puerto Rico Energy Bureau (PREB) issued a Resolution and Order regarding Case No. NEPR-MI-2021-0003, Preliminary Studies for New Combined Cycle Power Plant in Palo Seco (August 3 Order), in which the PREB ordered the Puerto Rico Electric Power Authority (PREPA) the following, among others:

“[T]o notify the P3 Authority **within the next five (5) business** days from the notification of this Resolution and Order about the Energy Bureau determination regarding the establishment of a P3 RFP for a **new CCGT⁴⁸, which shall be dual burning for natural gas and hydrogen⁴⁹ or to be converted to burn hydrogen, at any location in Puerto Rico**, for the P3 Authority to take steps for the commencement of a competitive procurement process in alignment with the present Energy Bureau’s determination.”

In compliance with this mandate, hereby, PREPA includes copy of the August 3 Order. This notification of the PREB’s order does not constitute a request from PREPA to start a public-private transaction.

Cordially,

Mary C. Zapata Acosta
Deputy Executive Director of Operations

Annex



**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: Resolution and Order regarding *Motion to Submit November 2021 Status Report in Compliance with Order Entered on February 1, 2021; Motion to Submit December 2021 Status Report in Compliance with Order* filed by the Puerto Rico Electric Power Authority; and Determination for the establishment of a P3 for a new CCGT which can be converted to burn hydrogen at any location in Puerto Rico.

RESOLUTION AND ORDER

I. Introduction

On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Final Resolution and Order on Puerto Rico Electric Power Authority's ("PREPA") Integrated Resource Plan ("IRP") under Case No. CEPR-AP-2018-0001 ("Approved IRP"). The Energy Bureau approved in part the Proposed PREPA's IRP. Through the Approved IRP, the Energy Bureau accepted in part and rejected in part PREPA's IRP and ordered the adoption and implementation of the Modified Action Plan.

As part of the Modified Action Plan, the Energy Bureau ordered PREPA to develop a competitive solicitation process for the procurement of renewable resources and battery storage resources, pursuant to the tranche schedule established in the Approved IRP.¹ As part of the schedule for minimum quantities for each tranche, the Energy Bureau ordered PREPA to include at least 1,000 MW solar PV (or energy-equivalent renewable resource) and at least 500 MW (2,000 MWh or equivalent) battery energy storage in the Request for Proposals ("RFP") to be issued in the first tranche ("Tranche 1"). The RFP target release date for Tranche 1 was December 2020. PREPA issued the RFP for Tranche 1 February 22, 2021, and subsequent actions have compounded the initial delay such that to date, the awarding of the contracts for Tranche 1 has not been completed, now eighteen months past the original targeted RFP release date. For the second tranche, the Energy Bureau required PREPA to include at least 500 MW of solar PV (or energy-equivalent renewable resource) and at least 250 MW (2,000 MWh or equivalent) battery energy storage ("Tranche 2").²

Through the Approved IRP, the Energy Bureau concluded that PREPA did not support the inclusion of a new gas-fired combined cycle (CC) unit at Palo Seco by 2025 as part of a least-cost plan. Notwithstanding the foregoing, to protect against the uncertainty of near-future solar PV and battery energy storage price outcomes, or other potential reliability concerns, out of an abundance of caution and coupled with strict oversight, the Energy Bureau allowed PREPA to begin preliminary studies for the development of a new fossil fuel-powered unit and/or energy storage at Palo Seco, subject to the constraints indicated in the Modified Action Plan which includes amongst other things, a limitation for PREPA to spend up to \$5 million for preliminary economic, siting, permitting, and planning analysis.³

¹ Approved IRP, ¶859.

² Approved IRP, ¶860. Table 17.

³ Approved IRP, ¶ 14.



The Energy Bureau warned PREPA it must be highly cost-efficient with any preliminary permitting and engineering activity it undertakes, and that these activities shall not interfere with or delay the procurement of solar PV (or other renewable energy) and battery energy storage resources as directed in the Modified Action Plan.⁴ The Approved IRP also instructed PREPA to submit quarterly progress reports to the Energy Bureau describing the work performed, the staffing or consultant resources used to complete the preliminary work for a new CC at Palo Seco, and the status of the overall preliminary efforts.⁵

Additionally, the Modified Action Plan includes directives to retire fossil fueled plants once the renewable capacity and energy storage necessary to replace the combustion plants are online. The oil-fired steam resources set to retire over the next five (5) years are at San Juan, units 7, 8, 9, and 10; at Palo Seco, units 3 and 4, and at Aguirre, steam units 1 and 2 and Aguirre CC units 1 and 2.⁶

On October 12, 2021, the Energy Bureau issued a Resolution and Order through which it stated the procedural background of *In Re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, and stated that PREPA showed a pattern of delays on PREPA's completion of the Tranche 1 RFP process. Based on having not completed such process, the Energy Bureau was forced to reschedule the target date for issuing the Tranche 2 RFP on multiple occasions ("October 12 Resolution").

On November 15, 2021, PREPA filed before the Energy Bureau a document titled *Motion to Submit November 2021 Status Report in Compliance with Order Entered on February 1, 2021* ("November 15 Motion"). Through the November 15 Motion, PREPA provided a report regarding the status of the development of the studies for the CC at Palo Seco. **Additionally, PREPA set forth it would propose "relocation of the new combined cycle".**⁷

On December 15, 2021, PREPA filed before the Energy Bureau a document titled *Motion to Submit December 2021 Status Report in Compliance with Order* ("December 15 Motion"). Through the December 15 Motion, PREPA provided a report regarding the status of the development of the studies for the CC at Palo Seco. **PREPA stated that it was reviewing "a proposed new location for the combined cycle plant near the San Juan steam plant".**⁸

II. The IRP Process

Act 57-2014, known as *Puerto Rico Energy Transformation and RELIEF Act*, was enacted to, amongst other things, create an independent regulatory body to oversee PREPA's and all other certified electric service companies' operations, and to establish strategic planning and information requirement to promote transparency and active citizen participation.⁹ Essential to carrying out this legislative intent is a planning process, directed and overseen by the Energy Bureau. Act 57-2014 requires PREPA to submit and the Energy Bureau to approve, an integrated resource plan, defined as:

... a plan that considers all reasonable resources to satisfy the demand for electric power services during a specific period of twenty (20) years, including those related to the offering of electric power, whether

⁴ *Id.*

⁵ Approved IRP, ¶ 74.

⁶ Approved IRP, ¶ 101.

⁷ November 15 Motion, Exhibit A, p. 3.

⁸ December 15 Motion, pp. 2 – 3, ¶ 6.

⁹ Act 57-2014, Statement of Motives.



existing, traditional, or new resources, and those related to energy demand, such as energy conservation and efficiency, or DR and localized energy generation by the customer. Every integrated resource plan shall be subject to the rules established by PREB and approved by the same. Every plan shall be devised with a broad participation from citizens and other interested groups.¹⁰

Regulation 9021¹¹ defines the term “Integrated Resource Plan” or “IRP” as follows:

[A] plan that considers all reasonable resources to satisfy the demand for electric power services during a specific period of time, including those relating to the offering of electric power, whether existing, traditional, and/or new resources, and those relating to energy demand such as energy conservation and efficiency or DR and localized energy generation by the customer, while recognizing the obligation of compliance with laws and regulations that constrain resource selection.¹²

Under Article 6.23 of Act 57-2014, the Energy Bureau has the mandate to establish regulations to govern the IRP that PREPA must file. The IRP is the centerpiece for carrying out the legislative intent to modernize the electric system, so it is less reliant on fossil fuels, employs more utility scale and distributed renewable energy and promotes efficiency and conservation to improve the environment, comply with federal laws addressing clean air and manage the cost of electricity. The goal of the IRP proceeding is to evaluate PREPA’s resources to develop a cost-effective (least cost) plan to meet Puerto Rico’s energy needs.

The IRP considers a planning period of twenty (20) years and shall be reviewed every three (3) years.¹³ Notwithstanding the foregoing, at any moment before the 3-year filing requirement, PREPA may propose an amendment or update in accordance with Article 6.23 of Act 57-2014 and Section 2.05 of Regulation 9021. Such review process shall include public participation, including intervenors, public hearing, etc. An approved IRP shall remain in effect until approving an amendment or a subsequent IRP by the Energy Bureau.¹⁴

Act 17-2019, known as the *Puerto Rico Energy Public Policy Act*, built upon the foundation created for integrated resource planning in Act 57-2014 and sharpened the focus on accelerated renewable energy provision, energy efficiency and conservation, Demand Response (DR), and Distributed Generation (DG).¹⁵ Act 17-2019 increased the renewable energy targets to twenty percent (20%) by 2022, forty percent (40%) by 2025, sixty percent (60%) by 2040 and one hundred percent (100%) by 2050¹⁶ and created an energy efficiency target of thirty percent (30%) by 2040.¹⁷ Act 17-2019 also emphasizes the role of “prosumer” generation, and envisions an enhanced role for microgrids.¹⁸

¹⁰ Act 57-2014 § 1.3 (II).

¹¹ *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, Regulation 9021, April 24, 2018.

¹² Regulation 9021, § 1.08(B)(20).

¹³ Act 57-2014, § 6.23 and Regulation 9021, § 2.04.

¹⁴ Regulation 9021, § 2.01.

¹⁵ Act 17-2019, § 1.2(p).

¹⁶ *Id.*, § 1.6(7).

¹⁷ *Id.*, § 1.6 (10).

¹⁸ *Id.*, § 1.2(r).



Further, Act 17-2019 reinforces the authority of the Energy Bureau to conduct IRP proceedings.¹⁹ Act 17-2019 also states that the IRP shall be prepared by the electric power company responsible for the operations and maintenance of the electrical system and shall be approved by the Energy Bureau.²⁰ Allowance for preparation by an entity other than PREPA acknowledges the changes contemplated under future IRPs as a result of the implementation of Act 120-2018.²¹ The legislation also set forth more detail than that within Act 57-2014 on the content of the IRP,²² but the content requirements are consistent with the Energy Bureau's IRP requirements in Regulation 9021.²³ A central point throughout the legislation is that actions taken regarding generation and related matters must conform to the approved IRP, highlighting the importance of the IRP as a central planning tool. Any changes or amendments to the IRP shall be approved by the Energy Bureau.²⁴

Act 17-2019 states that the IRP shall be evaluated and approved by the Energy Bureau and may not be eliminated or altered under any circumstances until a plan review process is thus carried out before the Energy Bureau and evidence thereof is furnished. The Energy Bureau shall issue all the rules to be followed when devising its integrated resource plan, which shall include an evaluation plan for attaining the goals set.²⁵ Act 57-2014 further provides that the IRP shall be evaluated and approved by the Energy Bureau and may not be eliminated or altered by any subsequent PREPA Board without first carrying out, and thus evidencing, a plan review process, before the Energy Bureau.²⁶

III. Act 120-2018 "*Puerto Rico Electric Power System Transformation Act*" and Act No. 29-2009 "*Public Private Partnership Act*"

Act 120-2018 creates the legal framework and the mechanism for the sale or transfer of PREPA assets related to electric power generation as well as for the establishment of Public-Private Partnership ("P3") regarding any PREPA functions, service, or facility.²⁷ It is the public policy of the Government of Puerto Rico's (the "Government") to expedite a fair and transparent process for the establishment of P3s with any functions, services, or facilities of PREPA.²⁸

A P3 couples the resources and efforts of the public sector with resources of the private sector by means of a joint investment that results in the benefit of both parties. Such Partnerships are sought to provide a service for citizens and building or operating a facility or project held in high priority by the Government, be it due to the urgency, the need or

¹⁹ *Id.*

²⁰ *Id.*, § 1.9(1).

²¹ *Puerto Rico Electric Power System Transformation Act*, ("Act-120-2018").

²² *Id.*, § 1.9(3); § 5.18 amending § 6.23 of Act 57-2014.

²³ See *Regulation on the Integrated Resource Plan for the Puerto Rico Electric Power Authority*, April 24, 2018 (Regulation 9021). Regulation 9021 is the culmination of a rulemaking proceeding in which comments were sought by interested stakeholders. See, *Regulation of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, CEPR-MI-2018-0005, February 8, 2018. Note that Regulation 9021 superseded Regulation 8594, which was expeditiously enacted to provide guidance to PREPA to meet the statutory deadline to file its first IRP by July 1, 2015. The experience gained during the previous IRP proceeding, allowed the Energy Bureau in Regulation 9021, to improve, expand and elaborate on the requirements set forth in Regulation 8574.

²⁴ Act 17-2019, § 1.9(2).

²⁵ *Id.*, § 1.9(4).

²⁶ Act 57-2014, § 2.9(h)(iii).

²⁷ Act 120-2018, Statement of Motives.

²⁸ Act 120-2018, § 3.



convenience for the citizens. These Partnerships shall be vested in high public interest, the Government is neither relinquishing its responsibility of protecting such interest, nor waiving its rights to receive an efficient service, nor renouncing to the ownership of the public assets included into the Partnership Contract.²⁹

The establishment of P3s calls for a legal and administrative framework that incorporates processes to foster purity and transparency in the development of projects. This process should elicit transparency from the Government in the negotiation and agreements for executing contracts, while still protecting the confidentiality of the so-called “trade secrets” of private business from possible harm from competitors. Such process should promote competition in the request for proposals and afford access to available information to attract the best proponents to ensure the primacy of the free market and of free competition.³⁰

P3s allow for the development of projects and the rendering of some services more efficiently and in a less costly manner by delegating the risks inherent to such development or service onto the party best capable of assessing and managing such risks. Likewise, these Partnerships enable the Government to make infrastructure projects feasible when the funds needed to set a project are not available in the public treasury.³¹

Section 4 of Act 120-2018 states all Act No. 29-2009 shall apply to PREPA Transactions.³² Concerning PREPA Transactions, Section 5 of Act 120-2018, specifically provides that PREPA may conduct any PREPA Transaction and enter into Partnerships or Sales Contracts in relation thereto. **Any PREPA transaction shall be conducted in accordance with the Public Private Partnership’s establishment process in Act No. 29-2009.**³³

The Puerto Rico Public-Private Partnerships Authority (“Authority”)³⁴ is designated as the sole Government Entity authorized to and responsible for (1) implementing the public policy on PREPA Transactions conducted under Act 120-2018 (2) **determining the Functions, Services, or Facilities for which such Partnerships shall be established**, subject to the priorities, objectives, and principles established in the energy policy and the regulatory framework to be developed under Section 9 of this Act; and (3) determining which PREPA Assets related to electric power generation shall be sold or transferred through Sales Contracts.³⁵

PREPA may only sell and dispose of PREPA Assets related to electric power generation through the process established in this Act and **may only conduct transactions related to electric power generation, distribution, and transmission, metering, and any other PREPA function, service, or facility through Partnership Contracts.**³⁶

²⁹ Act 29-2009, Statement of Motives.

³⁰ *Id.*

³¹ *Id.*

³² PREPA Transaction is defined as: Any and all transactions carried out in accordance with the provisions of Act No. 29-2009 and this Act, whereby PREPA or the Government of Puerto Rico establishes one or more Partnerships on connection with any of PREPA’s functions, services, or facilities, or executes a Sales Contract for PREPA Assets related to electric power generation.

³³ Act 120-2018, § 5(a).

³⁴ The Public-Private Partnership Authority was created by Act 29-2009, also known as the *Public-Private Partnerships Act*, for the purpose of implementing the public policy of the Government of Puerto Rico concerning Public-Private Partnerships, as set forth under the Act.

³⁵ Act 120-2018, § 5(b).

³⁶ *Id.*



The Authority shall designate a Partnership Committee, pursuant to Act No. 29-2009, to evaluate and select qualified persons and the PREPA Transaction Proponents, and to establish and negotiate the terms and conditions it deems appropriate for the pertinent Partnership or Sales Contracts under Act 120-2018 and Act No. 29-2009.³⁷

Since PREPA Transactions may have particularities that distinguish them from other transactions conducted by the Authority, the Authority is empowered to create and approve one or more specific regulations for any PREPA Transaction, pursuant to Section 6(b)(ii) of Act No. 29-2009.³⁸

Any contract related to a PREPA Transaction shall include a clause enforcing full compliance with the energy policy and the regulatory framework, except for those excluded by this Act or those authorized by the Legislative Assembly.³⁹

Additionally, any contract related to a PREPA Transaction shall require an Energy Compliance Certificate, as defined by Act 120-2018. The Partnership Committee shall submit to the Energy Bureau the Report drafted pursuant to Section 9(g) of Act No. 29-2009 before submitting it to the Board of Directors of the Authority and PREPA. The Energy Bureau shall evaluate the Report and the Preliminary Contract and issue an Energy Compliance Certificate if they comply with the energy public policy and the regulatory framework. The Energy Compliance Certificate or the resolution to deny the issuance thereof shall state the basis for such determination. The Energy Bureau shall have fifteen (15) business days as of the date on which the Preliminary Contract was submitted to issue a Certificate of Compliance or the resolution to deny the issuance thereof. If a Certificate of Compliance or the resolution to deny the issuance thereof is not issued within the aforementioned term, the PREPA Transaction shall be deemed approved by the Energy Bureau and it shall be understood that an Energy Compliance Certificate has been issued for such PREPA Transaction. Once the Energy Compliance Certificate has been issued, any amendments made to the Preliminary Contract shall require the issuance of a new Energy Compliance Certificate. The mere issuance of an Energy Compliance Certificate shall not constitute grounds for claiming any compensation, reimbursement, or payment because of any expectations arising in the stages, or for the expenses incurred during the qualification process or the submission of proposals. Reviews in connection with the Energy Compliance Certificate issued by the Energy Bureau shall be filed with the Court of Appeals within a term of fifteen (15) days as of the notice thereof.⁴⁰

IV. Analysis

As discussed in Part I, the Energy Bureau authorized the preliminary work of a **new fossil fuel-powered unit and/or energy storage at Palo Seco**, subject to the constraints set forth in the Modified Action Plan. The objective of the preliminary efforts was to develop a revised and tailored proposal to the Energy Bureau for options **regarding the Palo Seco site**.⁴¹

³⁷ Act 120-2018, § 5(c).

³⁸ *Id.*, § 5(d).

³⁹ *Id.*, § 5(f).

⁴⁰ *Id.*, § 5(g).

⁴¹ Approved IRP, pp. 272 – 273, ¶ 880.



Through the November 15 and December 15 Motions, the Energy Bureau was made aware by PREPA of a **“a proposed new location for the combined cycle plant near the San Juan steam plant”**.⁴²

Further, according to the Approved IRP, PREPA was supposed to issue the Tranche 1 RFP in December 2020. Nevertheless, the Tranche 1 RFP was issued on February 22, 2021. The Energy Bureau also granted requests made by PREPA rescheduling of Phase II and Phase III Evaluation of Tranche 1 proposals. As it is evident, an RFP process (Tranche 1 RFP) that should have been finalized long ago, **remains ongoing, thus, delaying the upcoming tranches. This situation delays the implementation of the energy public policy and the benefits that the public expects from it.**

The Energy Bureau has the power and duty to oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico,⁴³ to establish and implement regulations and the regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico’s electrical system, and to establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities.⁴⁴ It has the power to formulate and implement strategies to achieve the energy public policy goals, including, but not limited to, attaining the goals established in the Renewable Portfolio Standard and promoting the storage of energy.⁴⁵ The Energy Bureau has broad authority under Act 57-2014, Act 82-2010⁴⁶ and Act 17-2019 to oversee the acquisition of energy resources by PREPA to help ensure that the Energy Public Policy goals are met and that PREPA’s ratepayers’ interest are protected.

Given the pattern of shortcomings and delays on PREPA’s completion of the Tranche 1 RFP Process, and lacking a site for the proposed new combined cycle plant, the Energy Bureau **DETERMINES** that out of an abundance of caution, there is a need to determine the costs and timeframe of availability of a new combined cycle gas turbine, to gauge the current market trends for resource costs, and compare against the costs of ongoing solar PV and battery energy resource deployment, however delayed, to attain the goals set in the Approved IRP to meet the energy public policy goals and serve electricity customers’ best interests.

Nothing in the Approved IRP or PREPA’s filed information limits consideration of a new gas-fired or hydrogen-fired resource to any location in Puerto Rico, and it is within the authority of the Energy Bureau to ascertain the costs and availability of such new resources at different locations on the Island or allow respondents to indicate which locations they consider best. The Energy Bureau would expect that costs would be lower in regions that already have some electrical, port, and fuel-handling infrastructure in place.

While the Approved IRP order’s competitive procurement emphasis is on solar PV and battery energy storage resources, **the Modified Action Plan does not exclude the use of competitive processes** to obtain new gas-fired or other thermal resources. It even explicitly calls for competitive procurement for replacement of older diesel generation.

⁴² December 15 Motion, pp. 2-3. ¶ 6.

⁴³ Act 57-2014, Article 6.3(a).

⁴⁴ *Id.*, Article 6.3(c).

⁴⁵ *Id.*, Article 6.3(f).

⁴⁶ *Puerto Rico Energy Diversification Policy through Sustainable and Alternative Renewable Energy Act*, as amended, (“Act 82-2010”).



PREPA had first indicated that the CCGT would be at Palo Seco. A year later, PREPA informs the Energy Bureau it requires a new location for the CCGT plant which would require the ongoing studies and permitting effort to be revised. PREPA also informed the Energy Bureau that the feasibility study would be completed by May 15, 2021. The last report filed by PREPA on June 15, 2022, indicates that such report shall be filed July 15, 2022.⁴⁷ This is nonetheless a 14-month delay. Such has resulted in planned integration of renewables and battery energy storage projects to the generation fleet to be delayed. Such delay in the integration of renewables and storage, requires the Energy Bureau, out of an abundance of caution and coupled with strict oversight, to seek the feasibility, reliability, and cost effectiveness of complementary solutions within the private sector which allows the establishment of a real market-based cost for a potential new combined cycle unit.

The Energy Bureau **FINDS** there is a need to determine the costs and timeframe of availability of a new combined cycle gas turbine, to gauge the current market trends for resource costs and compare against the costs of ongoing solar PV and battery energy resource deployment, however delayed, **to attain the goals set in the Approved IRP.**

As discussed, Act 120-2018 specifically provides that any PREPA Transaction, shall be conducted in accordance with the process in Act No. 29-2009 for the establishment of P3s and that the P3 Authority is the sole Government Entity authorized to and responsible for implementing the public policy on PREPA Transactions and determining the Functions, Services, or Facilities for which such Partnerships shall be established. It is further mandated under Act 120-2028 that PREPA may only conduct transactions related to electric power generation, distribution, and transmission, metering, and any other PREPA function, service, or facility through Partnership Contracts.

V. Conclusion

The Energy Bureau **ORDERS** PREPA to notify the P3 Authority **within the next five (5) business days** from the notification of this Resolution and Order about the Energy Bureau determination regarding the establishment of a P3 RFP for a **new CCGT⁴⁸, which shall be dual burning for natural gas and hydrogen⁴⁹ or to be converted to burn hydrogen, at any location in Puerto Rico**, for the P3 Authority to take the steps for the commencement of a competitive procurement process in alignment with the present Energy Bureau's determination. Further, the Energy Bureau **ORDERS** PREPA to file before the Energy Bureau, on or before August 15, 2022, evidence that PREPA complied with this Resolution and Order.

The Energy Bureau **REAFFIRMS** PREPA's obligation to continue filing the monthly reports on the status of the development of the studies for the CCGT in the San Juan Area, supplemental to the final feasibility study filed July 15, 2022. Within the monthly filing reports, PREPA shall include all actions taken to amend the FEMA request that the federal funds approved for the Palo Seco CCGT shall be utilized for the development of an energy storage project at Palo Seco.

The Energy Bureau **WARNS** PREPA that, pursuant to Article 6.36 of Act 57-2014, noncompliance with the Energy Bureau's orders or applicable legal requirements may carry the imposition of administrative fines of up to twenty-five thousand dollars (\$25,000.00) per day, per violation and/or other sanctions that the Energy Bureau may deem appropriate.

⁴⁷ Motion to Submit Feasibility Study and July 2022 Status Reports, *In re. Preliminary Studies for New Combined Cycle Power Plant in Palo Seco*, Case. No. NEPR-MI-2021-0003, July 15, 2022.

⁴⁸ 302 MW.

⁴⁹ By year 2050 the hydrogen utilized shall be green hydrogen.



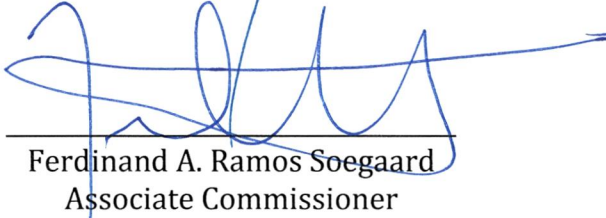
Be it notified and published.




Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on August 3, 2022. I also certify that on this date a copy of this Resolution was notified by electronic mail to: jmarrero@diazvaz.law, kbolanos@diazvaz.law. I also certify that today, August 3, 2022, I have filed the Resolution issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today August 3, 2022.



Sonia Seda Gaztambide
Clerk



Exhibit B



**Puerto Rico
Electric Power
Authority**

Puerto Rico Electric Power Authority (PREPA)

**New Combined Cycle Planning and Studies
Monthly Progress Status Report
August 15, 2022**

Introduction and Outline

Introduction:

- The Puerto Rico Energy Bureau (PREB)'s Integrated Resources Plan (IRP) Final Resolution and Order, approved on August 24, 2020, establishes a limit of \$5 million in expenses for preliminary economic, siting, permitting and planning analysis of a combined cycle plant and fuel delivery infrastructure.
- This report outlines PREPA's progress on this phase of the project and provides the following four elements requested by PREB:
 - 1) A proper and adequate detailed description of the specific tasks and studies;
 - 2) The progress of such tasks;
 - 3) Gantt Chart of the timeline for the completion of the required preliminary work; and
 - 4) Copies of the contract were originally executed for the preliminary work.

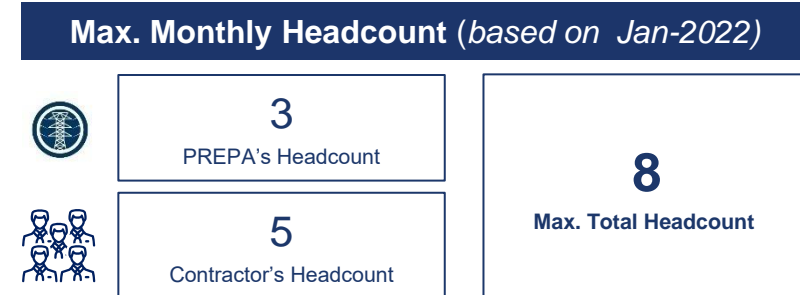
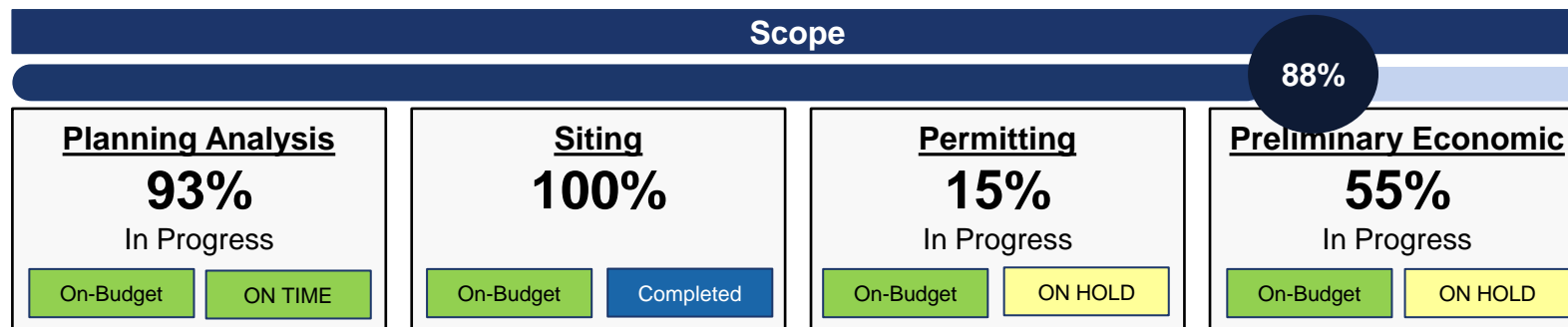
Report Outline	Page #
▪ Introduction and Outline.....	2
▪ Project Overview.....	3
▪ Project Tasks By Workstream.....	4
▪ Project Tasks By Workstream – Phase 2.....	7
▪ Appendix.....	8

Project Overview

Management Notes:

- The Feasibility Study for the combined cycle was completed and submitted to PREB on July 15, 2022.
- On August 3, 2022, PREB entered a *Resolution and Order* directing Puerto Rico Public-Private Partnerships Authority (P3) to open a request for proposals (RFP) for a new combined cycle gas turbine (CCGT).

Financials	
Approved Budget Baseline	\$ 5,000,000
Total Expenses from previous period	\$ 1,473,381
Expenses this period	\$ 50,397
Total Expenses for this Period	\$ 1,523,778
Total expenses / Approved Budget Baseline	30.48%



Significant Upcoming Milestones

Description	Target Period
Prepare proposed relocation of the new combined cycle and present to stakeholders	Note 2 Page 4
Determine the effect of the renewables' growth in the grid and its potential solutions	Note 1 Page 4
Finalize the Renewable Integration Study and Submit to PREB	Note 1 Page 4
Determine Project Schedule and Cost Estimate for the Full Combined Cycle Project	Note 4 Page 6



Project Tasks By Workstream

ID	Task Description	% Complete	Scheduled Start	Scheduled / Actual Finish	Status
Planning Analysis Workstream					
1	Renewable Integration Study	89%	11/16/2020	TBD	Note 1
2	Retirement of Existing Thermal Resources Report – Updated every 6 months after initial release <i>(Reference in Final IRP O&R – Pg. 270, ¶¶ 869-878)</i>	100%	2/17/2021	5/17/2021	Completed
3	Revision of the Retirement of Existing Thermal Resources Report – Updated every 6 months after initial release <i>(Reference in Final IRP O&R – Pg. 270, ¶¶ 869-878)</i>	0%	11/30/2021	TBD	Note 1
4	Environmental (Permitting) Due Diligence Report	84%	12/18/2020	TBD	Note 2
5	New Combined Cycle Power Plant Location Selection Report [The report is complete, submittal to PREB pending final decision to proceed with the combined cycle]	95%	12/18/2020	TBD	Note 2
6	Feasibility Study, Environmental Due Diligence Report, and Location Selection Report Approval From PREPA	100%	6/15/2021	7/15/2022	Completed
Siting Workstream [Note 3]					
6	Geotechnical Investigation specification	100%	1/11/2021	4/30/2021	Completed
7	Site Survey specification	100%	1/11/2021	4/30/2021	Completed
8	Design Criteria Update	100%	1/11/2021	5/21/2021	Completed
9	General Arrangement	100%	1/11/2021	6/28/2021	Completed

[Note 1] This report will be revised by the grid operator if required. Therefore, this task will be eliminated from this work stream and the Gantt Chart Schedule

[Note 2] This report for the combined cycle is ON HOLD until further notice

[Note 3] Siting Workstreams and deliverables will require updates based on final location selection and receipt of proposals from project equipment bidders



Project Tasks By Workstream (Cont'd)

ID	Task Description	% Complete	Scheduled Start	Scheduled / Actual Finish	Status
Siting Workstream (Cont'd)					
10	Heat Balance Analysis	100%	1/11/2021	4/30/2021	Completed
11	Water Balance Analysis	100%	3/1/2021	3/5/2021	Completed
12	Flood Study	100%	3/1/2021	6/14/2021	Completed
13	Process Flow Diagrams (P&IDs)	100%	3/1/2021	5/14/2021	Completed
14	Single Line Diagram	100%	2/1/2021	5/14/2021	Completed
15	Architectural Conceptual Design	100%	3/1/2021	6/28/2021	Completed
16	Site Development Conceptual Design	100%	3/1/2021	6/28/2021	Completed
17	Site Grading and Drainage	100%	3/15/2021	6/28/2021	Completed
18	Major Foundation Conceptual Design	100%	4/1/2021	6/28/2021	Completed
19	Electrical Arrangements	100%	3/1/2021	6/28/2021	Completed



Project Tasks By Workstream (Cont'd)

ID	Task Description	% Complete	Scheduled Start	Scheduled / Actual Finish	Status
Preliminary Economic Workstream					
20	Project Cost Estimate – Full Combined Cycle Project [Note 4]	100%	1/11/2021	7/14/2022	Completed
21	Project Schedule – Full Combined Cycle Project [Note 2 and 4]	10%	1/11/2021	TBD	ON HOLD
Close-Out Tasks					
22	Final Report of all Deliverables Upon Completion for PREB (Milestone)	95%	6/28/2021	7/15/2022	Completed

[Note 4] The Class 4 budgetary cost estimate submitted with the FEMA 404 HMGP application in 2020 dollars was revised for the Feasibility Study based on 2022 referential conceptual combined cycle market pricing adjusted to 2023 dollars assuming an 8% inflation increase



Project Tasks By Workstream – Phase 2

ID	Task Description	% Complete	Scheduled Start	Scheduled / Actual Finish	Status
Permitting Workstream					
23	NEPA EA Report – Consultation [See Note 2 and 4]	15%	1/11/2021	TBD	ON HOLD
24	Air Permit Application – Consultation [See Note 2 and 4]	15%	1/11/2021	TBD	ON HOLD
25	NPDES Permit Application – Consultation [See Note 2 and 4]	15%	1/11/2021	TBD	ON HOLD
Close-Out Tasks					
26	New Combined Cycle Planning and Studies Phase One Results Submitted to COR3 [See Note 2 and 4]	0%	8/12/2021	TBD	ON HOLD
27	New Combined Cycle Planning and Studies Phase One Results Submitted to FEMA [See Note 2 and 4]	0%	10/12/2021	TBD	ON HOLD



Appendix

Project Scope, Objectives and Benefits

The New Combined Cycle Planning and Studies Project Scope

- The planning study phase consisting of a preliminary economic, siting, permitting, and planning analysis of a new combined cycle plant and its fuel delivery infrastructure and/or energy storage, as mandated by the PREB, has been completed and submitted to PREB on July 15, 2022.
- The cost of completing the PREB-approved feasibility study will not exceed \$5 million.

Project Objectives

- Assess the feasibility of a reliable and cost-effective optimal power generation solution to mitigate severe category five storms such as those experienced during and after Hurricane Maria and other natural disasters, including earthquakes.
- Assess the capability of PREPA's power grid to accommodate increased levels of renewable generation and its impact on the overall electrical system stability and the need for synchronous thermal generation to maintain grid stability.
- Illustrate the cost-effectiveness of preliminary permitting and engineering activities for a new combined cycle plant while not interfering with or delaying the procurement of solar PV (or other renewable energy) and battery energy storage resources.

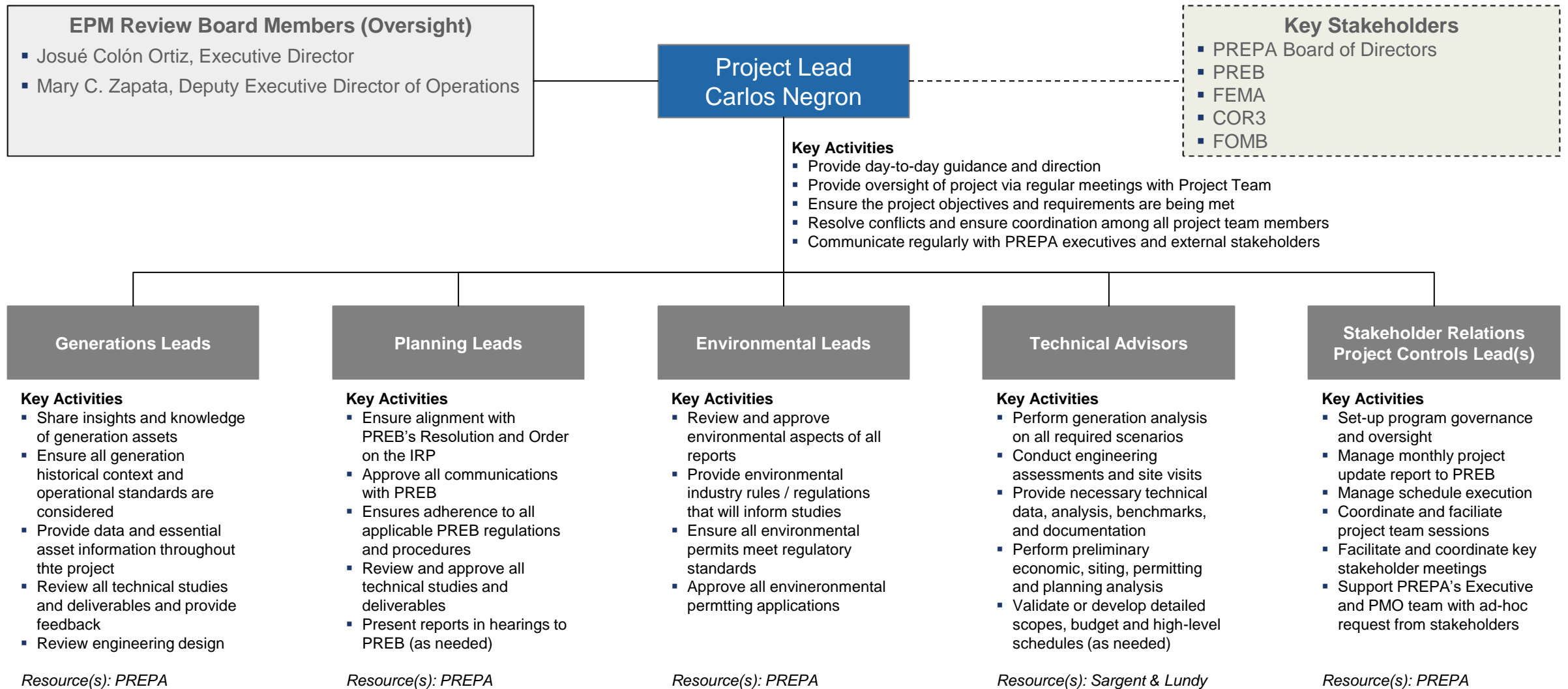
Project Benefits

- Protect against potential reliability concerns by continuing with these planning studies in parallel with the renewable procurement to follow PREB's approved IRP of August 24, 2020.
- Determine the most reliable, dispatchable and cost-effective generation solution for the northern part of the island¹.
- Determine the most optimal generation solution that mitigates the hazards from major catastrophic events (e.g., hurricanes and earthquakes)¹.

[1] Note: In collaboration with and seeking the approval of PREB.



Project Organization Structure



New Requirements and Project Re-Baseline Summary

- On August 3, 2022, PREB entered a *Resolution and Order* directing P3 to conduct an RFP for a new CCGT, which shall be dual burning for natural gas and hydrogen or to be converted to burn hydrogen, at any location in Puerto Rico. Also, PREB ordered PREPA to notify a copy of the *Resolution and Order* to P3 on or before five (5) days after the notification of the order.
- On August 10, 2022, PREPA sent notice of the *Resolution and Order* to P3.

