

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

**IN RE: REQUEST FOR APPROVAL OF RFP
PROCESS FOR THE NEW BLACK-START
SYSTEMS AT COSTA SUR AND YABUCOA**

CASE NO.: NEPR-MI-2022-0005

SUBJECT: Resolution and Order regarding
*Motion Requesting Order Related to the RFP
Process for the New Black Start Systems at
Costa Sur and Yabucoa*, filed by the Puerto
Rico Electric Power Authority

RESOLUTION AND ORDER

I. Relevant Background

On August 24, 2020, the Energy Bureau of the Public Service Regulatory Board (“Energy Bureau”) issued the IRP Order¹, regarding the Integrated Resource Plan (“IRP”) of the Puerto Rico Electric Power Authority (“PREPA”). The IRP Order approved a Modified Action Plan that included allowance for replacing a portion of PREPA’s older gas turbine peaking resources, up to 81 MW in total, subject to competitive procurement. The Modified Action Plan further indicated that PREPA should consider placing such peaking resources at locations with zero or only one remaining older peaking units (*i.e.*, Costa Sur, Aguirre, and Yabucoa); and that the design of such procurement should define services to be provided such as (for example) black start, rather than specific technologies.²

On September 7, 2021, PREPA filed a document titled *Motion to Submit Second Group of Generation Projects Initial SOWS* (“September 7 Motion”). In the September 7 Motion, PREPA requested approval to substitute the Aguirre Black Start Project³ for the Yabucoa Black Start Project.⁴

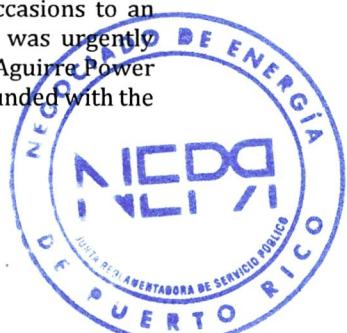
On November 10, 2022, PREPA filed under seal a confidential letter to the Chairman of the Puerto Rico Energy Bureau, seeking approval of the Energy Bureau for the launch of an RFP (request for proposal) for black start generation units at Yabucoa and Costa Sur (“November 10 Request”). Included in the filing was an RFP for the black start units, separate technical specifications for an EPC (engineering, procurement and construction) contract, and draft contract forms for each of the Yabucoa and Costa Sur locations.

¹ See, Final Resolution and Order on the Puerto Rico Electric Power Authority’s Integrated Resource Plan, *In re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001, August 24, 2020 (“IRP Order”).

² IRP Order, pp. 275-276, ¶ 885.

³ Previously approved through the June 8 Resolution.

⁴ Included in the September 7 Motion: “PREPA respectfully asserts that, after further analysis, it has concluded that it would best serve system needs to install black-start units at the Yabucoa location instead of Aguirre. This project is therefore being submitted in place of, not in addition to, the New Black Start System at Aguirre project. With the approach as explained above, PREPA believes that black-start and continuous emergency operation services will be most maximized while complying with the Integrated Resource Plan (IRP) goals, by reaching a much broader area coverage and diversity of clients who provide critical services to the population. As an example, in the aftermath of Hurricane María, the Yabucoa plant was responsible to provide continuous service on isolated, island mode for the region, as well as black-start services on several occasions to an important oxygen plant located in the Humacao industrial area, when oxygen for hospitals was urgently needed. Also, as a matter of fact, the Yabucoa plant was also responsible for black starting the Aguirre Power Complex during the blackout caused by the earthquake on January 7, 2020. This project will be funded with the FEMA Section 404 Hazard Mitigation Grant Program.”



The RFP specifically references the attached technical specification documents.⁵ The technical specification documents each state "The new Plan will utilize two (2) combustion turbine generators (CTGs) with a net output for the facility between 36 and 60 MW at site conditions and nameplate power factor".⁶ The draft contract forms explicitly reference simple-cycle electric generation.⁷ At other locations in the technical specification documents, reference is made to simple cycle generating unit or combustion turbines providing the black start service.⁸ Section A.13 of the technical specification in its entirety is labeled as "Combustion Turbine Generator Requirements".

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On November 15, 2022 PREPA filed a document titled *Memorandum of Law Requesting Confidential Designation and Treatment of the Black Start System Draft RFP Submitted to the Energy Bureau on November 10, 2022* ("November 15 Motion") requesting that the Energy Bureau determine that the request for approval and the New Black-Start Systems Draft RFP are confidential. PREPA alleges that the November 10 Request, including its attachments, are protected by confidentiality treatment, until the RFP process is adjudicated, as per section 10.2 of Regulation No. 8815⁹ and Regulation No. 6285¹⁰.

On November 23, 2022 PREPA filed a document titled *Motion Requesting Expedited Approval of the RFP Process for the New Black Start Systems at Costa Sur and Yabucoa* ("November 23 Motion"), requesting the Energy Bureau to consider an expedited process for the approval of the launching of the RFP for black start service at Yabucoa and Costa Sur. PREPA notes that under the terms of Joint Regulation No. 8815, the Energy Bureau has 45 days to approve, reject or propose modifications to the proposed project or project parameters. PREPA requests expedited approval as soon as possible and before the timeframe provided by Joint Regulation No. 8815.

On December 5, 2022 the Energy Bureau issued a Resolution and Order ("December 5 Order") approving PREPA's request for an RFP process for procurement of black start systems at Costa Sur and Yabucoa. The December 5 Order contained specific conditions on i) the capacity of the resource to be procured and ii) the types of resources eligible to participate in the solicitation and ultimately provide black start service. The December 5 Order included relevant background on the submissions made by PREPA since the issuance of the IRP Order.

On December 10 PREPA submitted a document titled *Motion Requesting Order Related to the RFP Process for the New Black Start Systems at Costa Sur and Yabucoa* ("December 10 Motion"). In the December 10 Motion PREPA requested that the Energy Bureau "allow PREPA to seek proposals with a capacity range from 36-60 MW to procure better market competition and prices, with the unequivocal understanding that, barring on order from the Energy Bureau to the contrary, the dispatch capacity of these units will be limited to 81 MW".¹¹

⁵ RFP, Page 16. "...set forth in the attached Specification No. CPG-003 and Specification CPG-002 (the "Specification") and in accordance with the General Conditions and Special Conditions and the documents listed in the Table of Contents...".

⁶ Technical Specification, Page A.1-1.

⁷ See, for example, Attachment A.1, Contract for Costa Sur gas plant, Article 1 Scope of Work.

⁸ Technical Specification, for example at Section A.1.6.1; and Section 13.1.

⁹ *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, November 9, 2016* ("Regulation No. 8815").

¹⁰ *Regulation for the program to administer Documents of the Puerto Rico Electric Power Authority* ("Regulation No.6285').

¹¹ PREPA, December 10 Motion, page 4.



II. Discussion and Findings

The general purpose of the RFP is to obtain required black start services at the lowest reasonable price, through competitive solicitation. The black start service requirement at Costa Sur and at the Aguirre plant was stated as requiring two units at each location, and the requirement was 27 MW at each site.¹² In PREPA's September 7 Motion, PREPA requested substituting the Aguirre location for the Yabucoa location, with no indicated change to the underlying MW resource requirement. The purpose of the RFP is to meet these black start service needs, not to procure additional fossil-fueled peaking capacity over and above the black start service requirement.

Seeking to obtain improved economies of scale, associated with larger units, and increasing the number of prospective respondents to the RFP are both laudable goals for a successful solicitation, this should not come at a cost of buying more resource than is required, if smaller-sized resources are able to successfully compete to provide the **required service**. Based on the information provided in PREPA's IRP filing,¹³ it appears that a range of sizes of resources are available to meet underlying black start service requirements, with minimum MW output values lower than 36 MW.

In the December 5 Order the Energy Bureau approved PREPA's request to allow participants to respond with larger capacity offerings as long as the total MW procurement for meeting the underlying black start service requirements was limited to 81 MW. The Energy Bureau reiterates this finding and **ORDERS** PREPA to procure the necessary capacity to fulfill the required black start services and to limit the dispatch capacity to no more than 81 MW.

Furthermore, while the respondents to the RFP can offer to provide resources in the size range of 36 to 60 MW, the Energy Bureau **DOES NOT APPROVE** establishment of a *minimum* unit size of 36 MW for this solicitation, which is what PREPA is requesting. Given the underlying black start service requirements and the availability in the marketplace of units of smaller sizes than 36 MW, there is no underlying reason to constrain the solicitation in this manner. Such a constraint could serve to undermine one of PREPA's stated aims to obtain 'better market competition'.

The Energy Bureau clarifies that the resource solicitation shall NOT be constrained to a minimum capacity as stated in the December 10 Motion. The capacity shall be determined by black start service requirements and market availability. The dispatch of the sum of the units shall be limited to a total of 81 MW.

Act 57-2014¹⁴ 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

¹²PREPA 10-Year Infrastructure Plan, March 2021. Table 4.3: Aguirre: "The Aguirre thermal units 1 and 2 each with an output of 450 MW require approximately 27 MW of black start capability. The two existing black start units, GT#21 and GT#22 failed to function after Hurricane María. The objective of this project is to replace these two outdated black start units at the Aguirre power plant with a new black start system that can provide reliable black start capabilities to the plant and inject power into the grid for voltage stability." Costa Sur: "The Costa Sur power plant with an output of 820 MW requires approximately 27 MW of black start capability. During Hurricane María, one of the two black start generators was grounded and the control room that operates both units was severely damaged by heavy rain fall and high winds making the black start system on both GTs inoperable. The objective of this project is to replace two outdated black start units, CT1.1 and CT 1.2, at the Costa Sur power plant with a new black start system that can provide reliable black start capabilities to the plant, inject power into the grid for voltage stability, or serve as an emergency generator when needed."

¹³ See, for example, Exhibit 6-15, "New Generation Resources Capital Costs", which indicates four entries at less than 36 MW as a minimum size, and smaller-size units whose per unit (i.e., \$/kW) costs are similar to or less than the per unit cost of larger-sized units.

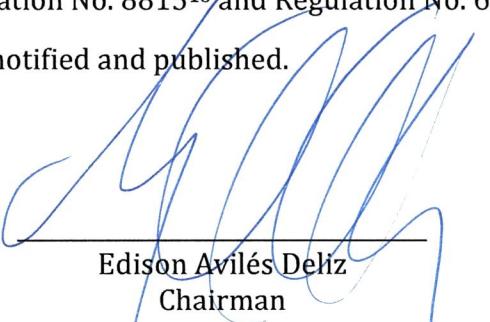
¹⁴ *Id.*

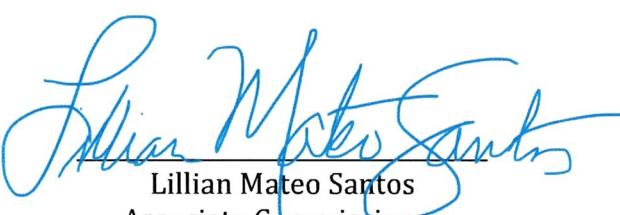


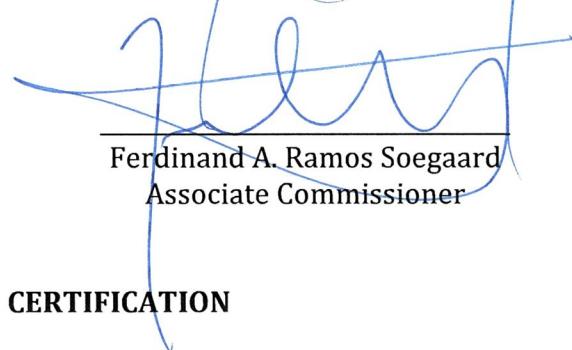
party submitting understands deserves such protection.¹⁵ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information provided that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected”.¹⁶ In such case, the Energy 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.”¹⁷

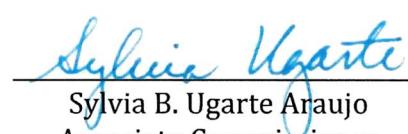
Upon review of PREPA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the November 10 Request including its attachments, pursuant to the provisions of Article 6.15 of Act 57-2014, Section 10.2 of Regulation No. 8815¹⁸ and Regulation No. 6285.

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 hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 19, 2022. I also certify that on December 19, 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, kholanos@diazvaz.law and mvazquez@diazvaz.law. I also certify that today, December 19, 2022, 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 December 19, 2022.


Sonia Seda Gatzambide

Clerk



¹⁵ Section 6.15 of Act 57-2014.

¹⁶ *Id.*

¹⁷ *Id.* (Emphasis added).

¹⁸ Section 10.2 of Regulation No. 8815 clearing states “Once the Contract has been executed, the Authority shall make public the report of the Project Committee which shall contain the information related to the procurement, evaluation, scoring, selection and negotiation process and the information contained in the Proposal as required by law, except trade secrets, propriety or privileged information of the Proponents clearly identified as such by the proponent, or information that must otherwise be protected from publication according to law, ...”.