

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

**IN RE: CERTIFICATE OF ENERGY  
COMPLIANCE**

**CASE NO.: NEPR-AP-2022-0001**

**SUBJECT: Amended Request for Issuance  
of Certificate of Energy Compliance in  
Accordance with Act 120-2018.**

**RESOLUTION**

**I. Relevant Background**

On October 21, 2022, the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Puerto Rico Public-Private Partnerships Authority's Request for Issuance of Certificate of Energy Compliance and Request for Confidential Treatment* ("October 21 Motion"). The October 21 Motion included the following documents: Exhibit 1: Preliminary Contract<sup>1</sup> and Exhibit 2: the Report<sup>2</sup>. Through the October 21 Motion, the P3 Authority requested the Energy Bureau to issue, within thirty (30) days, a Certificate of Energy Compliance<sup>3</sup> for the Preliminary Contract, which relates to a PREPA Transaction, in accordance with the provisions of Act 120-2018<sup>4</sup>, Act 17-2019<sup>5</sup>, Act 29-2009<sup>6</sup>, and Act 57-2014<sup>7</sup>. As part of the October 21 Motion, the P3 Authority also requested the Energy Bureau to treat and designate the Preliminary Contract and the Report as confidential documents.<sup>8</sup>

On November 17, 2022, the P3 Authority filed a document titled *Puerto Rico Public-Private Partnerships Authority's Motion Submitting Documents and Requesting Confidential Treatment* ("November 17 Motion") through which it requested the Energy Bureau to take notice of the documents included therein and grant confidential treatment. Moreover, the P3 Authority stated that it acknowledges that the filing of the November 17 Motion triggers a new deadline for the issuance of a Certificate of Energy Compliance by the Energy Bureau.<sup>9</sup> The P3 Authority annexed the following documents to the November 17 Motion: Exhibit 1: *Memorandum Regarding Comments on the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement, Draft of October 21, 2022*, which includes a redline version of the Preliminary Contract with certain amendments, identified as Exhibit A, and an

<sup>1</sup> *PUERTO RICO THERMAL GENERATION FACILITIES OPERATION AND MAINTENANCE AGREEMENT* dated as of [●], 2022, by and among THE PUERTO RICO ELECTRIC POWER AUTHORITY, PREPA GENCO, LLC as Owner, THE PUERTO RICO PUBLIC-PRIVATE PARTNERSHIPS AUTHORITY as Administrator, and [REDACTED-CONFIDENTIAL] as Operator ("Preliminary Contract").

<sup>2</sup> *Partnership Committee Report, Puerto Rico Public-Private Partnership for the Puerto Rico Electric Power Thermal Generation Facilities*, dated October 17, 2022 ("Report").

<sup>3</sup> Except as otherwise provided, capitalized terms used but not otherwise defined in this Resolution and Order have the meaning ascribed to them in, as applicable, Act 120-2018, Act 29-2009, Act 57-2014, Act 17-2019, and the Preliminary Contract.

<sup>4</sup> Known as *Puerto Rico Electric Power System Transformation Act*, as amended ("Act 120-2018").

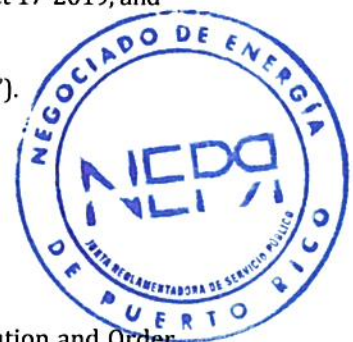
<sup>5</sup> Known as *Puerto Rico Energy Public Policy Act* ("Act 17-2019").

<sup>6</sup> Known as *Public-Private Partnership Act*, as amended ("Act 29-2009").

<sup>7</sup> Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").

<sup>8</sup> The Confidentiality of all the documents submitted in the instant case as well as this Resolution and Order will be addressed by the Energy Bureau through a separate Resolution.

<sup>9</sup> See, November 17 Motion, p. 2, footnote 3.



amended version of the Preliminary Contract ("Modified Preliminary Contract"), identified as Exhibit B.

## II. Analysis

Section 5(g) of Act 120-2018 establishes that any contract related to a PREPA Transaction shall require an Energy Compliance Certificate. The Partnership Committee shall submit to the Energy Bureau the Report drafted pursuant to Section 9(g) of Act 29-2009 before submitting it to the Boards of Directors of the P3 Authority and Puerto Rico Electric Power Authority ("PREPA"). The Energy Bureau shall have thirty (30) days from the date on which the Preliminary Contract was submitted to issue a Certificate of Compliance or a resolution to deny the issuance thereof.

In the instant case, the P3 Authority submitted the Preliminary Contract on October 21, 2022, and, therefore, the 30-day term for the Energy Bureau to issue a Certificate of Compliance or a resolution to deny the issuance thereof began on such date and expires on November 21, 2022. However, on November 17, 2022, the P3 Authority filed a Modified Preliminary Contract, which contains significant and extensive modifications to the Preliminary Contract effectively amending the Preliminary Contract for which it had originally requested the issuance of an Energy Compliance Certificate.

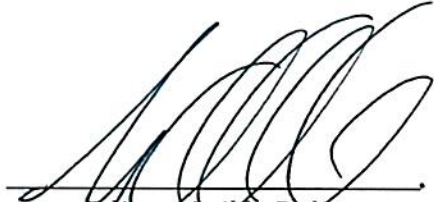
In view of the above, the Energy Bureau concludes that the filing of the Modified Preliminary Contract contains significant and extensive modifications and therefore has the effect of withdrawing the Preliminary Contract submitted through the October 21 Motion. That is, the P3 Authority is not requesting the Energy Bureau to evaluate and approve the Preliminary Contract, but rather to issue an Energy Compliance Certificate regarding the Modified Preliminary Contract. Thus, the Energy Bureau will evaluate the November 17 Motion as a new petition to issue an Energy Compliance Certificate.<sup>10</sup>

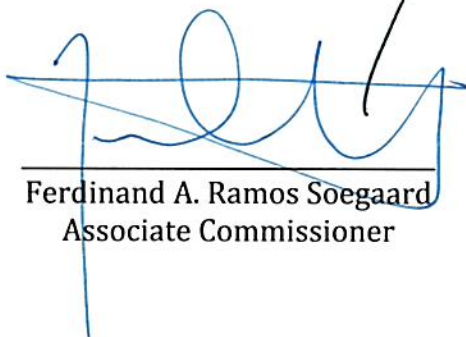
## III. Conclusion

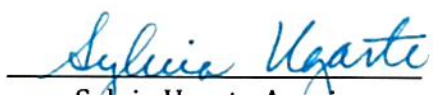
For the foregoing reasons, the Energy Bureau **DETERMINES** that the P3 Authority withdrew the Preliminary Contract, and, in turn, is requesting the Energy Bureau to evaluate the Modified Preliminary Contract and issue an Energy Compliance Certificate in connection therewith.


**THE CLERK OF THE ENERGY BUREAU SHALL NOTIFY THIS RESOLUTION AND ORDER TO THE P3 AUTHORITY ONLY AND SHALL KEEP IT CONFIDENTIAL UNTIL OTHERWISE INSTRUCTED BY THE ENERGY BUREAU.**

Be it notified.

  
Edison Avilés Deliz  
Chairman

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
Sylvia Ugarte Araujo  
Associate Commissioner



<sup>10</sup> For purposes of procedural economy, the Energy Bureau will use all the documents submitted by the P3 Authority in the instant case to evaluate the Amended Preliminary Contract, including without limitation, the Report.

## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on November 21, 2022. Associate Commissioner Lillian Mateo Santos did not intervene. I also certify that on November 21, 2022 a copy of this Resolution was notified by electronic mail to [iperez@p3.pr.gov](mailto:iperez@p3.pr.gov) and I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today November 21, 2022.



Sonia Seda Gaztambide  
Clerk

