

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

IN RE: 10 YEAR PLAN FEDERALLY FUNDED
COMPETITIVE PROCESS

CASE NO.: NEPR-MI-2022-0005

SUBJECT: Procurement of Black-Start and
Emergency Peaking Resources

RESOLUTION AND ORDER

I. Introduction and Procedural 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 part of PREPA's older gas turbine peaking resources, up to 81 MW, subject to competitive procurement. The Modified Action Plan further indicated that PREPA should place such peaking resources at locations with zero or only one remaining older peaking unit (i.e., Costa Sur, Aguirre, and Yabucoa); and that the design of such procurement should define services to be provided such as black start, rather than specific technologies.²

After initial submissions by PREPA of a 10-Year Infrastructure Plan and the Energy Bureau Resolutions and Orders addressing deficiencies in those plans, on March 19, 2021, PREPA filed a document titled *Motion Submitting March 2021 Revised 10-Year Infrastructure Plan* ("March 19 Motion"). Through the March 19 Motion, PREPA filed a new updated version of the plan ("March 2021 Revised 10-Year Plan") which included new black start units at Aguirre and Costa Sur.

On March 26, 2021 ("March 26 Order"), in alignment with the IRP Order and the Modified Action Plan, the Energy Bureau, approved PREPA's request for black start units at Aguirre and Costa Sur.³

On April 14, 2021, PREPA filed a document titled *Motion in Compliance with the Resolution and Order Entered on March 26, 2021* ("April 14 Motion"), which included a list of projects under the categories of transmission, distribution, and substations.

On April 22, 2021, the Energy Bureau issued a Resolution and Order requesting additional information for each project in the April 14 Motion under the different project categories, including but not limited to Transmission Line Projects, Transmission and Distribution Substation Projects, and Distribution System Projects ("April 22 Order").

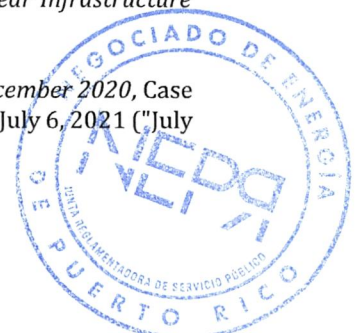
On July 6 2021, PREPA and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA") filed a document titled *Joint Motion Submitting Updated 10-Year Infrastructure Work Plan* through which it filed an updated version of the 10-Year Infrastructure Plan, which included the Costa Sur and Aguirre Black Start Projects ("10-Year Infrastructure Plan, June 2021 Update")⁴.

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 See, Resolution and Order, *In re: Review of the Puerto Rico Electric Power Authority's 10 year Infrastructure Plan December 2020*, Case No. NEPR-MI-2021-0002, March 26, 2021 ("March 26 Order").

⁴ See, *In re: Review of the Puerto Rico Electric Power Authority's 10 year Infrastructure Plan December 2020*, Case No. NEPR-MI-2021-0002, *Joint Motion Submitting Updated 10-Year Infrastructure Work Plan*, July 6, 2021 ("July 6 Motion").



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 Project 5 for the Yabucoa Black Start Project.⁵

In a Resolution and Order issued on September 28, 2021, the Energy Bureau ("September 28 Order")⁶, approved PREPA's request to substitute the location of the New Black Start System from Aguirre to Yabucoa.

On August 2, 2022, PREPA filed before the Energy Bureau a document titled *Motion to Inform Reallocation of FEMA 404 HMGP Funds and Request for Approval of Generation Projects* ("August 2 Motion"). Through the August 2 Motion, PREPA notified the Energy Bureau its determination to allocate Hazard Mitigation Grant Program Funds ("404 HMGP Funds") in part to cover an updated cost estimate of \$190 million for the Costa Sur and Yabucoa Black-Start Units. PREPA asserted that the substantive price increase from the original \$90.4 million to the updated estimate was due to the recent disruption in the supply chain and inflation.

On August 18, 2022, the Energy Bureau issued a Resolution and Order ("August 18 Order") containing questions for PREPA to address, including the reasons for the about \$100,000,000.00 cost increase of the black start units compared to initial estimates. The August 18 Resolution also required PREPA to provide the work performed and diligences set forth by PREPA upon approval to acquire both Black Start Units close to a year ago.⁷

On September 7, 2022, PREPA filed a document titled *Motion to Submit Responses to Requests for Information Ordered in the August 18 Order* ("September 7 Order") in which PREPA responded to the August 18 Order. About the Black Start Units, PREPA indicated that the delay was caused by selecting Yabucoa as a better site and the engineering services to complete the studies and specifications required for the draft RFP submitted by Sargent & Lundy in March of 2022.⁸

On September 15, 2022, the Energy Bureau issued a Resolution and Order ("September 15 Resolution"), through which approved the \$100 million increase for the black start units as the updated cost assumption, versus the roughly \$90 million cost in the initial approval of Resolution June 8 Resolution and the September 28 Resolution. In its September 15 Order, the Energy Bureau emphasized **that PREPA's lack of diligence in procuring these projects will result in about one hundred million (\$100 MM) less to transform the Puerto Rico Electric System.**⁹

On November 10, 2022, PREPA filed under seal a confidential letter to the Chairman of the Energy Bureau, seeking approval of the Energy Bureau for the launch of a Request for

⁵ 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 Marfa, 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. In addition, 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."

⁶ See, *Resolution and Order, In re: Review of the Puerto Rico Electric Power Authority's 10 year Infrastructure Plan December 2020*, Case No. NEPR-MI-2021-0002, September 28, 2021 ("September 28 Order").

⁷ August 18 Resolution, p. 10.

⁸ September 7 Motion, p. 9.

⁹ September 15 Resolution, p. 3.



Proposal ("RFP") for black start generation units at Yabucoa and Costa Sur¹⁰ ("November 10 Request"). Included in the filing was a draft 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 location ("November 10 Confidential Documents").

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

On January 23, 2023, the Energy Bureau issued a Resolution and Order ("January 23 Order") through which it conditionally approved PREPA's RFP process for the procurement of emergency generation at Jobos, Dagua, and Palo Seco subject to various conditions, including that PREPA would report to the Energy Bureau on the status of emergency generation and black start generation procurement.

In compliance with the January 23 Order, on March 16, 2023, PREPA filed before the Energy Bureau a document titled *Motion to Inform Status Report on the Emergency Generation and Black Start Generation Procurement in Compliance with the January 23, 2023 Order* ("March 16 Motion"). PREPA included as Annex A to the March 16 Motion a document titled *RFP 3784, Power Advocate Event 138790 New Black Start Units Yabucoa and Costa Sur Power Stations* ("RFP 3784 Status Report") about the black start generation procurement. As Annex B, PREPA included a document titled *RFP 3800, Power Advocate Event 139303 New Peaker Units for the Dagua, Jobos, and Palo Seco Power Stations* ("RFP 3800 Status Report") about the emergency generation procurement. PREPA also requested that the Energy Bureau determine that the status reports included as Annex A and B are confidential and maintain them under seal until the competitive procurement process is completed.¹¹

On April 14, 2023, the Energy Bureau issued a Resolution ("April 14 Resolution") taking notice of the March 16 Motion and granting confidential designation and treatment to Annex A and B of the March 16 Motion. The April 14 Resolution also stated that since the generation units being procured in RFP 3784 and RFP 3800 shall eventually be under the operation and maintenance of Genera PR LLC ("GENERA") as per the LG OMA¹², the Energy Bureau ENCOURAGES GeneraPR LLC to assume, an active role and jointly engage with PREPA in the RFP process to promote a cooperative working relationship intended to ensure an efficient and orderly transfer of care, custody and control of the Legacy Generation Assets between both parties.

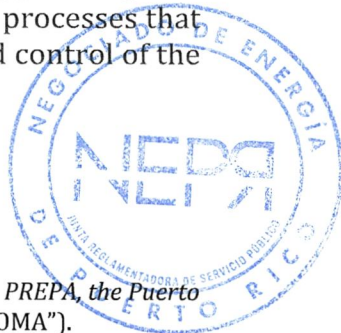
II. Analysis and Conclusions

As noted by the Energy Bureau in earlier Resolutions and Orders, it has been almost two years since the time that the Energy Bureau approved the Black Start resources at Costa Sur and Yabucoa, and over 8 months since it approved the procurement of the emergency generators at the Dagua, Jobos, and Palo Seco Power Stations. Since then, the estimated cost for the Black Start resources has increased by \$100 million, according to data provided by PREPA. In the meantime, GENERA is in the Pre-Mobilization stage of the LG OMA, with expected transfer of LG Generation operations and control to occur within the next several months. After that transfer, GENERA will have responsibility for operating and maintaining the LG Generation resources, and for leading planning and procurement activities related to those facilities, including procurement processes that include federal funding support. The expected transfer of operations and control of the

¹⁰ Black Start Units at Yabucoa and Costa Sur ("Black Start Projects").

¹¹ March 16 Motion, p. 2, ¶, 6.

¹² *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement, between PREPA, the Puerto Rico Public-Private Partnerships Authority ("P3") and Genera PR, LLC, January 24, 2023* ("LG OMA").



LG Generation will occur before the conclusion of bid awards and contract execution related to PREPA's RFP 3784 and RFP 3899.

Therefore, the Energy Bureau **DETERMINES** it is vital for GENERA to immediately assume an active role in administration of these RFP processes, and to provide formal input into those processes to ensure the procurement of the black start units at Costa Sur and Yabucoa and the emergency generation units at Dagua, Jobos, and Palo Seco are being completed efficiently, and allow for efficient and low-cost procurement and future operations of such generation units. The Energy Bureau **DIRECTS** GENERA to, on or before five (5) business days from the notification of this Resolution and Order, to file any suggested revisions to PREPA's RFP 3784 and RFP 3899 processes, including any suggested changes to the RFP documents and bid schedules, to outline a plan for transitioning administration of those RFPs from PREPA to GENERA, and to outline a proposed process for implementing its suggested changes and administration of the RFPs for black start and emergency generation resources. Any revisions suggested by GENERA must comply with previous Resolutions and Orders issued by the Energy Bureau. The filing of GENERA's compliance with this Resolution and Order shall be in the form of a Motion to the Energy Bureau in this docket.

However, this Resolution and Order **DOES NOT AUTHORIZE** any extensions to the existing procurement calendar. Any suggested revisions to the procurement process shall cause no delay to the exiting procurement calendar.

The Energy Bureau **WARNS** GENERA and PREPA that:

- (i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to \$25,000 per day;
- (ii) any person who intentionally violates Act 57-2014, as amended, by omitting, disregarding, or refusing to obey, observe, and comply with any rule or decision of the Energy Bureau shall be punished by a fine of not less than five hundred dollars (\$500) nor over five thousand dollars (\$5,000) at the discretion of the Energy Bureau; and
- (iii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than ten thousand dollars (\$10,000) nor greater than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

Be it notified and published.


Edison Ayilés Deliz
Chairman


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner


Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on May 8, 2023. I also certify that on May 8, 2023 a copy of this Resolution was notified by electronic mail to mvazquez@diazvaz.law; jmarrero@diazvaz.law; brannen@genera-services.com; kbolanos@genera-services.com; regulatory@genera-pr.com; and I have moved forward filing the Resolution issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today, May 8, 2023.



Sonia Seda Gaztambide
Clerk

