

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

IN RE: Genera PR, LLC Fuel Optimization Plan

CASE NO.: NEPR-MI-2023-0004

SUBJECT: Commencing Procedure to Evaluate Genera PR, LLC Fuel Optimization Plan

RESOLUTION AND ORDER

I. Introduction

On January 24, 2023, the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") and Genera PR, LLC ("Genera") entered into an agreement for the Puerto Rico Thermal Generation Facility Operation and Maintenance (the "GOMA").¹

Among its responsibilities pursuant to the GOMA, Genera shall develop and submit a Fuel Optimization Plan which describes and outlines initiatives, methodology, and expected savings to achieve lower fuel costs for PREPA's ratepayers.² Prior to its approval, a proposed Fuel Optimization Plan shall be submitted to the P3 Authority for comments and evaluation regarding its appropriateness. A revised Fuel Optimization Plan shall be submitted to the Puerto Rico Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") for its approval.³



¹ Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement ("GOMA"), dated January 24, 2023, executed by and among PREPA, the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") and Genera PR LLC ("Genera"). Pursuant to the GOMA, Genera is the sole operator and administrator of the Legacy Generation Assets (defined in the GOMA) the sole entity authorized to represent PREPA before PREB with respect to any matter related to the performance of any of the O&M Services provided by Genera under the GOMA.

² See, Section 4.2(t) of the GOMA.

³ Specifically, GOMA's Section 4.2(t) outlines Genera's responsibility to develop a Fuel Optimization Plan as follows:

(a) Fuel Optimization Plan. As soon as reasonably practicable, but not less than ninety (90) days following the Effective Date, Operator shall develop and submit to Administrator a plan intended to take effect from the Service Commencement Date and describing the Fuel Cost Savings Initiatives and outlining the expected methods and estimated fuel savings to be achieved during the Term of the Agreement (the "Fuel Optimization Plan"). Administrator, acting reasonably, shall provide Operator comments on the appropriateness of the proposed Fuel Optimization Plan and recommend any changes or modifications it believes are necessary or appropriate. Within thirty (30) days following receipt of Administrator's comments, if any, or the end of forty-five (45) days following Administrator's receipt of the proposed Fuel Optimization Plan, if Administrator has no comments, Operator shall submit to PREB for its review and approval the revised Fuel Optimization Plan, incorporating the feedback from Administrator. If Operator disagrees with any comment from Administrator, Operator will deliver with the revised Fuel Optimization Plan a written statement describing such disagreement, and the parties will meet within five (5) Business Days to seek to resolve any such disagreement and obtain Administrator's approval of a Fuel Optimization Plan that is acceptable to Operator. Operator shall update the Fuel Optimization Plan (A) on an annual basis, (B) as necessary pursuant to Section 2.3 (c) (*Term - Reduction*) and (C) upon any order from PREB or reasonable request from Administrator. Notwithstanding anything to the contrary herein, Operator's submission of the Fuel Optimization Plan to the Administrator shall be sufficient to satisfy this Operator Service Commencement Date Condition; provided that, for the avoidance of doubt, the Fuel Optimization Plan shall not be effective until approved by Administrator and PREB pursuant to this Section 1.1(a) (*Operator Responsibilities - Fuel Optimization Plan*).

On June 30, 2023, the Energy Bureau issued a Resolution and Order which ordered Genera to submit its Fuel Optimization Plan.⁴

On July 9, 2023, Genera submitted a Proposed Fuel Optimization Plan (the "Proposed Fuel Optimization Plan"). Genera also alleged that the Proposed Fuel Optimization Plan contained privileged and confidential information requested its designation as confidential in accordance with the Section 6.15 of Act No. 57-2014.⁵

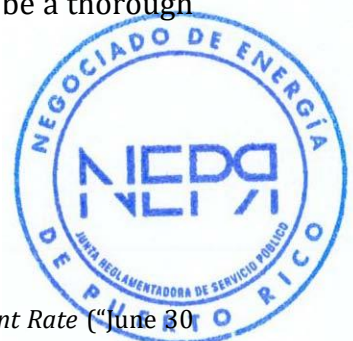
On July 11, 2023, the Energy Bureau ordered Genera to submit a memorandum of law to support the claim for confidential treatment to the Proposed Fuel Optimization Plan.⁶ Subsequently, on July 14, 2023, in compliance with the July 11 Resolution, Genera submitted a *Memorandum of Law in Support of Confidential Treatment of the Fuel Optimization Plan Draft Submitted by Genera in Compliance with the June 30, 2023 Order*.

II. The Fuel Optimization Plan

One of Genera's key responsibilities under the GOMA is the submission of the Fuel Optimization Plan. As contemplated by Section 4.2(t) of the GOMA, Genera must develop a plan that details the initiatives, methodology and expected savings for purchase of fuel. Considering the pressing need to have a proper plan whose implementation be attainable, the GOMA stated that the P3 Authority review and comment on the Fuel Optimization Plan before the Energy Bureau's approval.⁷ Moreover, the GOMA provides for a procedure in the event of a disagreement between the P3 Authority and Genera about the plan.⁸

Genera was selected by P3 Authority as PREPA's generation system operator-in part- due to its demonstrated experience in fuel procurement and management and significant direct experience (through its affiliates) with fuel management in Puerto Rico. The Fuel Optimization Plan was envisioned as a necessary mechanism to obtain fuel savings in connection to PREPA's generation operations, primarily, to benefit the ratepayers. To the extent that a Fuel Optimization Plan is not approved by the Energy Bureau and properly implemented by Genera that benefit is forfeited. The fact that Genera will also forfeit its opportunity to earn the Fuel Optimization Payment if a Fuel Optimization Plan is not implemented does not justify a delay in its implementation.

The Fuel Optimization Plan is embedded with great responsibility. It is contemplated as the plan that encompasses Genera's wits and creativity, the vision of its expertise, that will set the path and first steps towards the much necessary and expected reduction in the cost of fuel. Thus, the Fuel Optimization Plan submitted for our consideration must be a thorough and detailed plan that fulfills the GOMA's requirements and expectations.



⁴ See Resolution and Order dated June 30, 2023, *In re Puerto Rico Power Authority Permanent Rate* ("June 30 Resolution"). As part of the trimestral review of fuel and power purchase adjustment factors in case *In Re Puerto Rico Electric Power Authority's Permanent Rate Case*, Case No.: NEPR-MI-2020-0001, the Energy Bureau asked LUMA whether its projections for fuel consumption and cost for the third trimester of year 2023 contemplated the Fuel Optimization Plan that Genera shall develop pursuant the GOMA. LUMA informed the PREB that Genera, as of June 2023, had not filed nor forwarded a Fuel Optimization Plan. Therefore, LUMA's projection for the fuel consumption costs for the third trimester of 2023 did not contemplate the Fuel Optimization Plan. The PREB, considering LUMA's information, in the June 30 Resolution, granted Genera until July 10, 2023, to file the Fuel Optimization Plan prescribe in the GOMA.

⁵ Also known as the "Puerto Rico Energy Transformation and RELIEF Act." ("Act No. 57-2014").

⁶ See *Order pertaining Genera July 9 submission of draft for Fuel Optimization Plan*, *In Re Puerto Rico Electric Power Authority's Permanent Rate* ("July 11 Order").

⁷ See, Section 4.2(t) of the GOMA.

⁸ *Id.*

III. Conclusion

The Energy Bureau commences this administrative procedure to review the Fuel Optimization Plan required by the GOMA. However, after evaluating the procedural facts, we conclude that the Proposed Fuel Optimization Plan is a premature version of the Fuel Optimization Plan that shall be submitted for the review of the Energy Bureau as prescribed by the GOMA. Section 4.2(t) of the GOMA establishes that the Fuel Optimization Plan shall be commented on by the P3 Authority before the review and eventual approval of the Energy Bureau. Thus, the version of the Fuel Optimization Plan that should be submitted to the Energy Bureau must be a thorough and detailed plan version incorporating the comments of the P3 Authority regarding its appropriateness.

Considering the foregoing, the Energy Bureau expects to receive a thorough and detailed Fuel Optimization Plan that describes each and all specific initiatives that Genera, in exercise of its expertise, created, as well as the methodology and expected savings for the purchase of fuel. In the GOMA, before our review, Genera's particular innovations and contributions in the Fuel Optimization Plan shall also be analyzed and commented by the P3 Authority with particular attention to their appropriateness. Therefore, the Energy Bureau **ORDERS** Genera to file the final version, including a public version,⁹ of the Fuel Optimization Plan agreed upon with P3 Authority not later than **August 15, 2023**.

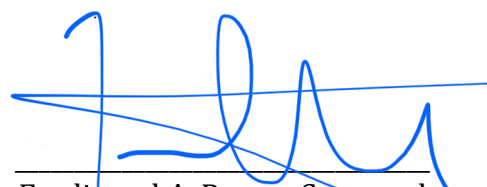
IN ORDER TO AVOID UNNECESSARY DELAYS IN THE PROCESS OF EVALUATION, THE ENERGY BUREAU REMINDS GENERA THAT THE FUEL OPTIMIZATION PLAN SUBMITTED MUST BE FULLY COMPLIANT WITH PREPA'S APPROVED INTEGRATED RESOURCE PLAN ("IRP").¹⁰

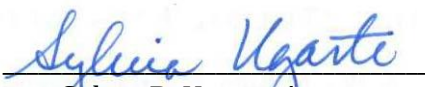
Considering that the Proposed Fuel Optimization Plan is a draft yet under revision by P3 Authority, the Energy Bureau **ORDERS** the Clerk to strike the Proposed Fuel Optimization Plan from the record in Case No.: NEPR-MI-2020-0001.

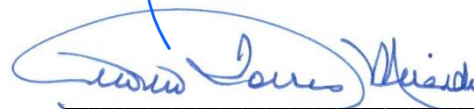
Be it notified and published.


Edison Avilés Deliz
Chairman

Unavailable for signature.
Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner


Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner



⁹ See Resolution, *In re: Policy on Management of Confidential Information in Procedures Before the Commission*, Case No.: CEPR-MI-2016-0009 issued on August 31, 2016 and September 21, 2016.

¹⁰ 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.

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on July 18, 2023. Associate Commissioner Lillian Mateo Santos was not available. I also certify that on July 18, 2023 a copy of this Resolution and Order was notified by electronic mail: brannen@genera-services.com; kbolanos@genera-pr.com; regulatory@genera-pr.com. I also certify that on July 18, 2023, I have moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, on July 18, 2023.



Sonia Seda Gaztambide
Clerk

