

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

IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY'S 10-YEAR
INFRASTRUCTURE PLAN – DECEMBER 2020

CASE NO.: NEPR-MI-2021-0002

SUBJECT: Determination on PREPA's July 10,
2023, Motion.

RESOLUTION AND ORDER

I. Introduction

On March 26, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 26 Resolution") in the instant case, through which it ordered the Puerto Rico Electric Power Authority ("PREPA") to submit each new capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP") and Modified Action Plan.¹ To streamline the process, the Energy Bureau ordered PREPA to submit the specific projects to the Energy Bureau at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3") and the Federal Emergency Management Agency ("FEMA"), and any other federal agency,² and to continue reporting to the Energy Bureau and FEMA, within the next five (5) years, the progress of all ongoing efforts related to the final approval of the submitted projects not yet approved by the Energy Bureau.

On July 10, 2023, PREPA filed a document titled *Motion to Submit PREPA's Hydroelectric Fleet Application Package and Request for Confidential Designation* ("July 10 Motion"). As Exhibit 1 to the July 10 Motion, PREPA included a document titled *4339-HM-HMGP-001966 PREPA Hydroelectric Fleet Application* including the proposed mitigation activities to retrofit and upgrade hydroelectric plants in Puerto Rico ("Hydro Application Package").

Through the July 10 Motion, PREPA also requested confidential designation and treatment for certain global positioning system ("GPS") information for the projects in Exhibit 1. PREPA states that such GPS information is considered Critical Energy Infrastructure Information ("CEII") and is confidential³.

II. Evaluation of the July 10 Motion

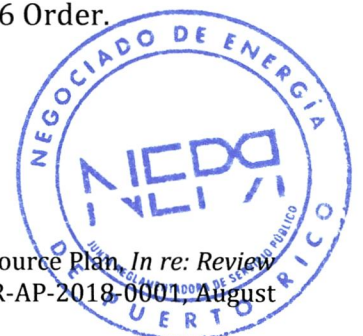
Through the July 10 Motion, PREPA submitted the Hydro Application Package for the review and approval of the Energy Bureau. PREPA indicates the Hydro Application Package was originally contemplated for the Community Development Block Grant ("CDBG") Program, however, it is currently before the consideration of the Central Office for Recovery, Reconstruction and Resiliency ("COR3") to preliminarily determine its eligibility under the FEMA Mitigation Grant Program (*i.e.*, 404 Program) for Hurricane Fiona, which has not yet opened. PREPA also stated that it will submit a final version to COR3 once the grant is opened.

After reviewing the July 10 Motion, the Energy Bureau **DETERMINES** that the filing is premature since it is still in the preliminary stage to determine eligibility under the 404 Program for Hurricane Fiona. The Energy Bureau **ORDERS** PREPA to submit the final version of the Hydro Application Package to the Energy Bureau for our evaluation before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3") and the Federal Emergency Management Agency ("FEMA"), in accordance with the March 26 Order.

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

² March 26 Resolution, pp. 18-19.

³ July 10 Motion, p.2



III. PREPA’s Request for Confidential Information Designation and Treatment of portions of Exhibit A of the June 22 Motion

In the July 10 Motion, PREPA requested confidential designation and treatment of Exhibit 1 for certain global positioning system (“GPS”) information for the projects. PREPA alleged that the Exhibit 1 of the July 10 Motion contains GPS coordinates of the power plants, which is confidential information in the form of CEII that garners protection from public disclosures pursuant to federal statutes and regulations⁴ and the Energy Bureau policy on management of confidential information,⁵ that therefore is also protected under Act 57-2014.⁶ PREPA requests the Energy Bureau to grant confidential designation and treatment to the referred portion of Exhibit 1.

Table 1 below details the portions of Exhibit 1 which PREPA requested confidential designation and treatment.

Table 1: PREPA’s Request for Confidential Information Designation and Treatment, of portions of Exhibit 1

Document	Project Description	Confidential Information	Legal Basis	Date Filed
Exhibit 1	4339-HM-HMGP-001966 PREPA Hydroelectric Fleet Application	GPS Location Page 5- Project Locations	CEII	July 10, 2023

IV. Energy Bureau Determination

The Energy Bureau **ORDERS** PREPA to submit the final version of the Hydro Application Package once eligibility is determined.

The directive established in the March 26 Resolution regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

Act 57-2014⁷ establishes that any person having the duty to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.⁸ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information stated that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected”.⁹ 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.”¹⁰

After a review of PREPA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the parts of Exhibit 1 as described in Table 1 above, pursuant to Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that

⁴ 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).

⁵ See Resolution, *In re: Política sobre Manejo de Información Confidencial en los Procedimientos ante la Comisión*, Case No. CEPR- MI-2016-0009, issued on August 31, 2016.

⁶ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

⁷ *Id.*

⁸ Section 6.15 of Act 57-2014.

⁹ *Id.*

¹⁰ *Id.* (Emphasis added).



PREPA already submitted a redacted (*i.e.*, public) version of Exhibit 1 as described in Table 1.

The Energy Bureau **WARNS** PREPA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014¹¹ and applicable Energy Bureau’s regulations and any other appropriate administrative sanctions, as considered appropriate by the Energy Bureau.

Be it hereby notified and published.

 _____ Edison Avilés Deliz Chairman	 _____ Lillian Mateo Santos Associate Commissioner
 _____ Ferdinand A. Ramos Soegaard 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 August 1st, 2023. Associate Commissioner Sylvia B. Ugarte Araujo did not intervene. I also certify that on August 1st, 2023 a copy of this Resolution and Order was notified by electronic mail to laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com, Yahaira.delarosa@us.dlapiper.com; jmarrero@diazvaz.law; mvazquez@diazvaz.law. I also certify that today, August 1st, 2023, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today August 1st, 2023.



Sonia Seda Gaztambide
Clerk



¹¹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.