

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

IN RE: IMPLEMENTATION OF THE PUERTO RICO ELECTRIC POWER AUTHORITY INTEGRATED RESOURCE PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Resolution and Order regarding *Motion to Submit N-1-P Proponent Best and Final Offer Information*, filed by the Puerto Rico Electric Power Authority.

RESOLUTION AND ORDER

On February 2, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order approving eighteen (18) renewable energy projects as part of Tranche 1 of the renewable energy procurement contemplated in the Puerto Rico Electric Power Authority (“PREPA”) Approved Integrated Resources Plan and Modified Action Plan.¹

On July 31, 2023, PREPA submitted for the Energy Bureau’s review and approval of the fifth amendment to the Esmeralda Solar Power Purchase and Operating Agreement executed on July 31, 2023 to allow an extension of thirty (30) days, until August 31, 2023, to achieve Closing Date and stay the automatic termination provision (“July 31 Motion”).² PREPA indicated that said amendment was made upon the request for an extension of time by the Resource Provider.³

On August 16, 2023, the Energy Bureau granted PREPA ten (10) days to specify the reasons that justify an extension until August 31, 2023 to achieve Closing Date (*i.e.*, changes in price, levelized cost of energy, MW capacity, among others). The Energy Bureau further stated that, upon review of the reasons provided by PREPA, it would determine if approval of the fifth amendment to the Esmeralda Solar Power Purchase and Operating Agreement was appropriate. The Energy Bureau warned PREPA that requests for approving contracts and amendments were to be submitted before the execution of such contract or amendment.

On August 22, 2023, PREPA filed a document titled *Motion to Submit N-1-P Proponent Best and Final Offer Information* (“August 22 Motion”). In its August 22 Motion, PREPA submitted, as Annex A, N-1-P Proponent’s Best and Final Offer (“BFO”).

On August 24, 2023, the Energy Bureau issued a Resolution and Order ordering PREPA to state its position on the three (3) updated price conditions in Annex A of the August 22 Motion (“August 24 Order”).

On August 28, 2023, PREPA filed a document titled *Informative Motion and Request for Extension to Comply with the August 24 Order* (“August 28 Motion”). PREPA stated that the request to stay the automatic termination provision was to finalize the negotiations with N-1-P, which included a potential capacity increase to the N-1-P project.⁴ In the August 28 Motion, PREPA requested an extension of time to provide its position and a detailed explanation of the price and the second condition included as part of Annex A to the August 22 Motion.⁵ PREPA’s states that this extension request is due to the ever-changing

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 July 31 Motion, p. 1, ¶ 2.

³ *Id.*

⁴ August 28 Motion, p. 4, ¶ 12.

⁵ *Id.*, ¶ 13.




requirements of the contract revision process by the Financial Oversight Management Board (“FOMB”) and the limitations caused by the Energy Bureau approved budget for FY2024.⁶

The Energy Bureau **REMINDS** PREPA that it is the sole responsible party to complete all matters related to negotiations and executing the Tranche 1 contracts. PREPA must comply with the budget limitations and processes imposed by the FOMB and the Energy Bureau, which main purpose is to ensure reasonable and pertinent costs to be paid by the ratepayers of Puerto Rico.

Although the arguments provided by PREPA as justification for its non-compliance are not persuasive, at this moment, the Energy Bureau deems beneficial for the public interest to **GRANT** the extension to comply with the August 24 Order and **ALLOWS** PREPA to amend the Closing date of the N-1-P project up to September 30, 2023.

The Energy Bureau **WARNS** PREPA that, noncompliance with this Resolution and Order, **will result** in the imposition of fines pursuant to Article 6.36 of Act 57-2014.⁷


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



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 30, 2023. I also certify that on August 30, 2023, a copy of this Resolution and Order was notified by electronic mail to laura.rozas@us.dlapiper.com, ana.rodriguezrivera@us.dlapiper.com; jmarrero@diazvaz.law and mvazquez@diazvaz.law; and 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, on August 30, 2023.



Sonia Seda Gaztambide
Clerk



⁶ *Id.*, pp. 4-5, ¶ 14.

⁷ *Puerto Rico Energy Transformation and RELIEF Act*, as amended (Act 57-2014”).