

**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
September 28, 2023, Motion for the Re-
submission of PREPA's Hydroelectric Fleet
Application, and Request for Confidential
Designation and Treatment.

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 specific 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 requested 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 the hydroelectric plants in Puerto Rico.

On August 1, 2023, the Energy Bureau issued a Resolution and Order ("August 1 Resolution") through which determined that the filing was premature since it was still in the preliminary stage to determine eligibility under the 404 Program for Hurricane Fiona and ordered PREPA to submit the final version of the Hydro Application Package to the Energy Bureau, once eligibility was determined, and before their submittal to COR3 and FEMA, in accordance with the March 26 Order.

On September 28, 2023, PREPA filed a document titled *Motion to Resubmit PREPA's Hydroelectric Fleet Application and Request for Confidential Designation* ("September 28 Motion"). As Exhibit 1 to the September 28 Motion, PREPA included the *PREPA Hydroelectric Fleet Application* including the proposed mitigation activities to retrofit and upgrade the hydroelectric plants in Puerto Rico ("Hydroelectric Fleet Application Package"), and as Exhibit 2, a letter dated on August 29, 2023, from COR3 to the Energy Bureau, indicating that COR3 assisted PREPA in the preparation of the Hydroelectric Fleet Application Package and concluding it is complete and pending the Energy Bureau's approval.

On the September 28 Motion, PREPA requested confidential designation and treatment to the unredacted version of Exhibit 1.³

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. 14-15.

³ September 28 Motion, pp. 3-6.



II. Evaluation of the September 28 Motion

Through the September 28 Motion, as Exhibit 1, PREPA submitted PREPA's Hydroelectric Fleet Application Package which includes the proposed mitigation activities to retrofit and upgrade sixteen (16) hydroelectric plants. The project if approved, would be covered under the 2021 Puerto Rico State Natural Hazards Mitigation Plan, and will include the hydroelectric plants: Caonillas 1 and 2; Carite 1, 2 and 3; Dos Bocas; Garzas 1 and 2; Isabela 1, 2 and 3; Rio Blanco; Toro Negro 1 and 2; Yauco 1 and 2.

The project objectives are: (i) to increase the capacity factor of each hydroelectric plant, (ii) to increase the contribution of hydroelectric generation to the grid, and (iii) to support Puerto Rico's clean energy transition.

PREPA states that hydroelectric contributes significantly to the avoidance of greenhouse gas ("GHG") emissions, to the mitigation of global warming and to the energy supply security; and that compared to conventional coal power plants, hydroelectric prevents the emission of about 3 GT CO₂ per year, which represents about 9% of global annual CO₂ emissions.

PREPA is exploring options to update their sixteen (16) hydroelectric facilities as stated in the IRP, as part of their requirement to increase the use of renewable energy. Most of the hydroelectric plants were built between the years 1920's to 1950's with a total design capacity of over 120 MW.

The project proposes to increase the capacity factor of each plant by common facility upgrades that include, but not limited to, mechanical and electrical systems, generators, turbines and controls, penstock (pipes and/or channels), water conveyance, transmission and communication, governors (speed and power controllers), flood control and drainage systems.

Also, the project proposes a full retrofit of its structures that includes a wind retrofit of each window, doors, and roofs.

Due to the number of sites to be mitigated in the project and the diverse activities required to refine the detailed scope of work and technical specifications, PREPA is proposing to phase the project into Phase One and Phase Two.

Phase One of the project will include all required studies, surveys and assessments, initial permitting and coordination, engineering design, finalization of the scope of work and schedule and the Environmental and Historic Preservation ("EHP") compliance activities, as needed. **The duration of Phase One is expected to take 40 weeks and is estimated at \$33,000,000.00.**

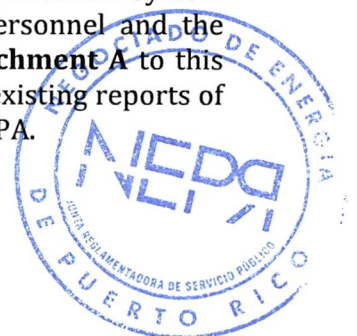
Phase Two of the project will be focused on any additional procurement and final design activities, consultation with agencies, construction activities at all hydroelectric plants, including demolition and removal of equipment as needed, fabrication and installation of wind retrofit and upgraded equipment, electrical works, commissioning, testing and inspections among other works. **The duration of Phase Two is expected to take 116 weeks and is estimated at \$287,790,000.00.**

The total cost of the project for Phase One and Phase Two is estimated to be **\$320,790,000.00**, based on PREPA's existing reports and RS Means.

PREPA states that all deliverables from Phase One will be submitted to COR3 and FEMA for review and approval and once approved, Phase Two will begin.

The project is aligned with the goal of repairing, improving, and sustaining the reliability, capacity, and resiliency of the Puerto Rico electric system. All these reconstruction efforts on the island need to be aligned with local and federal regulations, and actual codes and standards.

Upon review of the Exhibit #1 in the September 28 Motion, the Energy Bureau **DETERMINES** that the project is necessary to improve the reliability and resiliency of the electrical system while the impact to the environment is reduced and the safety of the personnel and the equipment is increased. The Energy Bureau **APPROVES** the project in **Attachment A** to this Resolution and Order. This approval represents **\$320,790,000.00** based on existing reports of the hydroelectric plants and the RS Means Cost Estimates as informed by PREPA.



III. PREPA’s Request for Confidential Information Designation and Treatment of parts of Exhibit 1 of the September 28 Motion

In the September 28 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 September 28 Motion has 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 part of Exhibit 1.

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

Document	Description	Confidential Information	Request for Confidentiality	Date Filed
Exhibit 1	4339-HM-HMGP-001966 PREPA Hydroelectric Fleet Application	GPS Location Page 5-Project Locations	CEII	September 28, 2023

IV. Energy Bureau Determination

The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize their approval process for the request of federal funds. The Energy Bureau approved these projects based on the information from PREPA. Should the scope of the project change or the request for the federal funds are not approved for such projects, PREPA **SHALL** immediately seek the Energy Bureau’s approval of such changes.

The Energy Bureau **ORDERS** PREPA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the project in **Attachment A**, for Phase One and Phase Two, which shall have the costs obligated for each individual facility in the project, **within ten (10) days of receipt of this approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each individual facility of the project in **Attachment A**, **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

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

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.*



submitting understands deserves this 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

Upon 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 **WARNS** PREPA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014 and applicable Energy Bureau’s regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

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 certify that the majority of the members of the Puerto Rico Energy Bureau agreed on October 11, 2023. Also certify that on October 11, 2023, I have proceeded with the filing of this Resolution and Order and was notified by email to lionel.santa@prepa.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com, Yahaira.delarosa@us.dlapiper.com; jmarrero@diazvaz.law; mvazquez@diazvaz.law, julian.angladapagan@us.dlapiper.com.

For the record, I sign in San Juan, Puerto Rico, today, October 11, 2023.


Sonia Seda Gaztambide
Clerk

⁸ Section 6.15 of Act 57-2014.

⁹ *Id.*

¹⁰ *Id.* (Emphasis added).



Attachment A

Project Approved by the Energy Bureau

Damage Number	Project name	Phases	Presented Estimate
4339-HM-HMGP-001966	PREPA Hydroelectric Fleet Applications	Phase One	\$33,000,000.00
		Phase Two	\$287,790,000.00
Total			\$320,790,000.00

