

**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 *Urgent Motion to Submit Amended PPOA and ESSA*, 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.<sup>1</sup>

On November 28, 2023, PREPA filed a document titled *Urgent Motion to Submit Amended PPOA and ESSA* (“November 28 Motion”), whereby it submitted for the Energy Bureau’s review and approval, a fifth amendment to the Salinas Solar Power Purchase and Operating Agreement (“PPOA”) and the Salinas Energy Storage Services Agreement (“ESSA”).<sup>2</sup> PREPA indicated that on October 27, 2023, it received a petition to change the location of the interconnection point from Aguirre 115kv switchyard to Ciro One Sectionalizer for the Salinas PPOA and ESSA projects.<sup>3</sup> PREPA stated that after analyzing the request, it agreed to proceed with a fifth amendment for Salinas PPOA and ESSA to reflect the new location of the interconnection point.<sup>4</sup> According to PREPA, the main reason for agreeing to said request was that the Aguirre 115kv switchyard is saturated with high voltage load and the interconnection of additional external loads would jeopardize the reliability of 900 megawatts of power generation from Aguirre Units 1 and 2.<sup>5</sup>

PREPA further informed that on November 28, 2023, the Financial Oversight and Management Board of Puerto Rico (“FOMB”) reviewed the proposed amendment and concluded that it did not contemplate a material change to the contract, insofar as the term, scope, and the maximum payable amount remain the same.<sup>6</sup> As such, the FOMB concluded that no further action from its part was needed and authorized PREPA to proceed.<sup>7</sup>

PREPA also maintained that the information contained in Annex A and B to the November 28 Motion was part of a deliberative process, incorporates trade or business secrets deemed confidential pursuant to applicable law, and have been requested by Resource Providers to be maintained in a confidential manner.<sup>8</sup> Hence, PREPA requested that the Energy Bureau

<sup>1</sup> 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”).

<sup>2</sup> Annex A and B of the November 28 Motion.

<sup>3</sup> November 28 Motion, p. 2, ¶ 4.

<sup>4</sup> *Id.*, ¶ 5.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*, ¶ 6.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*, p. 3, ¶ 8.



approve the fifth amendment for the Salinas PPOA and ESSA and grant its petition for confidentiality ordering that the documents included as Annex A and B of the November 28 Motion be kept under seal.<sup>9</sup>

The Energy Bureau **HIGHLIGHTS** that the proposed amendment does not contemplate a material change to the contract nor does it represent an increase in costs. As such, at the moment, the Energy Bureau has no objection regarding the proposed amendment and therefore **AUTHORIZES** PREPA to proceed. Nonetheless, the Energy Bureau **FINDS** that the proposed amendment may represent a reduction in the costs associated with the project's interconnection. Consequently, the Energy Bureau **ORDERS** PREPA to assess the potential reduction and establish the specific benefits and costs to the consumer in kWh. The Energy Bureau **GRANTS** PREPA **ten (10) business days** to file the referenced request. The Energy Bureau **WARNS** PREPA that noncompliance with this Resolution and Order, may result in the imposition of fines pursuant to Article 6.36 of Act 57-2014.<sup>10</sup>

Regarding the request for confidentiality, Act 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves this protection.<sup>11</sup> Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the information submitted provided that "the Energy Bureau, after the appropriate evaluation, believes such information should be protected".<sup>12</sup> In this 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."<sup>13</sup>

The Energy Bureau **GRANTS** confidential designation and treatment to Annex A and B filed with the November 28 Motion, as requested by PREPA. The Energy Bureau **ORDERS** PREPA to file, within **five (5) business days** of the notification of this Resolution and Order, a redacted version of the fifth amendment to the PPOA and ESSA filed with the November 28 Motion. The redacted version shall include a table describing the reason for each item being redacted.

The Energy Bureau **ORDERS** PREPA to file, within **three (3) business days** of the notification of this Resolution and Order, the November 28, 2023 letter, allegedly approving this fifth amendment issued by the FOMB prior to the Energy Bureau's evaluation and determination.

The Energy Bureau has previously warned PREPA that it shall not execute future amendments to agreements with independent power producers without **first** obtaining the approval of the Energy Bureau and, to the extent applicable, the FOMB, under the advice that they may be declared null and void. As evidenced in the November 28 Motion, PREPA sought the FOMB's approval without first obtaining the approval of the Energy Bureau, disregarding the September 27 Order. Thus, the Energy Bureau **IMPOSES** PREPA a fine of **five thousand dollars (\$5,000)** as a penalty for failure to comply with the September 27 Order, which shall be paid in full within **twenty (20) days** of the notification of this Resolution and Order. Future failure to comply with said order will again result in the imposition of fines pursuant to Article 6.36 of Act 57-2014.

Be it notified and published.

<sup>9</sup> *Id.*, p. 5.

<sup>10</sup> *Puerto Rico Energy Transformation and RELIEF Act*, as amended (Act 57-2014").

<sup>11</sup> Section 6.15 of Act 57-2014.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*





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Edison Avilés Deliz  
Chairman



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Lillian Mateo Santos  
Associate Commissioner



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Ferdinand A. Ramos Soegaard  
Associate Commissioner



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Sylvia B. Ugarte Araujo  
Associate Commissioner

**CERTIFICATION**

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on November 29 2023. Associate Commissioner Antonio Torres Miranda concurred in part and dissented in part without a written opinion. Also certify that on November 29, 2023, I have proceeded with the filing of this Resolution and Order and was notified by email to arivera@gmlex.net; mvalle@gmlex.net; laura.rozas@us.dlapiper.com, ana.rodriquezrivera@us.dlapiper.com.

I sign this in San Juan, Puerto Rico, today, November 29, 2023.



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Sonia Seda Gaztambide  
Clerk