

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

**IN RE:** AMENDMENT TO POWER  
PURCHASE OPERATING AGREEMENT  
BETWEEN PREPA AND AES PUERTO RICO,  
L.P.

**CASE NO.:** NEPR-AP-2023-0005

**SUBJECT:** Public Release of the recording of  
the November 21, 2023 Confidential  
Hearing.

**RESOLUTION AND ORDER**

On November 7, 2023, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Petition for Approval of Third Amendment to Power Purchase Operating Agreement Between the Puerto Rico Electric Power Authority and AES Puerto Rico, L.P.* ("AES") ("November 7 Petition").

On November 13, 2023, the Energy Bureau issued a Resolution and Order ("November 13 Resolution"), in which it scheduled a Confidential Hearing to be held in person on Tuesday November 21, 2023, at 10:00 a.m. at the Energy Bureau's Hearing Room.

The Energy Bureau decided that the hearing would be confidential as a precaution to assure that any confidential information discussed in the hearing would not be disseminated to a third party without providing the parties the opportunity to revise the recording to assure that such information should be considered confidential or public by the Energy Bureau.

On November 17, 2023, PREPA filed a document titled *Urgent Motion for Remote Confidential Hearing* ("November 17 Motion"), in which PREPA requested that the in-person Confidential Hearing be converted to a Virtual Confidential Hearing. On the same day, the Energy Bureau issued a Resolution and Order ("November 17 Resolution"), in which it granted PREPA's request to convert the in-person confidential hearing to a virtual confidential hearing.

On November 21, 2023, the Energy Bureau held the Virtual Confidential Hearing as scheduled, to discuss the November 7 Petition. PREPA's and AES's representatives and consultants attended the hearing and answered questions under oath from the Energy Bureau and its consultants regarding all aspects of the November 7 Petition. The Energy Bureau took all reasonable steps to assure that the information discussed in the hearing was not contemporary publicized to ensure that confidential information, if any, be maintained within the confinement of the Energy Bureau.

After careful examination of the recorded hearing, which is part of the administrative docket, and in the best public interest to have a transparent process, on December 1, 2023, the Energy Bureau determined there was no reason for such recording to be classified as confidential ("December 1 Order").

Through the December 1 Order the Energy Bureau granted PREPA until Monday, December 4, 2023 to express its position regarding declassifying and making the recording of the Virtual Confidential Hearing available to the public.

Additionally, on December 1, 2023, the Energy Bureau granted the general public until December 7, 2023 to present their comments and suggestions regarding the Proposed Amendment.

On December 4, 2023, PREPA filed a document titled *Motion in Compliance with Energy Bureau's December 1, 2023 Resolution and Order* ("December 4 Motion"). In its December 4 Motion, PREPA highlighted that the video of the Virtual Confidential Hearing discloses information that the Energy Bureau had allowed PREPA to file confidentially to preserve the deliberative process and contractually required confidentiality, and which have been publicly



filed with the Energy Bureau in redacted form.<sup>1</sup> Hence, it requested that the Energy Bureau make only the audio of the Virtual Confidential Hearing available.<sup>2</sup> Further, PREPA indicated that they had been contacted by AES-PR, who identified certain portions of the hearing that contain AES-PR’s confidential business and technical information.<sup>3</sup> PREPA submitted such portions as Exhibit A of the December 4 Motion and provided justification for confidential treatment.<sup>4</sup> PREPA also requested that the Energy Bureau grant AES-PR standing and the opportunity to review the recording of the hearing and provide its position as to any additional portion it believes contain its commercially sensitive information.<sup>5</sup>



On December 7, 2023, PREPA filed a document titled *Motion in Compliance with Energy Bureau Request for PREPA to File Information Regarding the Proposed Amendment* (“December 7 Motion”). Through the December 7 Motion, PREPA provided its responses to a requirement for information made by the Energy Bureau on December 5, 2023. PREPA also indicated that it had requested Genera PR, LLC (“Genera”) to provide certain information in order to provide a response to one of the questions raised by the Energy Bureau in its requirement for information. PREPA expressed that Genera required until Friday, December 15, 2023 to submit PREPA and, in turn, the Energy Bureau, a responsible work product.

The Energy Bureau **DECLASSIFIES** and **MAKES AVAILABLE TO THE PUBLIC** the audio of the Virtual Hearing consistent with PREPA’s request that limited portions of the hearing set forth in Exhibit A of the December 4 Motion be kept confidential. The Energy Bureau **DENIES** PREPA’s request to grant AES-PR standing and an additional opportunity to review the recording of the hearing. Parties interested may request a link to the referenced hearing through the Energy Bureau’s Clerk.

The Energy Bureau **TAKES NOTICE** of the December 7 Motion and **GRANTS** PREPA until **December 15, 2023** to submit the information it requested Genera.

In light of the above, the Energy Bureau **GRANTS** the public an extension until **December 18, 2023** to submit their comments and suggestions regarding the Proposed Amendment.

Be it notified and published.

  
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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  
\_\_\_\_\_  
Sylvia B. Ugarte Araujo  
Associate Commissioner  
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Antonio Torres Miranda  
Associate Commissioner

<sup>1</sup> December 4 Motion, p. 2, ¶ 6.

<sup>2</sup> *Id.*, ¶ 8.

<sup>3</sup> *Id.*, ¶ 7.

<sup>4</sup> *Id.*, ¶ 8.

<sup>5</sup> *Id.*, ¶ 7.





**CERTIFICATION**

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on December 8, 2023. Also certify that on December 8, 2023, I have proceeded with the filing of this Resolution and Order and was notified by email to arivera@gmlex.net; mvalle@gmlex.net; legal@genera-pr.com; regulatory@genera-pr.com; kbolanos@genera-pr.com; brannen@genera-services.com.

For the record, I sign in San Juan, Puerto Rico, today, December 8, 2023.

  
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Sonia Seda Gaztambide  
Clerk

