

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

IN RE: AMENDMENT TO POWER PURCHASE
OPERATING AGREEMENT BETWEEN PREPA
AND HORIZON ENERGY, LLC

CASE NO.: NEPR-AP-2023-0007

SUBJECT: *Urgent Motion to Reiterate
Petition for Approval of the Seventh
Proposed Amendment* filed December 26,
2023

RESOLUTION

I. Relevant Background

On December 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 title *Petition for Approval of Seventh Amendment to Power Purchase Operating Agreement Between the Puerto Rico Electric Power Authority and Horizon Energy, LLC*. ("December 7 Petition"), in which PREPA describes the project as a 10 MW solar facility (the "Existing Facility") which was developed pursuant to the terms of the Power Purchase and Operating Agreement ("PPOA"), owned by Horizon Energy, LLC ("Horizon"). PREPA states that the PPOA allows Horizon the option to increase the Existing Facility capacity an amount not to exceed 10 MW (the "Expansion Option").¹

The December 7 Petition states that on January 29, 2021, Amendment 5 to the PPOA between PREPA and Horizon was executed. The parties agreed to, 1) the parties would exercise the Expansion Option of 10 MW no later than December 31, 2022; 2) with respect to Definitions and Interpretation, the new purchase price begins in \$0.100 per kWh, escalated be 2% on an annual basis, not exceeding \$0.141 per kWh until Contract Term; and 3) adds a New Section 9.7 to Article 9, establishing that PREPA is responsible to perform and pay the cost associated of a new interconnection study, if required, for the Expansion Option, and shall reimburse Horizon for all the costs related to any required upgrades of the Interconnection Facilities.²

The December 7 Petition also states that on December 29, 2022, Amendment 6 to the PPOA was executed to extend the deadline to exercise the Expansion Option until December 31, 2023, and a deadline for substantial completion, no later than December 31, 2024.³ The December 7 Petition allege that the Expansion Option remains subject to multiple factors, including financial agreements. For this reason, Horizon requested a six-month extension to the due date to exercise the option to develop the Expansion Option by June 30, 2024.⁴

The December 7 Petition includes Annex A which is the Proposed Amendment for the Energy Bureau's evaluation and approval. PREPA requested confidential treatment for Annex A alleging an existing deliberative process and business secrets protected by applicable law.⁵

On December 26, 2023, PREPA filed a document titled *Urgent Motion to Reiterate Petition for Approval of the Seventh Proposed Amendment* ("December 26 Motion"), in which PREPA indicates that the December 31, 2023, deadline is fast approaching, and Horizon will not be

¹ December 7 Petition, ¶ 1.

² December 7 Petition, ¶ 2.

³ December 7 Petition, ¶ 3.

⁴ December 7 Petition, ¶ 5. On December 13, 2023, the Energy Bureau issued a Resolution and Order granting confidential designation to Annex A.

⁵ December 7 Petition, ¶ 8.

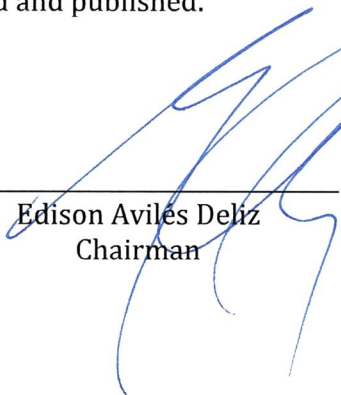


able to exercise the Expansion Option within said deadline. PREPA requests approval of the Seventh Amendment as established in the December 7 Petition, Annex A.


II. Conclusion

For all of the above, the Energy Bureau **GRANTS** PREPA's request to extend the deadline to exercise the Expansion Option until **June 30, 2024**.

Be it notified and published.



Edison Aviles Deliz
Chairman

Lillian Mateo Santos
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 December 27, 2023. Associate Commissioner Ferdinand A. Ramos Soegaard did not intervene. Also certify that on December 27, 2023, I have proceeded with the filing of this Resolution and was notified by email to arivera@gmlex.net; mvalle@gmlex.net.

For the record, I sign in San Juan, Puerto Rico, today, December 27, 2023.



Sonia Seda Gaztambide
Clerk