

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

IN RE: 10 YEAR PLAN FEDERALLY
FUNDED COMPETITIVE PROCESS

CASE NO. NEPR-MI-2022-0005

SUBJECT: Resolution and Order pertaining
to *Motion in Compliance with Order to Show
Cause dated August 28, 2024*, filed by Genera
PR, LLC.

RESOLUTION AND ORDER

On August 28, 2024, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") ordered Genera PR, LLC ("Genera") to, within five (5) business days, show cause to as to why the Energy Bureau should not impose the maximum administrative fine of twenty-five thousand dollars (\$25,000) for misrepresentation in connection with the RFP¹ process for the procurement of black start and emergency peaking generation systems. The Energy Bureau further ordered Genera to submit a written response addressing the following:

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- a) The basis for the representations made regarding cost savings and the COD timeline;
 - b) A detailed explanation of the reasons for the discrepancies between the projected and actual costs and timelines;
 - c) Any mitigating circumstances or evidence that Genera wishes to present in defense of its actions; and
 - TH* d) A clarification on whether any of the increased costs incurred under Genera's administration (any amount exceeding PREPA's² original estimate) are expected to be recovered from the Federal Emergency Management Agency ("FEMA") or any other sources.

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On September 5, 2024, Genera filed a document titled *Motion in Compliance with Order to Show Cause dated August 28, 2024* ("September 5 Motion"). In its September 5 Motion, Genera submitted that discrepancies between projected outcomes and the current status of the RFP process originate from external factors that significantly exceeded its control, rather than from deliberate or willful misrepresentation.³ According to Genera, initial cost overruns and projected delays, though substantial, were the result of evolving market dynamics.⁴ Genera stressed that the project was impacted by a broader economic downturn, unforeseen regulatory changes, and supply chain disruptions.⁵ Genera further argued that COD and estimated costs provided by PREPA cannot be used as a basis for comparing Genera's project outcomes.⁶ Genera maintained that PREPA's projections were never validated, and that Genera's process demonstrates that those projections were unachievable.⁷ Genera supported this argument referencing alleged hundreds of exceptions that PREPA received in response

¹ Request for Proposal ("RFP").

² Puerto Rico Electric Power Authority ("PREPA").

³ September 5 Motion, p. 11.

⁴ *Id.*

⁵ *Id.*, p. 12.

⁶ *Id.*

⁷ *Id.*



to its proposed EPC⁸ project.⁹ Genera argued that the projected PREPA costs and timelines would have been significantly adjusted to address these exceptions during this negotiation process which never occurred.¹⁰

Prior to issuing a ruling, the Energy Bureau **GRANTS** PREPA **five (5) business days** to submit a detailed response to Genera's September 5 Motion.

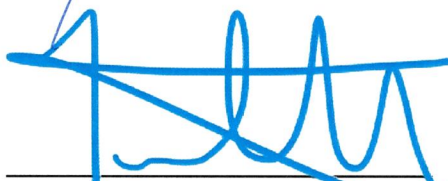
The Energy Bureau **WARNS** PREPA that in accordance with Art. 6.36 of Act 57-2014:¹¹

- (i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to \$25,000 per day;
- (ii) any person who intentionally violates Act 57-2014, as amended, by omitting, disregarding, or refusing to obey, observe, and comply with any rule or decision of the Energy Bureau shall be punished by a fine of not less than five hundred dollars (\$500) nor over five thousand dollars (\$5,000) at the discretion of the Energy Bureau; and
- (iii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than ten thousand dollars (\$10,000) nor greater than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

Be it notified and published.



Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

⁸ Engineer, Procure, and Construct ("EPC").

⁹ September 5 Motion, p. 12.

¹⁰ *Id.*

¹¹ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 6, 2024. Associate Commissioner Sylvia B. Ugarte Araujo did not intervene. I also certify that on September 6, 2024, a copy of this Resolution and Order was notified by electronic mail to arivera@gmlex.net; mvalle@gmlex.net; jfr@sbgblaw.com; alopez@sbgblaw.com; legal@genera-pr.com; regulatory@genera-pr.com, and I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, on September 6, 2024.



Sonia Seda Gaztambide
Clerk

