

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

NEPR
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IN RE:

REQUEST FOR APPROVAL OF THE
VEGA BAJA DECOMMISSIONING
PLAN

CASE NO.: NEPR-MI-2024-0003

SUBJECT: Restated Request for Approval of
the Final Decommissioning Plan for the Vega
Baja Power Station

**RESTATED REQUEST FOR APPROVAL OF THE FINAL DECOMMISSIONING PLAN
FOR THE VEGA BAJA POWER STATION**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC (“Genera”), as agent of the Puerto Rico Electric Power Authority (“PREPA”),¹ through its counsels of record, and respectfully submits and prays as follows:

1. It is important to assert that there are no pending orders regarding the decommissioning plan for the Vega Baja site as of today. Thus, it can be assumed that the matter is ripe for adjudication. Without a decision from the Energy Bureau, the project for Battery Energy Storage Systems (“BESS) cannot be initiated, which jeopardizes the reconstruction of the Electric System in Puerto Rico. This plan has been pending since April 2024.

¹ Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* (“LGA OMA”), dated January 24, 2023, executed by and among PREPA, Genera, and the Puerto Rico Public-Private Partnerships Authority (“P3A”), Genera is the sole operator and administrator of the Legacy Generation Assets (as defined in the LGA OMA) and the sole entity authorized to represent PREPA before PREB with respect to any matter related to the performance of any of the O&M Services provided by Genera under the LGA OMA.

2. Pursuant to Section 2.1 of the LGA OMA², the provision of Decommissioning Services³ constitutes a principal obligation of Genera. The Decommissioning Services are to be delivered as stipulated in the Approved Integrated Resource Plan (“Approved IRP”)⁴. This obligation involves decommissioning outdated facilities in accordance with prescribed environmental and safety standards, ensuring adherence to the strategic directives detailed in the Approved IRP. Thus, in compliance with this obligation and pursuant to Section 16.1(b) of the LGA OMA⁵, Genera submitted a Final Decommissioning Plan to the Energy Bureau for review

² Section 2.1 of the LGA OMA provides that Genera has been contracted “for the provision of (i) O&M Services commencing on the Service Commencement Date, (ii) the Mobilization Services, **(iii) the Decommissioning Services** and (iv) the Demobilization Services, in each case, subject to the terms and conditions of this Agreement”. (emphasis added).

³ As defined in Article 1, Section 1.1 of the LGA OMA.

⁴ Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001, August 24, 2020 (“Approved IRP”). Minor modifications and/or clarifications to the Approved IRP were introduced through a Resolution and Order on Reconsiderations issued by the Energy Bureau on December 2, 2020, in case: *In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001.

⁵ Section 16.1(b) of the LGA OMA provides the following:

Decommissioning Plan. No later than one hundred twenty (120) days after the Decommissioning Notification Date for a Legacy Generation Asset, [Genera] shall prepare and submit to [P3A] and [the Energy Bureau] (with copy to [PREPA] and T&D Operator), for their review and approval, a decommissioning plan for such Legacy Generation Asset (the “Decommissioning Plan”) consistent with the Decommissioning Plan outline set forth in Annex XV (*Decommissioning Plan*). The Decommissioning Plan shall provide for (i) the permitting, demolition, Decontamination, waste disposal and dismantling/or preparation for conversion to such other future use as [P3A] and [the Energy Bureau] may designate, as applicable, of the Legacy Generation Asset, and waste disposal, for achievement of end-state conditions within a prescribed time (provided that [Genera] does not have any obligation to perform Decommissioning Services after the expiration of the Term unless the Agreement is extended by [PREPA] and [P3A] to allow [Genera] to complete such services), (ii) the development of the Decommissioning Budget, as set forth in Section 16.2 (*Decommissioning Compensation*) below, (iii) reasonably acceptable arrangements to facilitate the transition of [Genera] Employees, who meet certain qualifications at such Legacy Generation Asset and whose positions will be eliminated after the completion of the Decommissioning Services, into new jobs or industries, including a training and/or severance plan (to be funded by [PREPA]) for any [Genera] Employees not hired into a successor job or industry, which arrangements [Genera], [PREPA] and [P3A] shall cooperate as needed to implement, and (iv) a timeline setting forth when Decommissioning Services shall be provided, including the date on which the Decommissioning Services shall commence (the “Decommissioning Commencement Date”) and the date on which the Decommissioning Services for such Legacy Generation Asset shall be completed (the “Decommissioning Completion Date”).

and approval on August 22, 2024. As of now, this plan is pending approval, with **no outstanding orders** affecting its review process.

3. On April 17, 2024, Genera submitted a letter (“April 17th Letter”) to the Chairman of the Public Service Regulatory Board of the Energy Bureau (“Energy Bureau”), Mr. Edison Avilés Deliz, in which it requested that the Energy Bureau initiate a formal proceeding to evaluate the Draft Decommissioning Plan (“Preliminary Draft Plan”), submitted as Annex A to the letter to the Chairman. In this submission, Genera also sought feedback to refine and finalize the decommissioning procedures. The submission of the April 17th Letter and the Draft Decommissioning Plan was made entirely under a seal of confidentiality.

4. On June 27, 2024, the Energy Bureau issued a Resolution and Order titled *Opening Proceeding and Requirements of Information* (“June 27th Resolution”). In the June 27th Resolution, the Energy Bureau acknowledged Genera's proactive efforts and deemed it appropriate to commence an informal review process of the Preliminary Draft Plan involving Genera, the P3A, and the Energy Bureau staff and consultants. Per the resolution, the informal process aimed to streamline the procedures mandated by the LGA OMA for the implementation of LGA decommissioning-related activities, particularly those related to PREPA's Vega Baja facility. The Energy Bureau highlighted that this review would allow it to gather information that may inform the evaluation of the final plan. Additionally, the Energy Bureau's inquiries provided Genera with insights into areas of interest that should be addressed in the final plan.

5. As such, the Energy Bureau ordered Genera and the members of the Energy Bureau staff, with the participation of the P3A, to begin an informal review process for the Preliminary Draft Plan, as outlined in Part III of the June 27th Resolution. Additionally, the Energy Bureau

required Genera to submit a summary of the progress made towards the expedited evaluation of a final decommissioning plan for the Vega Baja facility no later than thirty (30) days thereafter.

6. On July 16, 2024, in compliance with the June 27th Resolution, Genera held a meeting with the Energy Bureau consultants and the P3A to discuss the plan to decommission the Vega Baja facility ("July 16th Meeting"). At this meeting, Genera presented the Preliminary Draft Plan, which was updated to include a thorough breakdown of the timing for each decommissioning step, illustrated with a Gantt chart depicting all activities, including procurement. The Energy Bureau consultants agreed to review the Preliminary Draft Plan presented by Genera and provide feedback, which would assist Genera in refining the plan and summarizing the advancements made towards finalizing the decommissioning strategy. During the meeting, Genera highlighted timelines and milestones that, if not met, would delay the decommissioning activities in all sites and thus, the installation of peakers and BESS. The Energy Bureau consultants committed to send Genera written comments on or before Friday, July 20, 2024.

7. On July 23, 2024, the Energy Bureau staff members provided comments to the Preliminary Draft Plan and attached as Annex A, their recommendations ("July 23rd Letter").

8. On August 5, 2024, Genera submitted a document titled *Motion to Submit Summary Report of Final Decommissioning Plan in Compliance with Resolution and Order dated June 27, 2024* ("August 5th Motion"). Through the August 5th Motion, Genera submitted a summary report of the progress made on the final decommissioning plan for the Vega Baja facility, as well as the discussions of such progress held with the P3A and the Energy Bureau consultants during the July 16th Meeting. Additionally, the summary report concluded that Genera was set to begin reviewing the final version of the decommissioning plan that week, aiming to submit it to the Energy Bureau for evaluation in the forthcoming weeks. This submission was pending Genera's review of the

questions and comments posed by the Energy Bureau’s consultants regarding the Preliminary Draft Plan presented during the July 16th Meeting.

9. On August 22, 2024, Genera filed a document titled *Motion to Submit Final Decommissioning Plan in Compliance with Resolution and Order dated June 27, 2024, and Responses to the Energy Bureau’s Staff Letter dated July 23, 2024* (“August 22nd Motion”). Through the August 22nd Motion, Genera submitted the final revised decommissioning plan (“Final Decommissioning Plan”) for the Vega Baja facility, included as Exhibit A. To facilitate the review of the Final Decommissioning Plan, Genera also submitted, as Exhibit B, a detailed reference table that outlines and addresses the comments received from the Energy Bureau’s consultants in the July 23rd letter concerning the Preliminary Draft Plan and identifies the specific sections within the Final Decommissioning Plan where each comment has been addressed.

10. As previously mentioned, since the filing of the August 22nd Motion, more than a month ago, **Genera has not received any additional orders to address further questions or fulfill other requirements from the Energy Bureau.** A thorough review of the docket of the captioned case confirms that there are no outstanding issues remaining following the submission of the August 22nd Motion⁶. Consequently, it is reasonable to conclude that this matter is now ripe for adjudication. Therefore, approval of the Final Decommissioning Plan and issuance of a Notice to Commence Demolition are warranted, enabling Genera to begin the Decommissioning Services promptly.

⁶ See Docket for Case No. NEPR-MI-2024-0003: <https://energia.pr.gov/expedientes/?docket=nepr-mi-2024-0003>

11. As stipulated in the April 17th letter⁷, informed in person during the July 16th meeting, Genera's ability to award the Demolition Request For Proposal (“RFP”)⁸ is contingent upon receiving the Notice to Commence Demolition from the Energy Bureau. This approval is essential as it triggers several activities that are indispensable for adhering to the timelines outlined in Genera’s Final Decommissioning Plan⁹, including:

- a. **Permitting:** The contractor selected pursuant to the Demolition RFP must obtain various permits, a process that Genera anticipates may take up to four (4) weeks. These include certain environmental and safety permits, including but not limited to:
 - i. Asbestos and lead removal.
 - ii. Permiso Unico Incidental (“PUI”).
- b. **Dismantling, Removal, Demolition, and Preparation:** Genera estimates that these demolition activities will span approximately twenty-nine (29) weeks.
- c. **Site Preparation and Installation:** Activities associated with this phase include:
 - i. **Issuing an RFP:** Genera will issue an RFP to contract a developer to perform all necessary civil work required for the installation of the equipment, expected to take about twelve (12) weeks.
 - ii. **Civil Work and Equipment Installation:** Following the selection of a developer, the civil work and installation of the equipment will commence, with an estimated duration of thirty (30) weeks.

⁷ See April 17th Letter, p. 2.

⁸ Genera informed that it has published an RFP for the proposed demolition of the Vega Baja Legacy Generation Assets (the “Demolition RFP”). See April 17 Letter, p. 2.

⁹ See Exhibit A to the August 22nd Motion, Final Decommissioning Plan, pp. 42-46.

d. **Commissioning:** This final phase is anticipated to last approximately five (5) weeks.

12. Any further delay in receiving the Notice to Commence Demolition and approval of the Final Decommissioning Plan could lead to significant setbacks that could impact the broader objectives of Puerto Rico's energy infrastructure overhaul. Consequently, Genera urges the Energy Bureau to expedite the approval process to facilitate a seamless transition into the decommissioning phases as detailed in the Final Decommissioning Plan.

13. In light of the discussions and actions undertaken to date, Genera emphatically urges the Energy Bureau to fulfill its ministerial duty by approving the Final Decommissioning Plan, as submitted with the August 22nd Motion, and issuing the corresponding Notice to Commence Demolition without further delay. The timely issuance of the Notice to Commence Demolition is critical for maintaining the Decommissioning Completion Date within the fourth quarter of 2025. Such timely approval is not only crucial for Genera to commence the decommissioning operations but also pivotal in fulfilling its contractual obligations under the LGA OMA. In addition to complying with its regulatory requirements pursuant to the Approved IRP and Puerto Rico's energy public policy. Failure to act timely risks significant project delays that could impact the broader objectives of Puerto Rico's energy infrastructure overhaul.

WHEREFORE, Genera respectfully requests the Energy Bureau to **take notice** of the above for all purposes; approve the Final Decommissioning Plan as submitted with the August 22nd Motion; and **issue** a Notice to Commence Demolition.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26th day of September 2024.

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CERTIFICATE OF SERVICE

We hereby certify that a true and accurate copy of this motion was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System.

In San Juan, Puerto Rico, this 26th day of September 2024.

/s/ Alejandro López-Rodríguez
Alejandro López-Rodríguez