

**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 pertaining to *Motion for Reconsideration of Resolution and Order of September 17, 2024, and Request for Administrative Hearing*, filed by Genera PR, LLC.

RESOLUTION

On September 17, 2024, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order (“September 17 Resolution”), whereby it determined that project delays and cost increases associated to the procurement of Black-Start and Emergency Peaking Resources resulted from misrepresentations by Genera PR, LLC (“Genera”), particularly in their commitment to improve the original cost estimates and timeline originally proposed by the Puerto Rico Electric Power Authority (“PREPA”), which led to the Energy Bureau’s RFPs¹ reconfiguration approval.

In the interest of maintaining the terms originally represented by Genera, through the September 17 Resolution, the Energy Bureau ordered Genera to complete the project and achieve COD² by the end of the Second Quarter (Q2) of 2026, consistent with PREPA’s approach. With regards to project costs, the Energy Bureau acknowledged that, as stated by Genera, project costs will be covered by funds from the Federal Emergency Management Agency (“FEMA”) and that cost overruns are eligible for reimbursement. Accordingly, the Energy Bureau determined that consumers will not be held accountable for any cost overruns directly related to the mismanagement of the RFPs; such costs not covered by FEMA are to be borne by Genera.

Although no fines were imposed through the September 17 Resolution, the Energy Bureau warned Genera that if it failed to meet the specified deadline, it would be subject to a daily fine of up to twenty-five thousand dollars (\$25,000) for each day the project remains incomplete beyond the deadline, which shall serve as a deterrent for further delays, in accordance with Art. 6.36 of Act 57-2014.³ The Energy Bureau further warned Genera that additional misrepresentations would result in the imposition of fines and that the payment of **any fine** imposed by the Energy Bureau must be satisfied using the money it receives as payment (*i.e.*, Service Fee) under its contract; such payment shall not be considered, construed or treated as a cost attributable to customers or pass-through expenditures, as per Genera’s Operation and Maintenance Agreement.

On October 7, 2024, Genera filed a document titled *Motion for Reconsideration of Resolution and Order of September 17, 2024, and Request for Administrative Hearing* (“October 7 Motion”). In its October 7 Motion, Genera argued that the Energy Bureau’s September 17 Resolution contains findings of facts based solely on allegations by the parties, without granting Genera the opportunity to present evidence and have the issues in controversy adjudicated before an Examining Officer or Administrative Judge.⁴ Genera also contended that the September 17 Resolution failed to notify Genera of its right to seek reconsideration and judicial review.⁵ Genera further requested that the Energy Bureau conduct a hearing to

¹ Request for Proposal (“RFP”).

² Commercial Operation Date (“COD”).

³ *Puerto Rico Energy Transformation and RELIEF Act*, as amended (“Act 57-2014”).

⁴ October 7 Motion, p. 3.

⁵ *Id.*



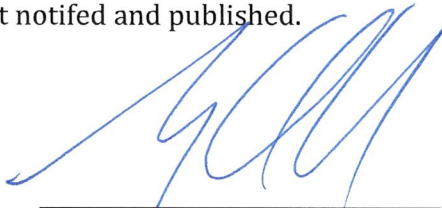
evaluate and adjudicate the allegations regarding Genera's representations in connection with the timeline and costs of the project.⁶

Upon review of the October 7 Motion, the Energy Bureau **REAFFIRMS** its September 17 Resolution and **DENIES** Genera's request that a hearing be held.

As such, the Energy Bureau **REITERATES** that Genera must complete the project and achieve COD **by the end of the Second Quarter (Q2) of 2026**. If Genera fails to meet this deadline, it will be subject to a **daily fine of up to twenty-thousand dollars (\$25,000) for each day the project remains incomplete beyond the specified deadline**.

The Energy Bureau also **REITERATES** that consumers will not be held responsible for cost overruns, and **should FEMA fail to assume the additional costs incurred, due to the reconfiguration of the RFP, the Energy Bureau may impose on Genera the full responsibility of covering any excess costs**.

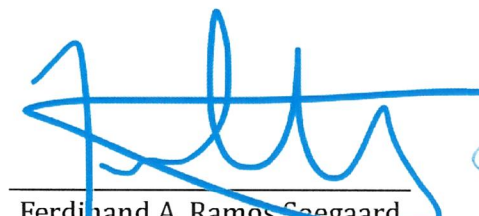
Be it notified and published.




Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Seegaard
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on October 11, 2024. Associate Commissioner Sylvia B. Ugarte Araujo did not intervene. I also certify that on October 11, 2024, a copy of this Resolution and Order was notified by electronic mail to arivera@gmlex.net; mvalle@gmlex.net; lrn@roman-negron.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 October 11, 2024.



Sonia Seda Gaztambide
Clerk



⁶ *Id.*, pp. 3 – 4.