

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

IN RE: REVIEW OF GENERA PR, LLC
REQUEST TO OPERATE PALO SECO MP
AND MAYAGUEZ CT WITH NATURAL GAS
AS PRIMARY FUEL

CASE NO.: NEPR-MI-2024-0004

SUBJECT: Resolution and Order for Request
for Leave to Operate Palo Seco MP with
Natural Gas as Primary Fuel.

RESOLUTION AND ORDER

I. Procedural Background

On February 21, 2024, Genera PR LLC ("Genera") presented before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Request for Leave to Operate Palo Seco MP and Mayagüez CT with Natural Gas as the Primary Fuel* ("Fuel Swap Request"),¹ as part of the ongoing case evaluating the Fuel Optimization Plan.²

On April 15, 2024, the Energy Bureau issued a *Resolution and Order* ("April 15 Resolution") which stated that, even though the proposed fuel swap was a component of the proposed initiatives in Genera's draft Fuel Optimization Plan ("FOP"), the Energy Bureau recognized that the Fuel Swap Request had other important and independent implications regarding energy public policy.³ Accordingly, the Energy Bureau ordered Genera to respond to a Request of Information ("ROI #1") included in Attachment B of the April 15 Resolution.⁴

On April 24, 2024, Genera presented to the Energy Bureau a document titled *Motion to Submit First Set of Responses to Request for Information in Compliance with Resolution and Order dated April 15, 2024* ("April 24 Motion") in the Fuel Optimization Plan Case. The April 24 Motion addressed requests for information detailed in Attachment A of the ROI #1.

On April 30, 2024, Genera submitted a document titled *Motion to Submit Second Set of Responses to Request for Information in Compliance with Resolution and Order dated April 15, 2024* ("April 30 Motion"), in the Fuel Optimization Plan Case which provided responses to Attachment B of the ROI #1.

On May 6, 2024, Genera filed a document titled *Request to Make Responses to Case No. NEPR-MI-2021-0014 April 11, 2024 Order Part of the docket of the Case of Caption* ("May 6 Motion") which provided responses pertaining to the fuel swap and the benefits of having the Mayaguez CT and the Palo Seco MP Operating with two fuels, with natural gas as the primary.⁵

On May 9, 2024, the Energy Bureau issued a Resolution and Order initiating this procedure to evaluate the Fuel Swap Request ("May 9 Resolution"). The Energy Bureau added the following documents as part of this case docket: the February 21 Fuel Swap Request, the April 30 Motion, the May 6 Motion and copy of the May 9 Resolution.⁶

In the Resolution and Order issued on June 6, 2024 ("June 6 Resolution"), the Energy Bureau stated that it was conducting a thorough evaluation of Genera's responses to the First

¹ The Fuel Swap Request, February 21, 2024.

² *Genera PR LLC Fuel Optimization Plan*, Case No.: NEPR-MI-2023-0004 ("Fuel Optimization Plan Case").

³ April 15 Resolution, p. 6.

⁴ *Id.*, p. 14.

⁵ May 6 Motion, p. 3, ¶ 6.

⁶ May 9 Resolution, p. 2.



Request for Information (ROI #1) and recognized the necessity for further clarification and additional details. As a result, the Energy Bureau directed Genera to provide responses to the Second Request for Information (ROI #2), as specified in Attachment A.

On June 14, 2024, Genera filed a document titled *Motion to Submit Response to Second Request for Information in Compliance with Resolution and Order dated June 6, 2024, and Request for Extension* ("June 14 Motion"), through which Genera partially responded to ROI #2 and requested an extension until June 21, 2024, to respond to items 4(c), 4(d), and 4(e) of ROI #2.

On June 21, 2024, Genera submitted a document titled *Urgent Request for Extension to Submit Complete Response to Second Request for Information in Compliance with Resolution and Order dated June 6, 2024*, in which Genera requested a new extension until July 5, 2024 to respond to items 4(c), 4(d), and 4(e) of ROI #2.

1 On July 5, 2024, Genera submitted to the Energy Bureau a document titled *Motion to Submit Complete Response to Second Request for Information in Compliance with Resolution and Order dated June 6, 2024* (July 5 Motion"), which included responses to items 4(c), 4(d), and 4(e) of ROI #2. Through the July 5 Motion, Genera sought to comply with the June 6 Resolution.

2 On August 15, 2024, the Energy Bureau issued a Resolution and Order ("August 15 Resolution") indicating that, after reviewing Genera's responses to ROI #1 and ROI #2, it found the information provided to be insufficient for reaching a determination on the fuel swap request. The Energy Bureau directed Genera to supplement and/or clarify its responses to ROI #1 and ROI #2 within ten (10) days from the notice date of the August 15 Resolution. On August 19, 2024, Genera requested a meeting with the Energy Bureau's engineering staff and consultants to get a better understanding of the specific information the Energy Bureau was requesting. On August 23, 2024, Genera met with the Energy Bureau's engineering staff and consultants, during which clarifications were provided to Genera regarding the information needed by the Energy Bureau to properly evaluate the Fuel Swap Request and make a determination.

On August 30, 2024, Genera submitted a document titled *Motion to Submit Response to Request for Information in Compliance with Resolution and Order dated August 15, 2024* ("August 30 Motion") which includes additional responses to ROI #1 and ROI #2.

3 On September 13, 2024, Genera submitted a document titled *Motion to Submit Supplement to Response Submitted on August 30, 2024* ("September 13 Motion"), through which Genera further attempted to clarify the ownership, construction, and future operation and maintenance of the assets related to the proposed fuel swaps. As Exhibit A, Genera included: (i) a layout for the Mayaguez and Palo Seco sites showing the entire project; (ii) a detailed description of the Mayaguez CT project with estimated costs; and (iii) a detailed description of the Palo Seco MP project with estimated costs.

On September 23, 2024, Genera submitted a document titled *Restated Request for Leave to Operate Palo Seco MP and Mayaguez CT with Natural Gas as Primary Fuel* ("September 23 Motion"), reiterating its request for the Energy Bureau to promptly decide on the proposed fuel swap. In the September 23 Motion, Genera stated that the sale and purchase agreement for the supply of natural gas via LNG ISO tanks to the Palo Seco MP and Mayaguez CT had been finalized.⁷

The Energy Bureau has conducted an evaluation of the complexities involved in the fuel swap proposals for Palo Seco and Mayaguez. While the nature of both projects is similar, as they each request the conversion of certain generation units for dual-fuel operation using ultra-low sulfur diesel ("ULSD") and natural gas, each proposal presents its own unique challenges. In this Resolution and Order, the Energy Bureau will address only the proposed conversion of Palo Seco. The proposed fuel swap for Mayaguez will be considered in a separate Resolution and Order to be issued in the near future. Consequently, the determination

⁷ September 23 Motion, p. 9.



regarding the Palo Seco MPs does not constitute and shall not be deemed, construed or interpreted as a determination regarding the fuel swap request for Mayaguez, a fuel swap for any other site, or any initiatives under Genera's proposed Fuel Optimization Plan ("FOP"), which is pending evaluation in a separate docket.

II. Description of the Palo Seco MPs Proposed Fuel Swap

1 In this case, the Energy Bureau is considering Genera's request to approve switching the primary fuel used to generate electricity to three MobilePac-type combustion turbines located at Palo Seco ("Palo Seco MPs") from ultra-low sulfur diesel ("ULSD") to liquefied natural gas ("LNG") while allowing ULSD to remain as the backup fuel.⁸ The Palo Seco MPs are a set of three dual-fuel-capable 27 MW (nameplate) combustion turbines ("CTs") that began commercial operation in October 2019.⁹ The Palo Seco MPs are run as peaking resources, with annual capacity factors of approximately 17%. According to Genera, Palo Seco MPs are limited to a capacity factor of roughly one third by environmental permits.

2 In the Fuel Swap Request, Genera describes its assumptions regarding the fuel costs that would be incurred using ULSD versus natural gas for the Palo Seco MPs. Genera calculates that operating the Palo Seco MPs on natural gas would save about \$18 million per year, compared with ULSD, assuming that its capacity factor is increased from 17% to 33%.¹⁰ In a subsequent filing Genera reduced the proposed savings to \$12.79 million per year.¹¹ Genera did not analyze the system dispatch impacts of the Palo Seco proposed fuel swap.

3 Genera states that implementing the proposed fuel change would not require incremental capital investment and would therefore not have implications for the base rate.¹² Genera states that "the only requirement is to replace outdated or damaged components that have become obsolete over the years."¹³ Genera further states that fuel procurement for LNG, delivered by tank, would be procured via a competitive process administered by the Public Private Partnerships Authority and its designated Third-Party Procurement Officer.¹⁴

III. Analysis of the Palo Seco Fuel Swap proposal¹⁵

A. Alignment with the Approved IRP and Energy Public Policy

4 The Energy Bureau acknowledged in the April 15 Resolution the importance of a thorough evaluation of the proposed fuel swap initiative in accordance with provisions of the Approved Integrated Resources Plan ("IRP")¹⁶ to ascertain its alignment with approved directives.

The Approved IRP includes a retirement plan with different scenarios and timeframes for the generation assets, including PREPA's Legacy Generation Assets ("LGA"). The Energy

⁸ See, in general, Fuel Swap Request.

⁹ See Fuel Swap Request, pages 3-4.

¹⁰ See Fuel Swap Request, page. 7.

¹¹ See May 6 Motion, Attachment C, Genera PR Palo Seco Fuel Swap Cost Savings, page 1.

¹² See Fuel Swap Request, page. 14-15.

¹³ See Fuel Swap Request, page 15.

¹⁴ *Id.*

¹⁵ On a future Resolution and Order the Energy Bureau shall issue its determination on the Mayaguez fuel swap proposal even though aspects of the Mayaguez proposal are mentioned herein.

¹⁶ *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.



Bureau approved the retirement plans for PREPA steam units in accordance with PREPA's caveats indicating a need for replacement capacity, assurance of meeting the overall reliability needs, and in alignment with more specific timing thresholds described in the Modified Action Plan.¹⁷ The Palo Seco MPs are not considered for retirement in the Modified Action Plan of the Approved IRP.

M The Proposed IRP¹⁸, and the modeling results do not directly address the potential fuel swap proposed by Genera for the Palo Seco MPs. Nevertheless, the use of ISO container tanks was acknowledged as a potentially cost-effective option for fueling the Palo Seco MPs.¹⁹ Therefore, if the fuel cost savings proposed by Genera can be implemented as stated in Genera's proposal, with no capital investment that may affect the ratepayers, the Genera proposal is not mis-aligned with the Modified Action Plan of the Approved IRP.

Im Genera's proposal explicitly states that "no or minimal"²⁰ capital investment is required to capture the Palo Seco MPs fuel cost savings. They are not proposing LNG infrastructure at the same scale as what was outlined in the Proposed IRP.²¹ They propose the use of LNG ISO containers (on trucks) to deliver fuel to Palo Seco.

711 As asserted, the costs of the fuel switching are limited to the market costs of fuel plus "... a \$1 [per MMBtu] added to the cost of LNG to cover such logistics cost premium, resulting in an \$11.25/MMBtu cost for LNG..."²² Projected diesel costs are much higher,²³ resulting in a proposed fuel savings of \$7.55/MMBtu.

The computations provided²⁴ show the economic fundamentals associated with using lower-priced (per MMBtu) natural gas fuel instead of higher-priced ULSD at the Palo Seco MPs. Genera shows how savings would be generated based on the following critical input assumptions:

- am
1. Fuel price differences per MMBtu for ULSD versus natural gas;
 2. Annual electricity production from the Palo Seco MPs units (based on an associated annual capacity factor estimate, and considering permit limitations); and
 3. Assumed heat rates for the units a.

Genera estimated a \$12.79 million per year savings, for the Palo Seco MPs.²⁵ The basis for the estimate includes a 27 MW for each of the Palo Seco units, a 33% capacity factor assumption, and heat rates based on 2023 historical operation. Subject to the caveats

¹⁷ Approved IRP, paragraph 630, p. 193.

¹⁸ PREPA's Motion to Leave File IRP Main Report "ERRATA" Version, dated June 14, 2019, which included a corrected version of the Main IRP Report submitted on June 7, 2019, and is titled Integrated Resource Plan 2018-2019, Draft for the Review of the Puerto Rico Energy Bureau, Prepared for the Puerto Rico Electric Power Authority, June 7, 2019 (Rev. 2.1), In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001 ("Proposed IRP").

¹⁹ See Proposed IRP, Section 7.1.2.11, p. 6-14.

²⁰ Fuel Swap Request, page 3.

²¹ It is important to note that LNG infrastructure costs were considered in the context of supplying the larger combined cycle units at Palo Seco, with capital expenditures estimated to range from \$167 to \$222 million. See Approved IRP, ¶561, p. 158.

²² Fuel Swap Request, page 9.

²³ Genera provides a diesel fuel forecast attached to their letter (as Appendix A and Appendix B) that shows average costs for the next year of roughly \$18.80/MMBtu.

²⁴ Fuel Swap Request at pages 7 and 10.

²⁵ See May 6 Motion, Attachment C, Genera PR Palo Seco Fuel Swap Cost Savings, page 1.



regarding the capacity factors discussed in this Resolution and Order, the estimates are reasonable.

Based on the reasons discussed, the Energy Bureau finds that the proposed fuel swap for the Palo Seco MPs is not inconsistent with the Approved IRP.

To support compliance with energy public policy, Genera argues that Article 1.11 of Act 17-2019 mandates the conversion of all new and existing PREPA units to dual-fuel capability, with one of the fuels being natural gas. However, this interpretation is incorrect, as Section 1.11 of Act 17-2019 explicitly states that it does not apply to operators of the Legacy Generation Units; rather, it applies to PREPA Generation Legacy Assets sold as part of a PREPA Transaction. Nevertheless, Act 17-2019 does not prohibit existing units within PREPA's Generation Legacy Assets from being converted to dual-fuel capability. Therefore, if a proposed conversion aligns with the Approved IRP and applicable energy public policy principles, the Energy Bureau may authorize the conversion of a PREPA Legacy Generation Asset to dual-fuel use, with natural gas as one of the fuels.

A careful review of Genera's filings also shows that the proposed fuel swap aligns with the energy public policy, as it meets the objectives of providing affordable and reasonable electric power service, allowing fossil fuel units to operate with multiple fuel types, including natural gas, ensuring that fuel and power purchases are made at reasonable prices based on market and local conditions, and promoting small-scale power plants with a diversified fuel mix.²⁶

B. Relevant Permits

According to Genera's claims, a modification to the permit for constructing an air emission source for the Palo Seco MPs was issued by the Department of Natural and Environmental Resources ("DNER") on April 24, 2023, allowing the use of natural gas as fuel.²⁷ Genera further alleges that, on April 9, 2024, it submitted a request to the U.S. Environmental Protection Agency ("EPA") to modify the Prevention of Significant Deterioration ("PSD") Non-Applicability Analysis for the Palo Seco MPs, which includes adding a regasification vaporizer and other changes to enable the transition to natural gas.²⁸

Genera has not submitted any further information concerning other local or federal permits necessary for the implementation of the proposed fuel swap at Palo Seco, nor has it provided a schedule for obtaining such permits. The Energy Bureau **CLARIFIES** that it is solely Genera's responsibility to obtain all required permits for the project's execution, and the Energy Bureau has not assessed the status or adequacy of these permits. Nevertheless, Genera **SHALL** only operate the Palo Seco MPs using natural gas once it is in full compliance with all applicable legal requirements and permits.

C. Project Cost Estimates

After multiple requests for information and clarifications, Genera submitted certain information related to the scope of work and costs associated with the requested conversions for the Palo Seco MPs.

Initially, Genera indicated that converting the Palo Seco MPs from their current fuels to natural gas is not expected to involve any capital improvements for PREPA.²⁹ In the first response to ROI #2, Genera indicated that "[A]ll project costs, including capital investments, at the PREPA unit level will be paid by Affiliate. Neither the Operating Budget nor any budget funded by rate payers will be used to cover the costs of the Palo Seco and Mayaguez fuel

²⁶ See, in general, Article 1.5 of Act 17-2019.

²⁷ Fuel Swap Request, February 21, 2024, p. 4.

²⁸ June 14 Motion, Response to ROI #2, p. 9, attachment p. 386.

²⁹ Fuel Swap Request, February 21, 2024, p. 3.



swaps.”³⁰ However, in the supplemental response to ROI #2 presented to the Energy Bureau, Genera asserted they “expects any necessary work on the LGA due to their change in operating fuel to be minimal and/or maintenance related with costs funded from the Operating Budget in the ordinary course as an expense.”³¹ Genera claimed that the exemption to this was for “the supply and installation of the three (#) digital valve positioners (“DVP”) for the Palo Seco MP site, which Genera’s affiliate will provide with no cost to PREPA or ratepayers.”³²

The cost breakdown for the fuel swap project of three (3) MP units at the Palo Seco facility, including new components or replacement of damaged ones, is about \$2.55 million. The project contemplates an extension to the existing natural gas pipeline already in service within the Palo Seco facility.³³

D. Ownership of Palo Seco MPs Fuel Swap-related Improvements

Pursuant to Section 5.6(b) of the Generation OMA,³⁴ capital improvement projects of PREPA’s LGA proposed to be made, owned and funded by Genera or its designated affiliate, must be presented in sufficient detail to enable the Energy Bureau to make a fully informed assessment. Genera’s insufficient or non-responsive information in regards to (i) existing infrastructure to be used for the supply of the LNG; and (ii) the ownership and the costs of the capital improvements, including the transfer of ownership to assure PREPA is the owner of the certain capital improvements resulted in delays to complete the analysis of the proposed Palo Seco fuel swap and is still pending a proper response as explained in the Conclusion section herein.

E. Palo Seco MPs Capacity Factor

The recent average capacity factors for the Palo Seco MPs were 9.6% in 2020, 9.6% in 2022, 27% in 2023, and 4.3% in 2024, reflecting their typical role as peaking plants used primarily during periods of high demand or unexpected outages.³⁵ However, the savings proposed by Genera are based on a 33% capacity factor, which falls within the range of an intermediate load unit rather than a peaker. This assumption significantly exceeds the historical usage patterns, where the Palo Seco MPs have typically operated below a 15% capacity factor. If the units continue to operate at a more representative capacity factor of around 10% to 15%, the actual savings would be almost half of what is projected under the 33% capacity factor scenario. In addition, the nearly doubled capacity factor, from historical levels to the proposed 33%, will undoubtedly lead to increased operating and maintenance costs for the Palo Seco MPs. Running the units more frequently will accelerate wear and tear, resulting in higher expenses for maintenance, repairs, and replacement of components. These additional costs will further diminish the potential savings from the fuel switch, as the anticipated financial benefits may be offset by the increased expenditures required to keep the units operating reliably at a higher utilization rate.

Given these circumstances, the Energy Bureau will closely monitor the situation to ensure that the proposed changes indeed result in significant savings and that the approval does not

³⁰ June 14 Motion, Exhibit A: Response to ROI #2 #4(a), p. 13.

³¹ July 5 Motion, Exhibit A: Response to ROI #2 #4(c), p. 1.

³² *Id.* p. 1.

³³ August 30 Motion, Exhibit A, p. 64.

³⁴ Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement, dated January 24, 2023, executed by and among PREPA, the Puerto Rico Public-Private Partnerships Authority (“P3 Authority”) and Genera (“Generation OMA”).

³⁵ See June 14 Motion, Attachment #2.



merely facilitate a fuel switch benefiting an LNG supplier without delivering tangible benefits to the ratepayers.³⁶

III. Conclusion

The Energy Bureau **REAFFIRMS** its continued commitment to expediting the evaluation of the Palo Seco fuel swap request. While the time taken to consider the proposed fuel swap requests may seem lengthy, the procedural background of this matter demonstrated a clear need for additional information to make a well-informed determination in the public interest. Throughout the process, certain representations, statements, information and explanations from Genera were vague, non-responsive, confusing, contradictory, or incomplete, which necessitated multiple follow-up requests for information. Furthermore, in some cases, the Energy Bureau had to conduct analyses that should have been originally provided and included in Genera's proposal. These factors, beyond its control, hindered the Energy Bureau's ability to make a prompt decision. In the future, the Energy Bureau will no longer engage in prolonged exchanges of information to cure incomplete proposals. Instead, incomplete proposals lacking sufficient and adequate information will be denied, allowing us to focus on well-documented proposals.

As previously discussed, contrary to Genera's claim, Act 17-2019 does not require all PREPA units to be converted for dual-fuel capability, with one of the fuels being natural gas. The provision mandating dual-fuel capability for new or existing units does not extend to PREPA's Legacy Generation Assets. The law specifies that if any legacy asset is sold as part of a PREPA Transaction, it must be converted for dual-fuel use in accordance with the legal requirements. However, we emphasize that this requirement does not apply to units retained by PREPA for operation by a private operator under a contract like the Generation OMA. Nevertheless, the law does not prohibit existing units that are part of PREPA's Generation Legacy Assets from being converted for dual-fuel use. Therefore, if consistent with the Approved IRP and the applicable principles of the energy public policy, the Energy Bureau may approve the conversion of a PREPA's Legacy Generation Asset to dual-fuel capability, with natural gas as one of the fuels.

After reviewing the information submitted by Genera in this case, and based on the preceding analysis, the Energy Bureau concludes that Genera did not adequately address the issue of ownership by Genera and/or its Affiliates concerning the improvements required for implementing the proposed fuel swap at the Palo Seco MPs. Furthermore, Genera failed to properly address the ownership and operation of the regasification units needed to effectively manage the natural gas operations at the Palo Seco MPs.

As explained above, if Genera or its Affiliates intended to incur, in whole or in part, the capital expenses to carry out the Palo Seco MPs conversion pursuant to Section 5.6(b)(i) of the Generation OMA, they were required to comply with the specific conditions outlined in that section. These conditions mandated that Genera provide the Energy Bureau with: (i) a detailed description of the proposed capital improvement sufficient to enable a thorough assessment and analysis, (ii) a clear explanation of how the expected rate of return for Genera's investment would align with the returns allowed for similar investments in the U.S. generation sector, (iii) a detailed method for calculating the expected rate of return, including sample calculations, (iv) confirmation that the proposed investment was consistent with the Approved IRP and Puerto Rico's energy policy, and (v) a rationale for why the proposed capital improvement should not be addressed within the pending rate review process. Genera failed to meet these requirements, as the information and explanations provided were insufficient to satisfy some of these conditions. The submissions lacked the necessary detail, clarity, and substantiation needed for a comprehensive evaluation by the Energy Bureau, thereby failing to establish compliance with Section 5.6(b)(i).

The Energy Bureau **DETERMINES** that the information and explanations provided by Genera do not satisfy the requirements for Genera or its Affiliates to qualify as owners of the

³⁶ This should not be seen as a limitation on the dispatch of the Palo Seco MPs, but rather as an acknowledgment that the annual savings would likely be lower than Genera's estimates.



proposed improvements or the regasification facilities intended for the Palo Seco MPs fuel swap. Allowing Genera or its Affiliates to assume ownership of these assets poses a significant risk to maintaining a competitive natural gas market in Puerto Rico. Such ownership could undermine the ability of other gas suppliers to compete on equal terms for fuel supply, potentially leading to market distortions and impairing the open competition necessary for fair pricing and reliability in the energy sector.

Notwithstanding Genera's failure to meet certain requirements necessary for the approval of its proposal, the Energy Bureau recognizes that other compelling factors, as discussed in this Resolution and Order, weigh in favor of a conditional approval. These factors include the urgent need to stabilize fuel prices, reduce energy costs, and ensure compliance with the Approved IRP and Puerto Rico's energy public policy. Moreover, the proposal's potential to enhance adherence to environmental requirements and promote the benefits of cleaner fuels further supports its conditional approval.

Taking all these factors into consideration, and with the public interest as the guiding principle, the Energy Bureau **DETERMINES** that the balance of interests favors the conditional approval of Genera's proposal, subject to the satisfaction of specific conditions and additional requirements set forth in this Resolution and Order to ensure compliance with regulatory standards and safeguard the competitive natural gas market. Therefore, the Energy Bureau hereby **CONDITIONALLY APPROVES** the fuel swap for the Palo Seco MPs, subject to the fulfillment of the following conditions:

- (i) PREPA shall be the sole owner of all improvements necessary for implementing the fuel swap at the Palo Seco MPs. Before the project begins, Genera shall submit draft versions of all legal documents related to ownership to the Energy Bureau for evaluation. These documents must outline the intended transfer of ownership rights and ensure that PREPA will be the sole owner of all proposed fuel swap-related improvements. These documents shall include, but are not limited to, contracts, purchase and sale agreements, assignment agreements, bills of sale, deeds of transfer, and other similar legal instruments. For the purposes of this condition, *improvements* shall be comprehensively defined to include any construction, installation, upgrades, or modifications made to PREPA's facilities, infrastructure, equipment, or systems related to electrical generation, as well as the infrastructure necessary for the gasification, storage and handling of natural gas for use at the Palo Seco MPs.
- (ii) Before the project begins, Genera **SHALL** submit to the Energy Bureau for evaluation draft versions of all documents that will be used to ensure that any natural gas regasification facility installed by Genera, its affiliates, or any natural gas supplier will be available for use **at no cost** to other potential natural gas suppliers. If this is not feasible, Genera shall provide draft documents outlining the process and guarantees for the timely removal of the existing regasification facilities. These documents must ensure that the facilities can be removed within a reasonable time frame, allowing other fuel suppliers to install their own regasification facilities without imposing onerous conditions on the new supplier or limiting the use of the generation units supplied by such facilities.
- (iii) Before the project begins, Genera **SHALL** submit to the Energy Bureau for evaluation, draft versions of all documents that will be used to ensure the construction of the improvements does not jeopardize access to Federal Emergency Management Agency ("FEMA") funds. These documents must address the potential risks associated with the involvement of private investments in PREPA's publicly owned electric system, particularly in cases where the improvements made using private funds may be subject to damage and require FEMA assistance for repairs or replacements.



- (iv) The Palo Seco MPs **SHALL** continue to be used as peaking units, not as baseload units. Genera **SHALL** maintain accurate records of all maintenance and operational costs incurred when operating the units at a capacity factor higher than what is typically used for peaking purposes. Upon request, these records **SHALL** be made available to the Energy Bureau for evaluation to ensure compliance with this condition.


This **CONDITIONAL APPROVAL** shall be limited to the project described in Genera's filings regarding the Palo Seco site. Any modifications to the project shall require obtaining the corresponding authorization from the Energy Bureau before implementation.

The Energy Bureau **CLARIFIES** that this conditional approval of the fuel swap in this case for the Palo Seco MPs does not constitute and shall not be deemed, construed or interpreted as a determination regarding the request for fuel swap for the Mayaguez or a fuel swap for any other site or any initiatives under Genera's proposed Fuel Optimization Plan ("FOP"), which is pending evaluation in a separate docket.³⁷ Following this approval, Genera **SHALL** update the proposed FOP as needed for the evaluation of this initiative within the proposed FOP case docket. The evaluation of the Palo Seco MPs fuel swap as a potential fuel-saving initiative will be carried out in accordance with the relevant criteria and procedures applicable to that case.


The Energy Bureau **WARNS** Genera that:

- (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

CERTIFICATION

³⁷ See *In Re: Genera PR, LLC Fuel Optimization Plan*, Case No.: NEPR-MI-2023-0004.



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 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 October 11, 2024.



Sonia Seda Gaztambide
Clerk

