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

IN RE: GENERA PR, LLC, FUEL OPTIMIZATION PLAN	**CASE NO:** NEPR-MI-2023-0004 **SUBJECT:** Final Resolution and Order on Genera Fuel Optimization Plan.

RESOLUTION AND ORDER

I. Introduction

The Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") and Genera PR, LLC ("Genera") entered into an agreement for the Puerto Rico Thermal Generation Facility Operation and Maintenance .[1] Under the Generation OMA, Genera is responsible for developing and submitting a *Fuel Optimization Plan* ("FOP") that details initiatives, methodologies, and anticipated savings aimed at reducing fuel costs for PREPA's ratepayers.[2] Before approval, the proposed plan must be submitted to the P3 Authority for comments and evaluation of its suitability. A revised version will then be submitted to the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") for final approval.[3]

In this proceeding, the Energy Bureau conducted a review of the most recent version of the fuel optimization plan filed by Genera on April 29, 2024 ("Proposed FOP"). This Resolution and Order considers only the portions of the Proposed FOP that have sufficient information submitted for a proper evaluation and do not depend on proceedings currently pending before the Energy Bureau. Updates to the FOP that may be filed to modify the plan approved in this Resolution and Order will be addressed, as applicable, in accordance with the process outlined in Section 4.2(t) of the Generation OMA. Specifically, Section 4.2(t) of the Generation OMA requires a minimum of one annual update.

II. Procedural Background

On July 18, 2023, the Energy Bureau issued a Resolution and Order commencing this administrative proceeding.

On September 15, 2023, Genera submitted a Proposed FOP claiming that it was agreed upon by the P3 Authority. On October 19, 2023, the Energy Bureau issued a Resolution and Order that required Genera to respond to questions regarding the Proposed FOP. On November 10, 2023, Genera responded to the Energy Bureau's requests of information ("November 10 Motion").

On November 15, 2023, Genera filed a document titled Motion to Submit Requests for Certification of Initiatives for Contracts Awarded by Genera PR LLC ("November 15 Motion"). In that Motion, Genera stated that it has awarded contracts for Ultra Low Sulfur Diesel ("ULSD") and Fuel Oil No. 6 Oil and identifies that these procurements are related to a set of specified initiatives described in the Proposed FOP. In the November 15 Motion, Genera further requested the Energy Bureau to "certify" the executed contracts under the listed initiatives in the FOP.

On December 20, 2023, the Energy Bureau issued a Resolution and Order ("December 20 Order") in which it took three steps to further its evaluation of Genera's FOP: (1) it made further requirements of information ("ROIs") from Genera; (2) it scheduled a Technical

[1] Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement ("Generation OMA" or "GOMA"), dated January 24, 2023, executed by and among PREPA, the P3 and Genera .

[2] *See*, Section 4.2(t) of the Generation OMA.

[3] *Id.*

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Conference with Genera to discuss the FOP; and (3) it formally welcomed stakeholders to provide written feedback on the Proposed FOP and the supplemental information given in response to the Energy Bureau's ROIs. Dates and processes were specified at the time for the three steps.

On January 8, 2024, Genera filed a document titled Informative *Motion Regarding the Revised Fuel Optimization Plan and Request for Confidential Treatment with Supporting Memorandum of Law* ("January 8 Motion") in which it informed "that on January 4, 2024, Genera presented a revised FOP (the "January 4 Revised Fuel Optimization Plan") to theP3 Authority, which is under evaluation". The January 4 Revised Fuel Optimization Plan included "two additional sections identified by Genera's Fuels Office: Section VII – Fuel Change Initiatives, which now includes in its Item 8 a Fuel Swap and Fuel Conversion Initiatives; and Section VIII –Asset Enhancement Initiatives, which includes in its Item 9 an Asset Supplement Initiative". Because the January 4 Revised Fuel Optimization Plan, submitted as Exhibit A of the January 8 Motion, was under consideration by the P3 Authority, Genera requested the Energy Bureau to maintain the January 4 Revised Fuel Optimization Plan under seal of confidentiality pursuant to the Energy Bureau's Policy on Management of Confidential Information.

On January 10, 2024, Genera filed a document titled *Motion Submitting Response to Request for Information in Compliance with Resolution and Order Dated December 20, 2023, and Revision to the Fuel Optimization Plan* ("January 10 Motion") in which it submitted responses to the ROI's outlined in Attachment A of the December 20 Order. Genera presented a new revised FOP ("January 9 Revision of the Fuel Optimization Plan").

On January 10, 2024, the Energy Bureau issued a Resolution and Order ("January 10 Order") in which it Responded to the January 8 Motion. The Energy Bureau:

(a) Ordered Genera to file the modified January 4 Revised Fuel Optimization Plan within five (5) business days after receiving any comments by the P3 Authority.

(b) Reminded Genera that any request for confidentiality must be properly justified and be accompanied by a redacted version for the public.

(c) Issued a stay for the January 12, 2024, Technical Conference and the January 19, 2024, period for public comments.

(d) Granted Genera's request for confidential treatment to Exhibit A of the January 8 Motion, the January 4 Revised Fuel Optimization Plan.

On February 21, 2024, Genera filed a document titled Motion Submitting Revision to the Fuel Optimization Plan in Compliance with Resolution and Order Dated January 10, 2024 ("February 21 Motion") in which it:

(a) Presented a subsequent revision of the FOP and requested that it be evaluated and approved.

(b) Informed the Energy Bureau that on February 16, 2024, Genera received the P3 Authority's approval of the updated FOP, subject to several comments listed therein ("P3 Authority Letter").

On February 21, 2024 the Energy Bureau also received a letter from Genera regarding a *Request for Leave to Operate Palo Seco MP and Mayagüez CT with Natural Gas as Primary Fuel* ("February 21 Request") that was the effectuation of one of the fuel cost savings measures identified in the updated FOP (Initiative #8: Fuel Swap and Fuel Conversion Initiatives; Phase 1): fuel change from diesel to natural gas for Mayagüez combustion turbines and Palo Seco's mobile pack.

On April 15, 2024, the Energy Bureau issued a Resolution and Order requiring Genera to provide additional information, scheduling a technical conference, and requesting stakeholder comments on the updated FOP ("April 15 Resolution"). This Resolution and Order also required Genera to resolve any ongoing discrepancies with the P3 Authority and file a final FOP with the Energy Bureau. The Resolution and Order further discussed the proposed fuel swap and stated that the fuel swap would be evaluated in this procedure. The

Energy Bureau then, through a Resolution and Order issued on May 9, 2024, reconsidered its decision to address the approval of the fuel swap in the FOP case, and instead opened a separate case, *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.

On April 24, 2024, Genera filed responses to the ROIs related to the April 15, Resolution.

On April 29, 2024, Genera moved to clarify the record relating to different filed versions of the FOP, which includes the P3 Authority Approved FOP ("Final 2024 FOP") as Appendix C, and the P3 Authority's letter approving this FOP as Appendix B.

On May 23, 2024, the Energy Bureau held a Technical Conference, attended by Genera and the Independent Consumer Protection Office ("OIPC" by its Spanish acronym), to address various issues and questions related to the Final 2024 FOP.

On June 7, 2024, OIPC, Queremos Sol, and Convergent Strat filed stakeholder comments.

On June 28, 2024, Genera filled a document titled *Motion in Compliance with Bench Orders Issued During May 23rd Technical Conference and Request of Approval of Process Proposal* ("June 28 Motion") in which it:

(a) Responded to different bench orders from the May 23, 2024, Technical Conference.

(b) Presented proposals to address the raised concerns about misaligned incentives resulting from the way Genera has proposed to calculate savings for Initiative #1 and Initiative #7.

III. Regulatory Framework

A. Authority of Energy Bureau

The Energy Bureau is an independent, specialized entity tasked with regulating, supervising, and ensuring compliance with the Government of Puerto Rico's energy public policy, as established by Act 57-2014[4] and Act 17-2019[5], among other laws. These acts grant the Energy Bureau a range of powers, responsibilities, and duties to develop and implement the necessary regulations and actions to ensure the capacity, reliability, safety, efficiency, and fairness of electricity rates in Puerto Rico. The Bureau also sets the guidelines, standards, practices, and processes that regulated entities must follow. Additionally, it has the authority to oversee the quality, efficiency, and reliability of the electric service provided by any certified electric service company in Puerto Rico, ensuring a robust electrical grid that meets the island's needs.

B. Approval of a Fuel Optimization Plan under Generation OMA

As stated elsewhere, under the Generation OMA, Genera is responsible for developing and submitting an FOP for review and approval by the Energy Bureau.[6] Additionally, the Generation OMA mandates that Genera update the plan at least once per year, with each update subject to evaluation and approval by the Energy Bureau.[7]

In defining the scope of the Energy Bureau's evaluation in this case, it is important to note that during the process of reviewing and approving the Generation OMA, the Energy Bureau emphasized that it is not a party to the contract and, therefore, cannot be subjected to any obligations or duties under the Generation OMA. The Energy Bureau further clarified that the Generation OMA must not be interpreted as impairing, restricting, relinquishing, or limiting the scope of its powers, statutory and regulatory jurisdiction, or authority, in accordance with applicable laws and regulations. Additionally, it cannot be considered a

[4] Known as the *Puerto Rico Energy Transformation and RELIEF Act,* as amended ("Act 57-2014").

[5] Known as *The Puerto Rico Energy Public Policy Act* ("Act-17-2019").

[6] *See* Section 4.2(t) of the Generation OMA.

[7] *Id.*

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waiver or release of any applicable statutory or regulatory requirements. In line with the foregoing, Section 20.17 was incorporated into the Generation OMA to explicitly and comprehensively safeguard the Energy Bureau's authority. Finally, it is important to emphasize that it was the voluntary decision of the contracting parties to delegate the evaluation of the Proposed FOP initiatives to the final assessment and approval of the Energy Bureau.

The Generation OMA does not delineate detailed mechanisms or methodologies for quantifying savings or evaluating fuel optimization initiatives. It is evident, nonetheless, that achieving fuel savings is not the sole criterion, particularly as incentives of this nature should not be granted to Genera for merely fulfilling its contractual obligations or for exercising the expertise for which it was originally engaged. Given this, the Energy Bureau considers the principles established for performance incentive mechanisms to be a reasonable starting point for evaluating the FOP initiatives. These principles are sound and provide a robust standard of review for the FOP. Accordingly, the Energy Bureau will, to the extent reasonable, apply the principles outlined below, as derived from Regulation 9137[8], in its evaluation of the initiatives proposed in the Proposed FOP. The initiatives and savings calculation methods in the Proposed FOP should: (a) induce behavior consistent with public policy that would not otherwise occur to a sufficient degree; (b) be defined, easily interpreted, and easily verified, (c) focus on performance areas within Genera's reasonable control, (d) be designed to maximize net benefits for customers, (e) give Genera no more total financial incentives than are needed to align its performance with the public interest and (f) complement the existing financial incentives for Genera, without under- or over-compensating it for achieving the designed outcomes.

IV. Overview of the Proposed FOP

Genera has filed numerous drafts of the Fiscal Year 2024 FOP during this proceeding. The Energy Bureau is charged with reviewing only the final version, which was conditionally approved by the P3 Authority, which is the Final 2024 FOP filed on April 29,2024. P3 also deferred several contractual matters closely tied to regulatory issues, leaving the final determination of these matters to the Energy Bureau.[9]

The focus of the Energy Bureau in this Resolution and Order is to establish the methodology for quantifying the savings realized by Genera during fiscal year 2024 ("FY24"). Additionally, where pertinent, the Energy Bureau addresses initiatives that Genera failed to implement in FY24, aiming to provide guidance for the formulation of an updated FOP applicable to FY2025. The Proposed FOP describes, and outlines initiatives intended to lower fuel costs for ratepayers and proposes methods used to quantify the achieved savings.[10] Notably, the Proposed FOP includes the following eight initiatives:

1. Reduce the fixed premium for ultra-low sulfur diesel ("ULSD")
2. Fuel reliability enhancements for ULSD
3. Change of fuel oil escalator and reduction of fuel oil adder
4. Spot purchase option for fuel oil and ULSD
5. Price risk management
6. Payment terms management
7. Fuel swap and fuel conversion initiatives
8. Asset supplementing initiatives

The Energy Bureau will evaluate each initiative in a manner appropriate to its execution status. Activities related to three of the eight initiatives were executed in FY24: Initiatives

[8] *See, in general, Regulation for Performance Incentive Mechanisms*, Regulation 9137, Energy Bureau, December 13, 2019 ("Regulation 9137").

[9] *See* April 15, Resolution.

[10] Section 4.2(t) of the Generation OMA outlines Genera's responsibility to develop a Fuel Optimization Plan.

#1, #2, and #4. Activities related to two initiatives are associated with open cases before the Energy Bureau: Case No. NEPR-MI-2022-0004, which pertains to fuel price hedging and price risk management (Initiative #5), and Case No. NEPR-MI-2024-0004, which concerns proposed fuel swaps (Initiative #7). Activities related to these initiatives were not executed in FY24. Activities related to Initiatives #3, #6, and #8 were also not executed in FY24.

V. Stakeholder Comments

A. OIPC

OIPC's comments laid out five principles or priorities for the fuel optimization plan and savings quantification:

1. Performance incentives based on savings should be designed so that the savings are due solely and exclusively to Genera's initiatives. As a result, it is essential that the Energy Bureau develop a method that allows external factors to be segregated and accounts for differences in the performance of generators (as necessary).
2. The FOP should diversify sources of fuel supply (between suppliers and/or fuel types) to reduce risk.
3. The price risk management initiative (#5) should include assessment of the costs of any additional storage capacity needed.
4. The FOP should be flexible to adapt to new opportunities for optimization and savings.
5. The Energy Bureau should make sure "one time" initiatives are not rewarded more than once.

B. Queremos Sol

Queremos Sol's comments focused primarily on Genera's proposed "fuel swap" to use LNG at Mayaguez and Palo Seco. Queremos Sol criticizes Genera and New Fortress Energy for various statements that officials of these companies have made regarding the use of natural gas in Puerto Rico. Queremos Sol also asked a set of questions and comments related to the FOP and the fuel swap initiative. In specific reference to the FOP, rather than the merits of the fuel swap (which is discussed in Case No. NEPR-MI-2024-0004) are the following questions and comments:

1. Why did the Energy Bureau allow and accept Genera's FOP filing when the P3A has yet to approve it and maintains discrepancies with Genera over it?[11]
2. What is the reasoning to assume a 0.33 capacity factor (approximately) at Palo Seco and Mayagüez?
3. The analysis for fuel swap needs to assess generation cost ($/kWh) and the O&M cost of generating at Palo Seco and Mayagüez should be added to fuel cost.
4. What is the real cost of truck deliveries for the fuel swap? In their first models, Oct. 2023, Genera's price for land gas was estimated at $14.30/MMBtu (NFE's land gas cost) which resulted in $38MM/yr. estimated savings for Mayagüez. In the revised model, April 2024, they are estimating $10.25/MMBtu (LNG San Juan) plus $1 premium for logistics to Mayagüez. This results in their $50MM/yr. savings estimate.

[11] Stakeholders were asked to comment before the filing of the Final 2024 FOP. The Final 2024 FOP is the document reviewed by the Energy Bureau and has been approved by the P3 Authority.

However, Genera indicates that truck delivery will be procured, so the price and, thus, the amount of "savings", remain uncertain.

5. Which of the fuel strategies in the FOP will be implemented to supply natural gas at Palo Seco and Mayagüez? How can the PREB evaluate these fuel swaps in a separate docket when they have not yet evaluated or approved the portfolio optimization initiative in the FOP?

Queremos Sol further requests that the Energy Bureau hold public hearings in Mayagüez, Toa Baja and San Juan regarding the FOP and the fuel swap.

C. Convergent Strat, LLC ("Convergent")

Convergent provided comments on four initiatives. As for initiatives #1 and #3 (related to fixed premia for ULSD and fuel oil), Convergent comments that the primary focus for savings should be the premium above the fluctuating price of the underlying fuel commodity (as established through the choice of escalator in fuel oil).

As for initiative #4 (spot purchases), Convergent comments that Genera and the Energy Bureau should consider transparency and fair implementation when implementing this initiative. The base fuel procurement in an open and transparent process, whereas the spot purchase process allows firms to bid knowing the base fuel price and without a competitive process.

As for initiative #7 (fuel swap), Convergent comments that the initiative is excessively focused on short term goals and that focusing on savings from liquified natural gas without a long-term plan risks a lack of resource optimization. Convergent states than a FOP should consider all resources for efficient power generation and distribution and/or microgrids.

VI. Determination regarding initiatives rejected without prejudice

Five of the eight initiatives in the Proposed FOP were not implemented in FY24. Two of these initiatives (#5 and #7) (price risk management and fuel swap) are subject to further proceedings in other cases actively before the Energy Bureau. The Energy Bureau has **DETERMINED** it will not issue approvals for the methods described in the Proposed FOP for the initiatives subject to other open proceedings. When and if those proceedings result in approved actions, the Energy Bureau will consider how to quantify savings resulting from those actions and if those actions follow established regulations, applicable laws and the Generation OMA. Information gathered in those other cases (such as relating to the costs and benefits of the approved fuel price risk management approach, or to the impact of fuel swaps on dispatch of those and other plants) will inform the Energy Bureau in its later consideration.

Initiative #3 (changes to fuel oil escalator) raises similar issues regarding savings quantification for future years as does Initiative #1 (reduce fixed premium for ULSD) (as both relate to variation in the adders or *premium* charged above a baseline price). These issues will be discussed below regarding Initiative #1.

Implementation of Initiative #6 (payment terms management) could require ratepayer funds (if ratepayers directly fund the shortening of payment periods) or create a financial obligation on ratepayer funds (if Genera uses a financing method to shift net payment terms). In either case, the Energy Bureau expects to require further information, such as in a separate docket, to consider the merits and risks of this initiative.

Initiative #8 (asset supplementing) raises similar issues to Initiative #7 (fuel swap) and would further require procurement and interconnection of new generation units. It is also related to the ongoing integrated resource plan proceeding. The Energy Bureau expects to consider the merits of this initiative in a separate proceeding when Genera develops a specific proposal. Once the proceeding approves the specific proposal, Genera shall submit an updated FOP for consideration by the Energy Bureau, incorporating this initiative and its associated savings calculation. It is likely that the savings quantification methods applied here will be similar to methods used for Initiative #7.

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For the foregoing reasons, the Energy Bureau **DENIES WITHOUT PREJUDICE** Initiatives #3, #5, #6, #7, and #8 for the Proposed FOP.

VII. The Energy Bureau's evaluation of initiatives that have been implemented in FY 2024

Section 4.2(t) of the Generation OMA states that Genera "shall submit to the Energy Bureau for its review and approval the revised Fuel Optimization Plan, incorporating the feedback from Administrator"[12]. It further specifies that "the Fuel Optimization Plan shall not be effective until approved by Administrator and the Energy Bureau pursuant to this Section 4.2(t) (Operator Responsibilities – Fuel Optimization Plan)"[13]. In accordance with applicable laws, regulations, and the provisions of the Generation OMA, the Energy Bureau will review and issue determinations on the methods outlined in the Proposed FOP for initiatives applicable to FY24. As specified in the Generation OMA, the Energy Bureau will take appropriate actions regarding the updated FOP for future years, considering the determinations outlined herein.

A. Initiative #1: Reduce the fixed premium for ULSD

a) Genera proposal

This initiative relates to Genera's attempts to reduce the fixed premium (called the "fixed price differential" in the contract) added to benchmark commodity price. In 2023, this fixed premium was $10.60. Genera proposes that savings from a new procurement, which achieved a fixed premium of $7.75 to $8.75 (depending on delivery method), should be counted as savings in FY2024. The aggregate annual savings would be calculated by multiplying the number of barrels of ULSD purchased in the year by the premium difference between the two contracts. Genera further proposes a general method that savings in each year will be calculated by multiplying the number of gallons by the reduction in the price premium between each year and the previous year.

b) Discussion and determinations

The Energy Bureau finds that reductions in the premium paid above a benchmark energy price result in savings for Puerto Rico ratepayers. These savings result from Genera's effort at soliciting and contracting for fuel and are thus appropriate for a performance incentive. For FY 2024, Genera has reduced this premium. The Energy Bureau agrees with OIPC and Convergent that savings should only be attributed to Genera if they are directly related to Genera's actions, such as the premium or adders on top of the commodity price, and not to changes in the commodity price itself. Savings (or costs) associated with fluctuations of the underlying commodity price are not appropriate to use for Genera's performance incentive because Genera has no impact on the global or benchmark commodity price. The Energy Bureau notes that the fixed premium covers certain costs. The reduced premium should contain the same elements. Reapportionment of costs to other funds to achieve reductions are not directly related to the expertise that Genera was contracted for by the Government of Puerto Rico and as such is not part of the initiative.

For years beyond FY24, the Energy Bureau is concerned about misaligned incentives resulting from the way Genera has proposed to calculate savings. Specifically, Genera has proposed to quantify savings based on the change in premium from one year to the next. If the premium is higher in one year than the previous year, there would be no savings, and no penalty. This structure does not give Genera an incentive to keep premium as low as possible in all years. Specifically, once the premium rises above the previous year's value, Genera has no incentive to keep that year's premium low. If the premium is high, it would give Genera greater potential for a savings payment the following year. During the Technical Conference on May 23, 2024, Genera acknowledged the lack of alignment between ratepayer

[12] Generation OMA, Section 4.2(t).

[13] *Id.*

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interests and Genera's interests under the proposed structure and agreed to reconsider the form of this calculation for FY25 and beyond.

Therefore, the Energy Bureau **APPROVES** Initiative #1 in the Proposed FOP for FY 2024 only. The Energy Bureau will consider any similar initiative in any future updated FOP on its merits when filed. The Energy Bureau **EXPECTS** that Genera will address the Energy Bureau's concerns regarding the importance of incentivizing savings, rather than volatility, in any updated FOP. The Energy Bureau further **EXPECTS** that Genera will make a similar adjustment to any initiative related to reducing adders or changing escalators for fuel oil (akin to unimplemented Initiative #3 in the Proposed FOP).[14]

B. Initiative #2: Fuel reliability enhancements for ULSD

c) Genera proposal

This initiative relates to a one-time savings from contract provisions that require the ULSD supplier to provide a barge of sufficient size. In the ULSD contract in force when Genera become the operator of the Legacy Generation Assets, PREPA paid an extra cost for necessary barge capacity. By requiring the proper barge, while simultaneously reducing the fixed premium for ULSD, Genera's new contract results in savings for ratepayers. These savings are calculated as the avoided cost of the 2023 barge contract. These are one-time savings; Genera will not shift barge size requirements in the future to recreate fictitious savings.

d) Discussion and Determinations

The Energy Bureau finds that incorporation of barge requirements into the ULSD fuel contract has resulted in one-time savings. These savings are directly related to Genera's efforts in fuel contracting. Therefore, the Energy Bureau **APPROVES** Initiative #2 in the Proposed FOP.

C. Initiative #4: Spot purchase option for Fuel Oil and ULSD

e) Genera proposal

Genera retains an option in its liquid fuel purchase contracts to purchase up to 25 percent of its annual needs through spot purchases, rather than through the annual fuel contracts. These options exist for both fuel oil and ULSD. Genera proposes to count as savings the difference in annual fuel cost it achieves (relative to the annual fuel contract) through spot purchases. Savings relate only to differences in the adder or premium on top of the underlying commodity cost; these are not savings related to changes in the global price of oil and its derivatives.

In FY24, Genera used this provision to purchase 25 percent of its fuel oil on the spot market and achieve savings relative to the annual fuel contract.

f) Discussion and Determinations

The Energy Bureau finds that active participation and tracking of the market for fuel savings opportunities through spot purchases can produce savings for ratepayers. It is appropriate to quantify these savings by comparison with the annual contract price for the equivalent quantity of fuel. The difference must always be measured in the adder or premium charged on top of the benchmark commodity price for the particular fuel, not in the commodity price itself. This makes sure Genera does not benefit from fluctuations in the price of a global commodity over which it exerts no control.

Convergent expresses concern that the spot purchase provision lets Genera make purchases with less transparency than the annual competitive procurement, and the spot seller has the advantage of knowing the price to beat. The Energy Bureau acknowledges this concern, while recognizing that certain market activities that result in savings will by necessity be less than

[14] Notwithstanding the approval of Initiative #1, in future updates to the FOP, the Energy Bureau will approach this type of initiative with an abundance of caution, as it may be considered borderline with the responsibilities expected of Genera under the contract and may not necessarily qualify for an FOP incentive.

transparent (due to the need for business confidentiality). The knowledge that spot purchases may be made during the year, if they offer savings relative to the annual contract, provides an incentive for bidders on the annual contract to make their best bids (to reduce use of the spot provision). This initiative is aligned with OIPC's suggestion to use multiple suppliers to reduce risk. The Energy Bureau **ENCOURAGES** Genera to use spot competition between suppliers (including the supplier of the annual contract) to achieve the greatest benefit from this initiative.

Therefore, the Energy Bureau **APPROVES** Initiative #4 in the Proposed FOP. The Energy Bureau **REMINDS** Genera that the use of spot purchases must not result in reductions in fuel quality or increases in deliverability risk compared with purchases under the annual contract.

VIII. Guidance regarding Initiatives #7 and #8 (fuel swap and asset supplementing)

Genera has not yet implemented Initiative #7 (fuel swap) and initiative #8 (asset supplementing). Whether to approve a fuel swap for Mayaguez gas turbines and Palo Seco mobile pack will be determined in Case No. NEPR-MI-2024-0004. The quantification of savings from such a fuel swap is the purview of this docket.

Genera's Proposed FOP proposed quantifying savings from Initiative #7 based on the lower cost of natural gas fuel, subtracted from the baseline fuel, multiplied by the amount of natural gas used. This method does not accurately capture the savings from a fuel swap, if the generator in question has a higher capacity factor after the switch to natural gas. If the fuel swap lowers the cost to operate the generator (as expected under this initiative), then it will presumably it could displace some higher cost generator. Thus, increasing its capacity factor. However, the generator(s) it displaces was more economical to run than the pre-swap generator (or the pre-swap generator would have displaced it). Genera's proposal does not consider the displaced generator. Therefore, the resulting savings from the fuel swap would not be as large as Genera is proposing. During the May 23 Technical Conference, Genera representatives stated that they understood this concern and would work to address it in a revised methodology.

Initiative #8, in which different generation assets would be added to existing Legacy Generation Asset locations, would raise similar issues. Specifically, it would be necessary to determine what fuel costs are avoided through the operation of the supplemental assets.

The Energy Bureau **EXPECTS** that Genera will resolve these issues before it files a 2025 FOP if such initiatives are to be implemented in that fiscal year. Genera will likely need to coordinate with LUMA to develop a savings calculation method for fuel swap and/or asset supplementing initiatives that draws on system dispatch information.

IX. Summary of Findings

1. The Energy Bureau **APPROVES** the following initiatives included in the Proposed FOP to be applicable <u>only</u> for FY 2024. The approved initiatives' calculation methods are included in **Annex A** of this Resolution and Order.

    a) Initiative #1: Reduce the fixed premium for ULSD. The Energy Bureau will not consider at this time the proposal presented by Genera in the June 28 Motion for addressing future year incentives related to reduction in the fixed premium for USLD. The Energy Bureau expects that updated FOPs will incorporate the proposals, and the Energy Bureau will make the appropriate determinations then.

    b) Initiative #2: Fuel reliability enhancements for ULSD.

    c) Initiative #4: Spot purchase option for Fuel Oil and ULSD

2. The Energy Bureau **REJECTS WITHOUT PREJUDICE** the following methods described in the Proposed FOP:

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a) Initiative #3 (changes of fuel oil escalator and reduction of fuel oil adder)

b) Initiative #5 (price risk management)

c) Initiative #6 (payment terms management)

d) Initiative #7 (fuel swap and fuel conversion initiatives)

e) Initiative #8 (asset supplementing initiatives)

The Energy Bureau **EXPECTS** that Genera will resolve the issues identified for each of these initiatives in this Resolution and Order before an updated FOP is submitted for the Energy Bureau's evaluation and approval. The Energy Bureau has **DETERMINED** that it will not address the initiatives in the Proposed FOP that are subject to other open proceedings until those proceedings conclude or result in a requirement for, or the development of, a fuel cost savings method that can be considered as part of an updated FOP.

X. Updated FOP

The Energy Bureau **CLARIFIES** that this Resolution and Order **only approved initiatives applicable to FY2024**. As required by Section 4.2(t) of the Generation OMA, the Energy Bureau **EXPECTS** Genera to file an updated FOP to address any initiative applicable to 2025 and other initiatives rejected without prejudice in this Resolution and Order.

Be it notified and published.

Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on November 22, 2024. Associate Commissioner Antonio Torres Miranda did not intervene. I also certify that on November 22, 2024 a copy of this Resolution and Order was notified by electronic mail to the following: alopez@sbgblaw.com; jfr@sbgblaw.com; kbolanos@genera-pr.com. legal@genera-pr.com; regulatory@genera-pr.com . I also certify that today, November 22, 2024, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today November 22, 2024.

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Sonia Seda Gaztambide
Clerk

ANNEX A: Calculation Methodology for Approved Initiatives

Initiative #1: Reduce the fixed premium for ULSD

The approved methodology will compare the current fiscal year ULSD premium (FY2023 contract) to the new negotiated number for FY2024 based upon the then–annualized volume of ULSD consumption across the generation system while the supplier's contract is in effect (estimated date is November 17, 2023, until November 16, 2024).

Whenever LUMA submits for PREB's evaluation and approval a proposed reconciliation of the FCA, Genera will submit to PREB the following calculation for review and approval. The formula for calculating the savings is:

(FY2023 total premium paid – FY2024 total premium paid) X 2024 barrels

Initiative #2: Fuel reliability enhancements for ULSD

The methodology used for estimated cost savings for fuel reliability enhancements will be as follows:

Compare the actual cost of the barge from December 2022 to November 2023 to not having to pay for the use during the FY2024 ULSD contract.

This is a one-time savings.

Initiative #4: Spot purchase option for Fuel Oil and ULSD

Compare the newly purchased fuel cost to the price of the contractual cost on the day of purchase (or an average over time if there are multiple purchases), and if the new purchase fuel acquisition cost is less than the current contracted supply, that difference will be considered for cost savings. Example:

a. Current Fuel Oil contract starting on November 1, 2023, is Platts 0.5% + current contract adder per barrel

b. Spot Fuel Oil purchase opportunity is Platts 0.5% + spot fuel oil adder per barrel

c. *All volume bought (up to 25% of annual Fuel Oil demand) * (current contract adder – spot fuel oil adder) per barrel.*