

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

PBJL ENERGY CORPORATION
PETITIONER

CASE NO.: NEPR-QR-2021-0026

v.

SUBJECT: Final Resolution and Order

PUERTO RICO ELECTRIC POWER
AUTHORITY
RESPONDENT

FINAL RESOLUTION AND ORDER

I. Introduction and Procedural Background:

On March 15, 2021, the Petitioner, PBJL Energy Corp. filed a *Complaint* before the Puerto Rico Energy Bureau ("Energy Bureau") against the Puerto Rico Electric Power Authority ("PREPA"), pursuant to Article 5.03 of the Regulation 8863.¹ The Petitioner alleged in the *Complaint* that PREPA used misleading and incorrect information and applied a flawed methodology in the evaluation and ranking of the Petitioner's Montalva Solar Farm Project, as part of PREPA's recommendation and endorsement to the Financial Oversight and Management Board ("FOMB") for the selection of the top ranked 150 MW of legacy projects as approved by FOMB on February 26, 2021. Petitioner's contention is that Montalva should have been one of the top ranked projects, therefore significantly reducing PREPA's cost to ratepayers.² On May 26, 2021, Petitioner filed an *Amended Verified Complaint* requesting the same remedies.

On May 4, 2021, PREPA filed a *Motion to Dismiss PBJL Energy's Complaint for Failure to State a Claim*. In the motion, PREPA argued that the Energy Bureau lack subject-matter jurisdiction to intervene in the evaluation phase of a Power Purchase and Operating Agreement ("PPOA"). In addition, PREPA claimed that the Petitioner's *Complaint* details multiple serve-serving facts but is completely devoid of authority or law to support the claim upon which relief could be granted.³

On May 26, 2021, Petitioner filed a *Motion for Order to Stay in Aid of Jurisdiction*. In the motion, the Petitioner argued that the Energy Bureau has authority to issue an order directed at PREPA to stay all ongoing proceedings, including Xzerta's and CIRO's selection for replacement renewable energy agreements without a competitive RFP process and execution of applicable contracts thereof, until the above-mentioned case can be solved.⁴

On November 18, 2021, PREPA filed a *Motion to Dismiss PBJL Energy's Second Amended Verified Complaint for Lack of Subject-Matter Jurisdiction and Failure to State a Claim Upon Which a Relief Can Be Granted*. On December 20, 2021, the Petitioner filed an *Opposition to Motion to Dismiss*. Finally, on January 12, 2022, PREPA filed a *Reply to PBJL'S Opposition to PREPA's Motion to Dismiss*.

On February 16, 2022, the Energy Bureau held an Evidentiary Hearing. During the hearing the parties requested additional time to reach an agreement.

After several joint requests for extension of time to inform, on October 3rd, 2023, both parties

¹ Regulation No. 8863, on the Procedure for Bill Review and Suspension of Electric Service Due to Failure to Pay, as amended, December 1, 2016.

² *Complaint*, March 15, 2021.

³ *Motion to Dismiss PBJL Energy's Complaint for Failure to State a Claim*, May 4, 2021, pag. 1-11.

⁴ *Motion for Order to Stay in Aid of Jurisdiction*, May 26, 2021, pag. 1-25.



filed a *Joint Motion to Submit Settlement Agreement*. In the motion, the Parties herein submit the Settlement Agreement between PREPA and PBJL. Consequently, both parties requested that judgment be entered pursuant to the Settlement Agreement, the above-mentioned case be closed with prejudice and for the Energy Bureau to retain jurisdiction for the enforcement of the settlement agreement.⁵

II. Applicable Law and Analysis:

Section 4.03 of Regulation 8543⁶ establishes the requirements and rules governing a complainant's requests for withdrawal in an adjudicative proceeding before the Energy Bureau. Said section establishes that a complainant may be withdrawn **at any time during the proceedings, by means of a stipulation signed by all parties to the case.**⁷ In addition, Subsection (B) provides that "the voluntary dismissal will be without prejudice unless the motion or stipulation states otherwise." Regarding withdrawal with prejudice, subsection (C) of the previously mentioned section establishes that "voluntary dismissal shall be with prejudice if petitioner had previously filed for dismissal of the same claim or respondent has fulfilled his obligation."⁸

In the current case, the parties through a *Joint Motion to Submit Settlement Agreement* reached a transactional agreement with the purpose of dismissing the case. Consequently, the Petitioner, with the consent of the Respondent, requested for the case to be closed with prejudice. As such, it is our opinion that that the parties complied with Section 4.03 of Regulation 8543 as to the stipulation requirements.

III. Conclusion

In light of this Final Resolution and Order, the Energy Bureau **ACCEPTS** the voluntary dismissal and **ORDERS** the closing of this case, with prejudice.

Any party adversely affected by this Final Resolution and Order may file a motion for reconsideration before the Energy Bureau, pursuant to Section 11.01 of Regulation 8543 and the applicable provisions of Act 38-2017, as amended, known as the Uniform Administrative Procedure Act of the Government of Puerto Rico ("LPAU", for its Spanish acronym). Said motion must be filed within twenty (20) days from the date in which copy of this Final Resolution and Order is notified and such notice is filed in the case docket by the Energy Bureau's Clerk. Any motion for reconsideration must be filed at the Energy Bureau Clerk's Office, located at the World Plaza Building, 268 Muñoz Rivera Ave., San Juan, PR 00918. Also, such request can be filed through the Energy Bureau's electronic filing tool at: <https://radicacion.energia.pr.gov>. Copy of the motion as filed must be sent by email to all parties notified of this Final Resolution and Order within the twenty (20) days established herein.

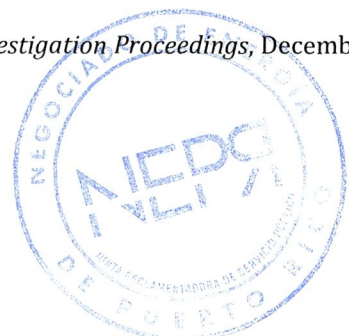
The Energy Bureau shall have fifteen (15) days from the date in which such motion is filed to consider it. If the Energy Bureau rejects it forthright or fails to consider it within said period of fifteen (15) days, the term to seek judicial review shall begin on the date in which the Energy Bureau notifies its rejection or the date in which said fifteen (15) days expire, whichever occurs first. If the Energy Bureau considers the motion, the term to seek judicial review shall commence from the date a copy of the notice of the Energy Bureau's resolution definitively resolving the motion for reconsideration is notified and copy of such notice is filed by the Energy Bureau Clerk. The Energy Bureau shall have ninety (90) days from the date the motion for reconsideration was filed to issue a final determination. If the Energy Bureau considers the motion for reconsideration but fails to take any action with respect to such motion within ninety (90) days of its filing, it shall lose jurisdiction and the term to seek

⁵ *Joint Motion to Submit Settlement Agreement*, October 3rd, 2021, pag. 1-16.

⁶ *Regulation on Adjudicative, Notices of Non-Compliance, Rate Review and Investigation Proceedings*, December 18, 2014.

⁷ *Id.* Emphasis supplied.

⁸ *Id.*



judicial review shall commence upon the expiration of said ninety (90) day term, unless the Energy Bureau, for just cause and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.

In the alternative, any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date a copy of the notice of this Final Resolution and Order was notified and copy of such notice was filed by the Energy Bureau's Clerk. Filing and notice of a petition for review before the Court of Appeals shall be made pursuant to the applicable provisions of Regulation 8543, the LPAU the Rules of the Puerto Rico Court of Appeals.


Be it notified and published.
Notifíquese y publíquese.



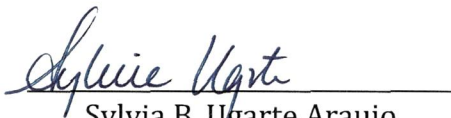
Edison Avilés Deliz
President



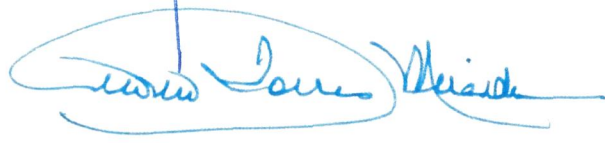
Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that on December 19, 2024, I have proceeded with the filing of this Final Resolution and Order. I also certify on this day a copy of this Final Resolution and Order regarding the Case No. NEPR-QR-2021-0026 was notified by electronic mail sent to: cliff.m.webb@gmail.com, eirizarry@ccdlawpr.com, mvalle@gmlex.net, and arivera@gmlex.net, and by regular mail to:

Puerto Rico Electric Power Authority
González & Martínez
1509 Lopez Landrón
Seventh Floor
San Juan, PR 00911-1933

PBJL Energy Corporation
CCD Law Group, PSC
Edwin Irizarry Lugo, Esq.
712 Ponce de León Ave.
San Juan, PR 00918

For the record, I sign this in San Juan, Puerto Rico, today, December 19, 2024.



Sonia Seda Gaztambide
Clerk