

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

IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY'S 10-YEAR
INFRASTRUCTURE PLAN – DECEMBER 2020

CASE NÚM.: NEPR-MI-2021-0002

SUBJECT: Resolution and Order for
Motion to Submit Response in Compliance
with Resolution and Order Dated
December 18, 2024, regarding the Scope
of Work for the Generation Fleet Project,
No. 16498 and Confidentiality Request

RESOLUTION AND ORDER

I. Introduction and Factual Background

On March 26, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 26 Resolution") in the instant case, through which it ordered the Puerto Rico Electric Power Authority ("PREPA") to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP"¹) and Modified Action Plan.² To streamline the process, the Energy Bureau requested PREPA to submit the specific projects to the Energy Bureau at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3")² and the Federal Emergency Management Agency ("FEMA"), and any other federal agency³, and to continue reporting to the Energy Bureau and FEMA, within the next five (5) years, the progress of all ongoing efforts related to the final approval of the submitted projects not yet approved by the Energy Bureau.

On January 24, 2023, GENERA PR LLC ("Genera"), PREPA and the Puerto Rico Public-Private Partnership Authority ("P3A") executed the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement ("LGA OMA"). According to the LGA OMA, Genera is the sole operator and administrator of the Legacy Generation Assets³, and the exclusive entity authorized to represent PREPA before the Energy Bureau about any matter related to the performance of the Operation and Maintenance ("O&M") services provided by GENERA under the LGA OMA. Further, GENERA is the sole entity responsible for procuring and administering federal funds for projects to repair or replace the LGA⁴.

On October 27, 2023, Genera filed a document titled *Amended Motion for Leave to Submit Amendment to Project and 406 BESSs Initial Scope of Work* ("October 27 Motion"). Genera included as Exhibit A, a document titled *BESS Equipment Project Amendment*, as Exhibit B a document titled *BESS Project 406 Initial SOW* and as Exhibit C a document titled *BESS Project Presentation*. Through the October 27 Motion, Genera requested the Energy Bureau to grant leave to present to COR3 and FEMA, the Project Amendment, and the Section 406 Initial SOW, and to continue with all activities required to complete all the essential documentation and

¹ Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 ("IRP Order").

² March 26 Resolution, pp. 18-19.

³ As defined in the LGA OMA.

⁴ LGA OMA, Section 5.8 (c).



analysis to complete the Battery Energy Storage System ("BESS") Project⁵. Genera stated that a detailed Scope of Work ("SOW") will be submitted to FEMA per facility.⁶

On November 8, 2023, the Energy Bureau issued a Resolution and Order ("November 8 Resolution") conditionally approving the BESS projects ("BESS PROJECT") submitted by Genera in the October 27 Motion, subject to the submittal by Genera of detailed SOWs for each project.⁷

On November 21, 2023, Genera filed a document titled *Motion Submitting Response in Compliance with Resolution and Order Dated November 8, 2023, and Request a Time Extension to Provide the Detailed Scope of Work* ("November 21 Motion"). Through the November 21 Motion, Genera submitted as Exhibit A, a detailed explanation of the steps needed to complete the SOW's per site.

On February 1, 2024, the Energy Bureau issued a Resolution and Order ("February 1 Resolution") conditionally approving the projects submitted by Genera. The February 1 Resolution included an Attachment A which listed the *Conditionally Approved BESS Project Under Section 406 Initial SOW*, and had information on the project sites, the size in MW, and estimated costs, among other information. The Energy Bureau also ordered Genera to submit monthly reports on the progress of interconnection studies to be undertaken by LUMA⁸, as well as updates on the development status of the detailed SOWs and the BESS Request for Proposals ("RFP"). The BESS PROJECT had 430 MW of BESS resources at an estimated total installation cost of \$647,580,000.

On March 28, 2024, Genera filed a document titled *Motion to Submit Scope of Work in Compliance with Resolution and Order dated November 8, 2023* ("March 28 Motion"), which included as Exhibit A, under seal as confidential information, the SOW for Project #164988 titled *Island Wide Generation Fleet Project for Vega Baja, Arecibo, and Salinas*. The SOW comprised 274 MW of 430 MW of BESS resource and referred to the projects at the locations of Vega Baja, Cambalache, and Aguirre.

On April 23, 2024, the Energy Bureau issued a Resolution and Order approving Genera's BESS Projects at Vega Baja, Cambalache, and Aguirre, ("April 23 Resolution") conditioned on Genera presenting the detailed approved projects' SOWs to FEMA and COR3 to finalize their approval process, and with monthly reporting requirements to the Energy Bureau.

On June 20, 2024, Genera filed a *Motion to Submit Amended Scope of Work for Project No. 164988*, ("June 20 Motion"). The June 20 Motion amends the scope of work and the budgets for the BESS Project, number 164988, compared to that provided by Genera in Exhibit A of its March 28 Motion and its October 27 Motion. Genera's amended SOW maintained 430 MW of BESS resources at seven (7) of the original nine (9) sites described in the October 27 Motion, and an estimated total installation cost of \$746,537,250.

On July 17, 2024, the Energy Bureau issued a Resolution and Order ("July 17 Order") approving the amended SOW and budget for the BESS PROJECT in Attachment A of the July 17 Order. The Energy Bureau reiterated and stressed the urgency of completing all the steps to install these resources in an accelerated way and ordered Genera to expedite the completion of all steps for this BESS PROJECT.

⁵ October 27 Motion, p. 9.

⁶ *Id.*, Exhibit B, Section IV.

⁷ November 8 Resolution, p.2.

⁸ LUMA Energy, LLC and LUMA Energy ServCo, LLC, jointly referred to as "LUMA".



On October 2, 2024, Genera filed a document titled *Motion to Submit Detailed Scope of Work for Generation Fleet Project, No. 164988* ("October 2 Motion"), through which Genera outlined the SOW for Project 164988 focusing on the work required for the installation of the Peakers at the Yabucoa, Costa Sur, Dagua, and Jobos sites, including the construction of two (2) new BESS remote control rooms at the Costa Sur and San Juan Power Plants.

On December 18, 2024, the Energy Bureau issued a Resolution and Order ("December 18 Resolution") denying Genera's October 2 Motion lacking a detailed cost estimate of the SOW, and ordered Genera to submit, within ten (10) days of the December 18 Resolution, a detailed cost distribution and project schedule, among other information.

On December 24, 2024, Genera submitted a document titled *Motion to Submit Response in Compliance with Resolution and Order Dated December 18, 2024*, ("December 24 Motion"), through which Genera submits, as Exhibit A, a detailed cost estimate of the SOW for the Generation Fleet Project No. 164988 in regarding to the installation of the Peakers at the Yabucoa, Costa Sur, Dagua and Jobos sites and the construction of two (2) BESS remote control rooms at the Costa Sur and San Juan Power Plants. Genera further requested the Energy Bureau to maintain Exhibit A under confidentiality and informed the Energy Bureau that it will submit a Memorandum of Law supporting the confidentiality request.

On January 3, 2025, Genera filed a document titled *Memorandum of Law in Support of Confidential Treatment of Attachment Submitted as part of Response filed on December 24, 2024*, ("January 3 Motion"), in which, Genera explains that Exhibit A of the December 24 Motion contains sensitive commercial and financial information related with ongoing or forthcoming competitive request for proposal ("RFP") processes. Therefore, Genera requests that the Energy Bureau maintains the confidentiality of Exhibit A to the December 24 Motion.

II. Discussion and Conclusion

In the June 20 Motion, Genera stated that it proposed to submit the Detailed Scope of Work for project Number 164988 under the DR-4339 -PR Public Assistance Program ("PA") and stated that the submittal will "provide a description of the project, including scope, schedule, and cost estimates, as well as Environmental & Historical Preservation ("EHP") requirements and proposed 406 hazard mitigation work."⁹

With the October 2 Motion, Genera submitted as Exhibit A the SOW titled *Generation Fleet – Demolition, Control Rooms and peakers*, which outlines the plan to replace outdated power generation equipment across several facilities, focusing on the Yabucoa, Costa Sur, Dagua and Jobos sites. Genera describes the intention to demolish existing structures of the Generation Fleet and replace outdated peaking units with new Reciprocating Internal Combustion Engine ("RICE") units and new combustion turbines to provide synchronous condenser capabilities to the grid. Genera states that the proposed equipment capacity, with the exception for Costa Sur, will be less than the existing units.¹⁰ The SOW also mentions the construction of two (2) new remote BESS control rooms at the Costa Sur and San Juan Power Plants.

In the December 24 Motion, Genera provided, as Exhibit A, a detailed cost estimate for the Generation Fleet Project, No. 164988. After a review, the Energy Bureau **TAKES NOTICE** of Genera's December 24 Motion and **APPROVES** the SOW for the Generation Fleet Project No. 164988 submitted as Exhibit A to the October 2 Motion. The Energy Bureau approves the amount¹¹ of \$950,327,573 as described in Attachment A of this Resolution and Order.

⁹ Exhibit A, p. 2.

¹⁰ Exhibit A, p. 5.

¹¹ As filed by Genera in the December 24 Motion described in the Excel file.



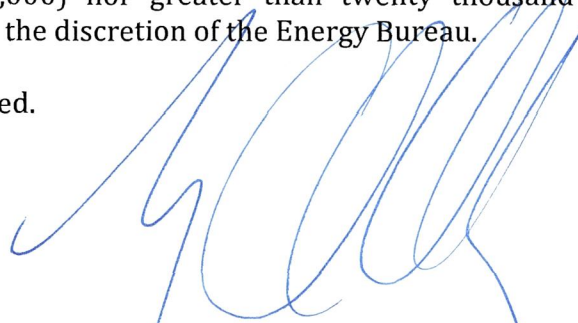
Act 57-2014 establishes that any person with the obligation to submit information to the Energy Bureau can request privilege or confidential treatment to any information that the party submitting understands deserves such protection. Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information provided that "the Energy Bureau, after the appropriate evaluation, believes such information should be protected". In such case, the Energy Bureau "shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted."

After reviewing Genera's arguments and relevant law, the Energy Bureau **GRANTS** confidential status and treatment to Exhibit A attached to the December 24 Motion because it contains sensitive financial information that could affect the ongoing or forthcoming competitive RFP process with third parties.

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



Sylvia B. Ugarte Araujo
Associate Commissioner



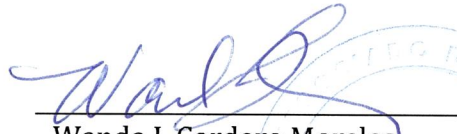
Antonio Torres Miranda
Associate Commissioner

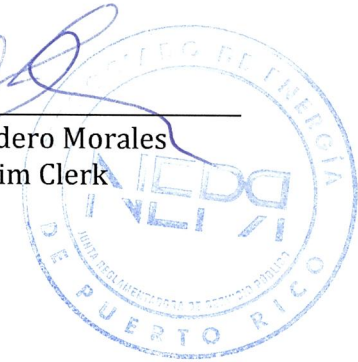


CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on January 10, 2025. Also certify that on January 10, 2025, I have proceeded with the filing of this Resolution and Order and was notified by email to arivera@gmlex.net; mvalle@gmlex.net; RegulatoryPREBOrders@lumapr.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; julian.angladapagan@us.dlapiper.com; alopez@sbgblaw.com; jfr@sbgblaw.com; legal@genera-pr.com, regulatory@genera-pr.com.

I sign in San Juan, Puerto Rico, today, January 10, 2025.


Wanda I. Cordero Morales
Interim Clerk



ATTACHMENT A

Table 1 – Approved SOW for Generation Fleet Project No. 164988 (Site tasks such as pre-demolition, demolition, environmental compliance, permitting and installation of peakers and remote-center control rooms)

Project site	Estimated Cost Amount ¹²
Yabucoa	\$133,792,430
Costa Sur	\$507,477,693
Daguao	\$134,208,050
Jobos	\$133,849,400
San Juan RCC	\$20,500,000
Costa Sur RCC	\$20,500,000
TOTAL	\$950,327,573



¹² This estimated cost excludes the cost of the peakers which are approved pursuant to FEMA project number 673691.