

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

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

CASE NO.: NEPR-MI-2021-0002

SUBJECT: Determination on alignment with
the Approved Integrated Resources Plan and
Modified Action Plan.

RESOLUTION AND ORDER

I. Introduction

On March 15, 2018, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order commencing the proceeding under Case No. CEPR-AP-2018-0001.¹ Through the foregoing Resolution and Order, the Energy Bureau authorized the Puerto Rico Electric Power Authority ("PREPA") to file an updated Integrated Resource Plan ("IRP") before the mandatory review established in Act 57-2014², based on the impacts the devastation caused by Hurricanes Irma and María in Puerto Rico had in our resource needs.³ This IRP filing is the second PREPA IRP proceeding and follows the IRP approved in 2015, which included significant findings and directives regarding the acquisition, retirement, and development of additional resources by PREPA.

On May 29, 2018, the Energy Bureau ordered **PREPA to file an updated IRP no later than October 31, 2018.**⁴ The IRP Prefiling Process, or Phase I⁵, started on July 2, 2018.⁶ After a series of delays and extensions, on February 13, 2019, PREPA filed its updated IRP along

¹ In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan.

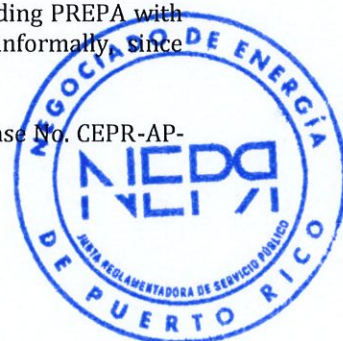
² Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

³ See In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, Resolution and Order, March 15, 2018, page 3.

⁴ See In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, Order, May 29, 2018.

⁵ See Section 3.01 of Regulation 9021, *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, April 24, 2018. Phase I has a more informal nature and has the purpose of providing PREPA with valuable feedback as it develops its IRP. Interested parties are invited to participate informally. Since intervention requests are evaluated during Phase II, the formal IRP proceeding.

⁶ See In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, Order, July 2, 2018.



with supporting workpapers and other documentation in this proceeding.⁷ On March 14, 2019, the Energy Bureau issued a Resolution and Order in which it determined that the IRP filing was incomplete.⁸ On June 7, 2019, PREPA filed the updated IRP.⁹

On July 3, 2019, the Energy Bureau issued a Resolution and Order determining that the IRP filed by PREPA on June 7, 2019 was complete and determining that it was necessary to move to Phase 2 of the IRP approval process, under Regulation 9021.¹⁰ The IRP discovery process began on July 3, 2019.¹¹ The Energy Bureau's Staff, PREPA and the eighteen approved Intervenor¹² were given the opportunity to conduct discovery related to a diverse range of subjects related to PREPA's proposed IRP and to provide witness testimony.

⁷ See PREPA's Petition and Informative Motion Regarding its Accompanying Integrated Resource Plan Filing, Case No. CEPR-AP-2018-0001, February 13, 2019.

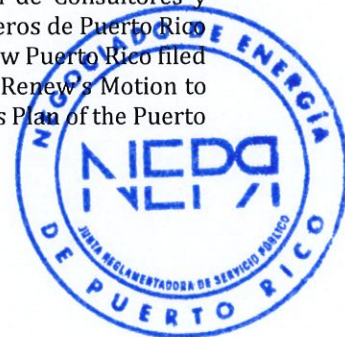
⁸ See In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, Resolution and Order, March 14, 2019. The Energy Bureau required PREPA to refile its IRP within thirty (30) days from March 14, 2019 and required PREPA to justify any further delay on the refiling if its IRP within the next ten (10) days.

⁹ See PREPA's Cover Filing for Accompanying Compliance IRP Filing Due June 7, 2019, In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, June 7, 2019.

¹⁰ See In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, Resolution and Order, July 3, 2019.

¹¹ *Id.*

¹² The Energy Bureau granted intervention status for eighteen (18) intervenors: the Environmental Defense Fund; Sunrun, Inc.; Local Environmental Organizations (Comité de Dialogo Ambiental, Inc. El Puente Williamsburg, Inc. - Enlace Latino de Acción Climática, Comité Yabucoño Pro-Calidad de Vida, Inc., Alianza, Comunitaria Ambientalista del Sureste, Inc., Sierra Club and its Puerto Rico Chapter, Mayagüezanos para la Salud y el Ambiente, Inc., Coalición de Organizaciones AntiIncineración, Inc. Amigos del Río Guaynabo, Inc. Campamento Contra las Cenizas de Peñuelas, Inc. and CAMBIO Puerto Rico); EcoEléctrica, L.P.; Grupo WindMar; Independent Consumer Protection Office (OIPC); Empire Gas Company, Inc.; AES Puerto Rico, LP; National Public Finance Guarantee Corp.; Progression Energy; Shell NA LNG LLC; Wärtsilä North America; NFPs (Centro Unido de Detallistas (CUD); Cámara de Mercadeo, Industria y Distribución de Alimentos (MIDA); Puerto Rico Manufacturers Association (PRMA); Cooperativa de Seguros Múltiples de Puerto Rico (CSMPR), Unidos Por Utuado (UPA), and el Instituto de Competitividad y Sostenibilidad Económica de Puerto Rico (ICSE-PR)); Caribe GE International Energy Services, Corp.; Solar and Energy Storage Association of Puerto Rico; League of Cooperatives of Puerto Rico and AMANESER 2025, Inc; and Arctas Capital Group, LP. The Energy Bureau also granted *Amicus Curiae* status to three entities: Rocky Mountain Institute; la Asociación de Consultores y Contratistas de Energía Renovable de Puerto Rico, Inc. (ACONER); and el Colegio de Ingenieros de Puerto Rico (CIAPR). The Energy Bureau also granted intervenor status to Renew Puerto Rico, but Renew Puerto Rico filed a motion to withdraw as an intervenor, and the Energy Bureau granted that request. See Renew's Motion to withdraw as an Intervenor in the IRP proceeding, In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, November 4, 2019.



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After completing an extensive and comprehensive discovery process,¹³ the Energy Bureau held an Evidentiary Hearing on February 3, 4, 5, 6, and 7, 2020 to consider PREPA's Proposed IRP and parties' testimony. The Evidentiary Hearing also considered the effect of the January 2020 earthquakes on the existing resources and IRP elements. **Additionally, on February 11, 13, 19, 22, and 25, 2020, the Energy Bureau held public hearings in San Juan, Arecibo, Humacao, Mayagüez and Ponce, to gather feedback from the general public.**¹⁴

Following the Evidentiary Hearing, and several extensions, legal briefs were submitted on March 6, 2020.¹⁵ On March 13, 2020, in response to PREPA's Request for Extension of Time to File Reply to Legal Briefs, the Energy Bureau extended the time to file replies to March 20, 2020.¹⁶ As a result of the coronavirus shutdown, reply briefs were filed on April 20, 2020.¹⁷

On August 24, 2020, the Energy Bureau issued a Final Resolution and Order on PREPA's IRP ("August 24 Resolution").¹⁸ In the August 24 Resolution the Energy Bureau **APPROVED IN PART AND REJECTED IN PART PREPA's IRP, MODIFIED** the Action Plan in the IRP submitted by PREPA and **ORDERED** the adoption and implementation of the Modified Action Plan as set forth in the August 24 Resolution.

II. Approved IRP and Modified Action Plan.

In the August 24, Resolution, the Energy Bureau rejected PREPA's Energy System Modernization ("ESM") Plan as the Preferred Resource Plan because, as proposed, it did not demonstrate economic benefit relative to competing plans that PREPA included in its IRP. The Energy Bureau found that PREPA did not rely on the Net Present Value of Revenue Requirements as the primary criterion when choosing a Preferred Resource Plan, as required by Regulation 9021.

Notwithstanding the foregoing, the Energy Bureau determined that five (5) core elements of PREPA's ESM Scenario should be retained as part of a Modified Preferred Plan

¹³ This process also included multiple Technical Conferences.

¹⁴ See In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, Resolution and Order, January 17, 2020.

¹⁵ Resolution, In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, Resolution and Order, February 28, 2020.

¹⁶ See In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, Resolution and Order, March 13, 2020.

¹⁷ See In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, Resolution and Order, April 15, 2020.

¹⁸ See In Re: Review of the Integrated Resources Plan of the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2018-0001, Final Resolution and Order, August 24, 2020 ("August 24 Resolution").



and Modified Action Plan, because they contain elements common to all plans and are “no regrets” actions. These actions are: timely conversion of older steam plant infrastructure to synchronous condensers, with the provision of dynamic reactive support, and stability and inertial characteristics for PREPA’s system after installation of increased quantities of solar photovoltaics (PV); Energy Efficiency (“EE”) deployment, to the maximum amount obtainable as seen in “Full EE” scenarios; maximum procurement of solar PV in line with all scenarios; battery energy storage; and, the hardening of the Transmission & Distribution (“T&D”) system.

The findings of the Energy Bureau in the August 24 Resolution include the following:

- An increased deployment of solar PV and battery resources should be pursued if the results of procurement processes produce costs that reflect the parameters associated with Scenario S3S2 (for all loading levels under that scenario) and if those resources are available for faster installation than was assumed for PREPA’s ESM Plan;
- A Modified Preferred Resource Plan for the purpose of initial procurement planning includes the solar PV and battery energy storage quantities contained in Scenario S3S2B for the first five years of the Action Plan period;
- To determine the overall renewable energy resource installation goals for the PREPA system, the Modified Preferred Resource Plan includes the level of DG directly modeled as an input in all of PREPA’s resource scenarios. The Energy Bureau found that these quantities in total reflect the overall installation goals for PREPA’s system, to be met through a combination of direct procurement, described in the August 24 Resolution through competitive Request for Proposal (RFP) processes, existing power purchase agreements, and through customer provision under the different options available to customers to provide their own energy;

Through the August 24 Resolution Energy Bureau rejected PREPA’s inclusion of approximately 400 MW of **new fossil fuel peaking resources** as part of the Preferred Resource Plan because it failed to demonstrate that they are needed. However, the Energy Bureau found that replacement of a small portion of the older gas turbine (GT) resources with peaking resources, using competitive procurement processes open to all technologies, is reasonable to provide local resource coverage to supplement the existing operating older GT units.

As part of its determination, the Energy Bureau accepted the MiniGrid concept as a mechanism to provide resiliency during the loss of transmission or distribution system operations due to severe weather events. Nevertheless, the Energy Bureau did not approve the MiniGrid design/construct, as proposed by PREPA, due to its lack of optimization of MiniGrid transmission system expenditures and distributed resiliency approaches. The Energy Bureau did not approve PREPA’s assertion that the overall MiniGrid construct is a



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“least cost” approach to achieving resiliency against major hurricanes, because PREPA did not show how its MiniGrid construct may be a less expensive approach than reasonable alternative approaches that include localized, distributed solutions along with an optimized level of MiniGrid-like T&D system expenditures.

Finally, the Energy Bureau determined that PREPA did not fully support the inclusion of a new gas-fired combined cycle (CC) unit at Palo Seco by 2025 as part of a least-cost plan. Notwithstanding the foregoing, to protect against the uncertainty of near-future solar PV and battery energy storage price outcomes, or other potential reliability concerns, out of an abundance of caution and coupled with strict oversight as detailed in the August 24 Resolution, the Energy Bureau found that PREPA may begin preliminary work on a new fossil fuel-powered unit and/or energy storage at Palo Seco, subject to the constraints set forth in the Modified Action Plan which includes among other things, a limitation for PREPA to spend up to \$5 million for preliminary economic, siting, permitting, and planning analysis.

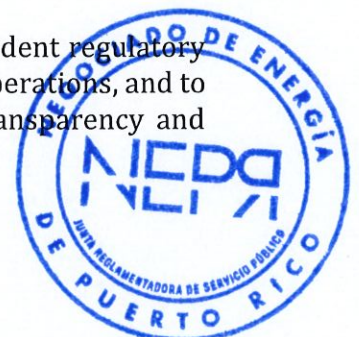
The Energy Bureau determined that PREPA may expend up to five million dollars (\$5 million) for preliminary economic, siting, permitting, and planning analysis regarding a new fossil fuel-powered unit at Palo Seco. Additionally, the Energy Bureau specifically and expressly warned PREPA that it must be highly cost-efficient with any preliminary permitting and engineering activity it undertakes, and these activities **shall not interfere with or delay the procurement of solar PV (or other renewable energy) and battery energy storage resources as directed in the Modified Action Plan.**

As specifically ordered by the Energy Bureau in the August 24 Resolution, **all capital investments**, regardless of the source of the funding (*e.g.*, federal funding, ratepayer, etc.) have to be **previously approved by the Energy Bureau**.

Finally, it is important to note that PREPA **did not seek** reconsideration of the August 24 Resolution. Furthermore, on December 2, 2020, the Energy Bureau issued a Final Resolution on Reconsiderations (“December 2 Resolution”), under Case No. CEPR-AP-2018-0001, through which it addressed the motions for reconsideration presented by Windmar, VF, Empire Gas, the Local Environmental Organizations and SESA-PR. In the December 2 Resolution, the Energy Bureau warned all parties that they had thirty (30) days from the notification date of the December 2 Resolution to file an appeal for judicial review before the Court of Appeals. To this date, the Energy Bureau has not received notification that an appeal has been filed before the Court of Appeals. Therefore, the December 2 Resolution and the August 24 Resolution are final.

III. The IRP Review Process

Act 57-2014 was enacted to, among other things, create an independent regulatory body to oversee PREPA's and all other certified electric service companies' operations, and to establish strategic planning and information requirements to promote transparency and



active citizen participation.¹⁹ Essential to carrying out this legislative intent is a planning process, directed and overseen by the Energy Bureau. Act 57-2014 requires PREPA to submit, and the Energy Bureau ²⁰ to approve, an integrated resource plan, defined as:

... a plan that considers all reasonable resources to satisfy the demand for electric power services during a specific period of twenty (20) years, including those related to the offering of electric power, whether existing, traditional, or new resources, and those related to energy demand, such as energy conservation and efficiency, or DR and localized energy generation by the customer. Every integrated resource plan shall be subject to the rules established by PREB and approved by the same. Every plan shall be devised with a broad participation from citizens and other interested groups.²¹

Regulation 9021 defines the term “Integrated Resource Plan” or “IRP” as follows:

[A] plan that considers all reasonable resources to satisfy the demand for electric power services during a specific period of time, including those relating to the offering of electric power, whether existing, traditional, and/or new resources, and those relating to energy demand such as energy conservation and efficiency or DR and localized energy generation by the customer, while recognizing the obligation of compliance with laws and regulations that constrain resource selection.²²

Under Article 6.23 of Act 57-2014, the Energy Bureau has the mandate to establish regulations to govern the IRP that PREPA is required to file. The IRP is the centerpiece for carrying out the legislative intent to modernize the electric system, so it is less reliant on fossil fuels, employs more utility scale and distributed renewable energy and promotes efficiency and conservation so as to improve the environment, comply with federal laws addressing clean air and manage the cost of electricity. The goal of the IRP proceeding is to evaluate PREPA’s resources in order to develop a cost-effective (least cost) plan to meet Puerto Rico’s energy needs in the future.

The IRP considers a planning period of twenty (20) years and must be reviewed every three years.²³ Notwithstanding the foregoing, at any moment prior to the 3-year filing requirement, PREPA may propose an amendment or update in accordance with the

¹⁹ See Act 57-2014, Statement of Motives.

²⁰ The Puerto Rico Energy Commission was created under Act 57-2014 and was later renamed the Puerto Rico Energy Bureau. See Act 211-2018.

²¹ See Act 57-2014 § 1.3 (II).

²² See Regulation 9021, § 1.08(B)(20).

²³ See Section 6.23 of Act 57-2014 and Regulation 9021, § 2.04.



provisions of Article 6.23 of Act 57-2014 and Section 2.05 of Regulation 9021. Such review process shall include public participation, including intervenors, public hearing, etc. Furthermore, an approved IRP shall remain in effect until the approval of a subsequent IRP by the Energy Bureau.²⁴

IV. PREPA's 10-Year Plan

Through the media, the Energy Bureau became aware of PREPA's submittal of a document titled *PREPA 10-Year Infrastructure Plan December 2020* ("10-Year Plan") to the Federal Emergency Management Administration ("FEMA") around December 21, 2020.

Although the 10-Year Plan must be aligned with the Approved IRP and the Modified Action Plan, **PREPA did not submit the 10-Year Plan to the Energy Bureau** for review.²⁵ Therefore, on December 30, 2020, the Energy Bureau issued a Resolution and Order, under Case No. NEPR-MI-2020-0016, requiring PREPA to (i) file a true and exact copy of the 10-Year Plan that PREPA submitted to FEMA and any related attachments, forms or communications included in the filing of the mentioned document, on or before 12:00 pm of December 31, 2020; (ii) attend a Technical Conference held remotely on January 11, 2021 at 10:00 am²⁶; (iii) ensure that PREPA representatives involved in the development of the 10-Year Plan attended the Technical Conference; (iv) ensure PREPA representatives were duly prepared to make a presentation to demonstrate the alignment of the 10-Year Plan with the IRP and to answer the Energy Bureau's questions; and (v) file a copy of the foregoing presentation with the Energy Bureau no later than January 8, 2021.

On December 31, 2020, PREPA filed a document titled *Motion in Compliance with Order Entered on December 30, 2020* ("Compliance Motion"), under Case No. NEPR-MI-2020-0016, which enclosed a copy of the 10-Year Plan as Attachment A. **In the Compliance Motion PREPA alleges that it "... appreciates the Energy Bureau's interest in the 10-Year Plan and welcomes any public discussion of its contents and plans for implementation. The 10-Year Plan is the roadmap to secure the \$10.7 billion funding that FEMA has obligated for the reconstruction and hardening of Puerto Rico's energy infrastructure."**²⁷ Additionally, PREPA submitted, as Attachment B, a document titled *PREPA Supplemental 90-Day Plan* submitted to FEMA with the 10-Year Plan ("90-day Plan"). According to PREPA, the 90-Day Plan is a

²⁴ See Regulation 9021, § 2.01.

²⁵ According to PREPA, the foundational work for the preparation of the 10-Year Plan preceded the issuance of the August 24 Resolution. Nonetheless, it was submitted to FEMA around December 21, 2020 (i.e., after the August 24 Resolution) without any adjustments to align the same with the IRP and the Modified Action Plan and without consulting the Energy Bureau.

²⁶ The Technical Conference was streamed live via the Energy Bureau's You Tube Channel.

²⁷ See PREPA's *Motion in Compliance with Order Entered on December 30, 2020*, Case No. NEPR-MI-2020-0016, December 31, 2021, ¶ 2. (Emphasis added).



supplement to the 10-Year Plan that provides a summary overview of key next steps PREPA plans to take over the next 90 days to execute on the 10-Year Plan.

In the Compliance Motion, PREPA states that the 10-Year Plan is not a straitjacket to PREPA's future plans. According to PREPA, the 10-Year Plan is a live document that allows for the incorporation of changes as PREPA deems necessary. In addition, PREPA states it is required to update and resubmit any revision to the 10-Year Plan to the Puerto Rico's Central Office for Recovery, Reconstruction and Resiliency ("COR3") and FEMA every ninety (90) days after the initial submission.²⁸

Moreover, PREPA argues that PREPA's proposed IRP was not exclusively designed to achieve the most economical approach to meeting electrical needs in Puerto Rico. Instead, the proposed IRP focused on creating a plan in line with PREPA's vision, as adopted by PREPA's Governing Board. According to PREPA, the proposed IRP addressed PREPA's aging generation fleet, achieved a reduction in generation costs, complied with the mandated Renewable Portfolio Standard ("RPS") and shifted to a decentralized generation system.²⁹

PREPA expressed that, to understand system impacts that would result from implementing the Modified Action Plan, PREPA engaged the services of Sargent & Lundy ("S&L") to perform a *Renewable Energy Integration Study*, dated December 22, 2020³⁰ and to develop a *10-Year Thermal Generation Plan*³¹ covering retirements, additions, and

²⁸ Compliance Motion, at ¶ 7.

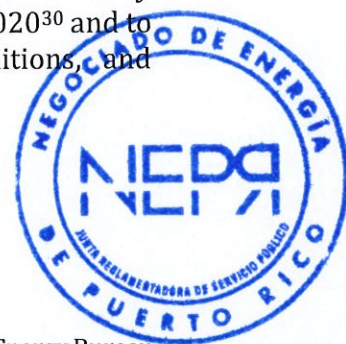
²⁹ *Id.* at ¶ 8.

³⁰ Attachment C to the Compliance Motion.

³¹ In the Compliance Motion PREPA states that it will submit the Thermal Generation Plan to the Energy Bureau once it is completed. According to PREPA, as of December 31, 2020, it was expected that S&L will submit a final version within two (2) weeks. See note 3 to the Compliance Motion. PREPA also stated:

Within the first quarter of 2021, S&L anticipates submitting the 10-Year Thermal Generation Plan to FEMA, which provides a conceptual solution based upon Phase 1 engineering studies required by the government grants. The recommendations if approved, should satisfy their requirements and more importantly, provide a modern generation platform for PREPA to launch plant retirements, reduce dependency on fuel oils, improve production costs, and make meaningful steps towards the required renewable integration work. This plan is not a replace-in-kind solution, but rather tailored to suit a new utility; it integrates dual-fuel small, rapid-start reciprocating engines coupled with modern gas turbine technology for peaking sites, and includes a new combined-cycle plant in San Juan. See Compliance Motion, at ¶ 20.

Nevertheless, in the Compliance Motion PREPA also alleges that a *10-Year Thermal Generation Addition, Retirement, and Conversion Plan* **has been recently submitted to PREPA**. According to PREPA, the document describes an optimal plan for this government funding. PREPA has not submitted such *10-Year Thermal Generation Addition, Retirement, and Conversion Plan* to the Energy Bureau. The 10-Year Plan also refers the reader to the *Sargent and Lundy's New Thermal Generation Justification* report for details of thermal plant retirements, additions, and conversions. See 10-Year Plan at p. 27. The foregoing can be reasonably construed



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conversions to PREPA's generation fleet.³² In the Compliance Motion, PREPA presents a spirited defense of the recommendations made by its consultant in the *Renewable Energy Integration Study* and recites its concerns regarding the existing system capacity for renewable energy penetration.³³ However, the 10-Year Plan is inconsistent with several aspects of the Approved IRP and the Modified Action Plan.

As justifications for the 10-Year Plan's **noncompliance** with the IRP and the Modified Action Plan, PREPA hastily blames FEMA funding requirements³⁴ regardless of new opportunities statutorily available for the use of funding for "alternate projects" which do not exclude renewable generation.

A review of the 10-Year Plan shows that, among other things, PREPA included the following as near-term generation projects:

- the construction of a dual fuel "state-of-the-art" 400 MW Combined Cycle Generation Plant near San Juan³⁵, instead of the execution of studies and permitting ordered in the IRP;
- the installation of 330 MW of thermal Peaking Units (Jobos, Dagua, Yabucoa, Vega Baja and a location in the San Juan area)³⁶ instead of the limited 81 MW replacement, agnostic of technology;
- improvements and upgrades to Cambalache, Aguirre, San Juan, Palo Seco, Costa Sur, and the Aguirre Combined Cycle³⁷;
- installation of thermal black start units to be located in Costa Sur (27 MW) and Aguirre (27 MW)³⁸;

as a signal of a parallel path knowingly and willingly taken by PREPA that is inconsistent with several aspects of the Approved IRP and the Modified Action Plan.

³² *Id.* at ¶ 11.

³³ *Id.* at ¶ 8.

³⁴ According to PREPA, given the complex and onerous set of mandates that have been established within Puerto Rico and the guidelines that must also be followed for the FEMA grants, choosing an effective generation path that satisfies all concerned parties is a challenge. *Id.* at ¶ 20.

³⁵ See 10-Year Plan, p. 40. In the January 11, 2020 Technical Conference, PREPA representatives and consultants seemed to be referring to the same as the Palo Seco plant.

³⁶ See 10-Year Plan, p. 40.

³⁷ *Id.*

³⁸ *Id.*



- repairing Unit 1 of Cambalache Generation Plant³⁹; and
- \$0.00 for renewable energy projects or battery for energy storage.⁴⁰

None of these actions are consistent with the Approved IRP and Modified Action Plan.

On January 8, 2021, PREPA filed a document titled *Presentation: 10-Year Infrastructure Plan* ("January 8 Motion") which included a Power Point Presentation summarizing the 10-Year Plan ("Presentation").⁴¹ According to PREPA each project in the PREPA 10-Year Plan was aligned to the IRP and PREPA has begun to prepare and submit initial Scope of Work to COR3 and FEMA.⁴² Furthermore, the 10-Year Plan treats and shows the **construction** of the aforementioned Combined Cycle Generation Plant as a *fait accompli*.⁴³

It is important to note that, both the 10-Year Plan and the Presentation state that one of the foundational components of the 10-Year Plan is a document identified as the COR3's *Grid Modernization Plan*.⁴⁴ Nevertheless, the document has not been submitted to the Energy Bureau and PREPA has not demonstrated it is aligned with the Approved IRP and Modified Action Plan.⁴⁵ Another of the foundational components of the 10-Year Plan is a document identified as *Sargent & Lundy's 10-Year T&D Roadmap*.⁴⁶ Again, PREPA has not demonstrated that such document is aligned with the Approved IRP and Modified Action Plan.⁴⁷

During the Technical Conference, the statements made by PREPA representatives confirmed the noncompliance of the 10-Year Plan with the Approved IRP and the Modified

³⁹ See 10-Year Plan, p. 42.

⁴⁰ *Id.* at p. 47. The 10-Year Plan does not include a timeline for when infrastructure associated to renewable energy and/or batteries would be requested or any alternate project in case the procurement does not progress as planned, albeit statutory changes allow for alternate projects (*i.e.*, non-thermal generation).

⁴¹ See PREPA's *Presentation: 10-Year Infrastructure Plan*, January 8, 2021.

⁴² See Presentation, pp. 8-9.

⁴³ See Presentation, p. 8.

⁴⁴ See 10-Year Plan at p. 23 and Presentation at p. 3.

⁴⁵ If the referred document is the same one that PREPA testified in during the Evidentiary Hearing in the IRP proceeding that has to be aligned with the final determination on the IRP, PREPA has neither presented its final version of the document to the Energy Bureau nor demonstrated its alignment with the August 24 Resolution.

⁴⁶ See 10-Year Plan at p. 23 and Presentation at p. 3.

⁴⁷ The FEMA's Damage Assessment Reports is another document that has not been filed with the Energy Bureau.



Action Plan.⁴⁸ As such, in functional terms, the 10-Year Plan can be reasonably construed as a collateral attack to the Approved IRP and the Modified Action Plan and a defiance to the August 24 Resolution.

V. Conclusion

The Energy Bureau, as regulator of the energy sector, oversees the implementation of the public policy, including the implementation of the Approved IRP and the Modified Action Plan. Furthermore, the Energy Bureau is mindful that Puerto Rico is in dire need of the transformation of its electric system to gain resiliency, improve environmental conditions and reduce Puerto Rico's dependence on fossil fuels. Nonetheless, for the transformation of Puerto Rico's electric system to be in the public interest, decisions shall be made in a planned manner and in adherence to public policy and legal requirements.

For procedural matters, the Energy Bureau is taking official knowledge of the Compliance Motion and its attachments, the January 8 Motion and its attachments, the Technical Conference as well as the responses that PREPA has provided to the Energy Bureau information requests under Case No. NEPR-MI-2020-0016, and makes them part of the instant case. For the reasons stated above, the Energy Bureau **ORDERS** PREPA to:

1. Immediately abstain from exceeding the scope and the budget allocated in the Approved IRP and Modified Action Plan for the preliminary studies for a combined cycle generation plant in Palo Seco;
2. Immediately abstain from making any capital investments in its generation fleet or the T&D system without the prior approval of the Energy Bureau;
3. Immediately abstain from using studies and plans as collateral attacks to the Approved IRP and Modified Action Plan; and
4. Revise the 10-Year Plan to correct its noncompliance with the Approved IRP and Modified Action Plan. PREPA must file a revised copy of the 10-Year Plan in the instant docket, for Energy Bureau's review and approval, on or before February 15, 2021.

The Energy Bureau **WARNS** PREPA that noncompliance with the Energy Bureau's orders or applicable legal requirements may carry the imposition on administrative fines of up to twenty thousand dollars (\$25,000.00) per day, per violation and/or other sanction that the Energy Bureau may deem appropriate.

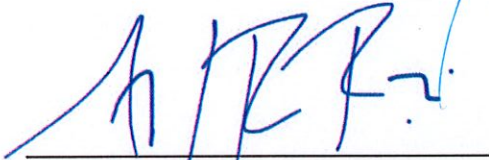
⁴⁸ See the January 11, 2021 Technical Conference. PREPA has not submitted any revisions to FEMA to further align the 10-Year Plan to the Approved IRP and Modified Action nor submitted any alternate projects allowed under new legislation for non-thermal alternatives.



Be it notified and published.



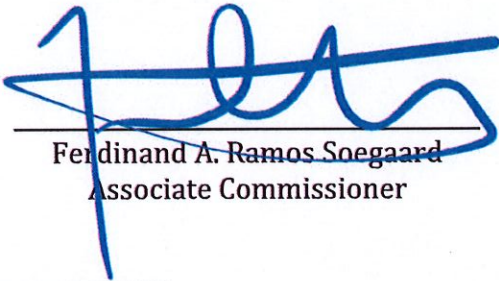
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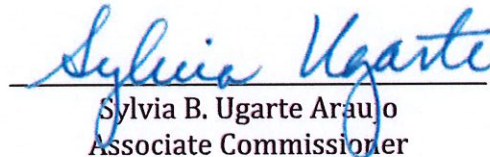
Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
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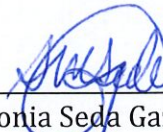


Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 25, 2021. I also certify that on January 25, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com, fabiola.rosa@prepa.com, marisol.pomales@prepa.com, vilmarie.fontanet@prepa.com, jorge.ruiz@prepa.com, Legal@lumamc.com, wayne.stensby@lumamc.com and mario.hurtado@lumamc.com. I also certify that today, January 25, 2021, 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, today January 25, 2021.



Sonia Seda Gaztambide
Clerk

