

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

NEPR Received: Dec 20, 2019 11:01 AM

IN RE:

**REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY
INTEGRATED RESOURCE PLAN**

CASE NO.:
CEPR-AP-2018-0001

SUBJECT:
Opposition to LEO's Request for Additional
Discovery

**OPPOSITION TO THE LOCAL ENVIRONMENTAL ORGANIZATIONS'
REQUEST FOR ADDITIONAL DISCOVERY**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority through the undersigned legal representation and respectfully sets forth and pray:

1. On December 17, 2019, the Local Environmental Organizations (LEO) filed a *Motion Requesting that the Puerto Rico Energy Board take Judicial Notice of the Grid Modernization Plan* (the "LEO Motion"). The LEO Motion echoes the arguments of the November 26, 2019 Not-for-Profit Entities (the "NFP")'s *Motion Requesting Order to PREPA Concerning Alleged Grid Modernization Plan* (the "NFP Motion"). Both the LEO and the NFP motions argue that the Puerto Rico Governor and the Puerto Rico Electric Power Authority (PREPA)'s Executive Director presented to the public a plan called the Grid Modernization Plan (the "Grid Mod Plan") and that, although the Grid Mod Plan impacts the draft Integrated Resource Plan (IRP), PREPA did not include it in the process followed in the case of caption.

2. The LEO Motion requests the Puerto Rico Energy Bureau (the "Energy Bureau") to include the Grid Mod Plan proposal in the IRP docket through judicial notice and to allow an additional discovery period for the parties to question PREPA on the Grid Mod Plan proposal, the draft IRP

and Act 17-2019. LEO's request for an additional discovery period on the Grid Mod Plan's proposal should be denied as unwarranted.

3. As informed in paragraph 1 of this motion, on November 26, 2019, NFP filed a motion with arguments that mirror those made in the LEO Motion. The NFP seeks for the Energy Bureau to order PREPA to submit the Grid Mod Plan as an amendment to the IRP or, in the alternative, to have PREPA explain why it has not included the Grid Mod Plan's proposals in the draft IRP for further consideration. On December 6, 2019, the Energy Bureau addressed the NFP Motion and ordered PREPA to "show cause as to why the Energy Bureau should not order PREPA to submit the Grid Mod Plan proposal as an amendment to the IRP." *See* Order dated December 6, 2019. In compliance with said Order, on December 16, 2019, PREPA filed a *Motion to Show Cause and in Compliance with Order entered on December 6, 2019* in which PREPA explained that draft IRP is the official resource plan for PREPA and Puerto Rico and that the Grid Mod Plan recommendations will be adjusted based on the final IRP approved by the Energy Bureau, not the other way around.¹

4. Without proper factual foundation, the LEO Motion also moves the Energy Bureau to grant leave to "[serve] discovery from the parties and the Energy Bureau to question PREPA on the Grid Mod Plan's proposal[.]" *See* LEO Motion, pag. 4. The only argument made by LEO as basis for this request is that the Grid Mod Proposal includes for additional investments that Law 17-2014 places under the oversight of the Energy Bureau through the IRP. Further, LEO argues that PREPA must "do the work of explaining how the [Grid Mod Plan]'s proposal relates to the IRP." *Id.* at ¶ 4. The latter argument shows that the LEO Motion lacks foundation to seek additional discovery.

¹ PREPA hereby adopts by reference all the arguments included in the *Motion to Show Cause and in Compliance with Order entered on December 6, 2019*.

5. Furthermore, LEO claims that the latest amendment to this case's procedural calendar allows for additional discovery. This argument is speculative and unrealistic. In accordance with the Energy Bureau's orders, PREPA opposes any extension to the operative procedural calendar.²

6. On December 13, 2019, the Energy Bureau entered a Resolution and Order amending this case's procedural calendar. The Energy Bureau entered a revised calendar *sua ponte* and for the specific purpose of allowing reasonable time for PREPA to prepare and serve the responses to the Energy Bureau's 10th Requirement of Information to PREPA (the "ROI #10"). ROI #10 responds to PREPA's filing of a petition in a separate proceeding in which PREPA seeks approval of a power purchase operating agreement and a gas sale and purchase agreement.³ Therefore, the procedural calendar was amended by reason of an exceptional circumstance. Moreover, the Energy Bureau has been consistent that the case of caption's deadlines should remain unaltered.

7. Also, granting LEO's request would open a door to all intervenors and the Energy Bureau to serve discovery requests on PREPA related to the voluminous Grid Mod Plan while PREPA has all its limited resources and consultants tasked with preparing the responses to ROI #10. Granting leave to initiate said discovery will inevitably and undoubtedly cause PREPA to request additional time to respond to the interrogatories and request for production of documents, which will in turn cause another alteration to the procedural calendar. Additional revisions to the procedural calendar will have the unavoidable effect of postponing the approval of the draft IRP yet again.

WHEREFORE, the Puerto Rico Electric Power Authority requests the Energy Bureau to deny the LEO Motion.

² See several resolution and orders entered in the case of caption's docket, including, but not limited to those entered on October 29, 2019, October 16, 2019 and September 23, 2019.

³ See *Resolution and Order* dated December 13, 2019, page 2; see also *In Re: Request for Approval of Amended and Restated Power Purchase Operating Agreement with EcoElectrica and Natural Gas Sale and Purchase Agreement with Naturgy*, Case no. NEPR-AP-2019-0001.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 20th day of December 2019.

/s Katuska Bolaños
Katuska Bolaños
kbolanos@diazvaz.law
TSPR 18,888

DÍAZ & VÁZQUEZ LAW FIRM, P.S.C.
290 Jesús T. Piñero Ave.
Scotiabank Tower, Suite 11-E
San Juan, PR 00918
PO Box 11689
San Juan, PR 00922-1689
Tel. (787) 395-7133
Fax. (787) 497-9664

CERTIFICATE OF SERVICE

It is hereby certified that, on this same date I have filed the above motion using the Energy Bureau's Electronic Filing System, at the following address: <http://radicacion.energia.pr.gov> and that a courtesy copy of the filing was sent via e-mail to: sierra@arctas.com; tonytorres2366@gmail.com; cfl@mcvpr.com; gnr@mcvpr.com; info@liga.coop; amaneser2020@gmail.com; hriviera@oipc.pr.gov; jriviera@cnslpr.com; carlos.reyes@ecoelectrica.com; ccf@tcmrslaw.com; manuelgabrielfernandez@gmail.com; acarbo@edf.org; pedrosaade5@gmail.com; rmurthy@earthjustice.org; rstgo2@gmail.com; larroyo@earthjustice.org; jluebkekmann@earthjustice.org; acasellas@amgprlaw.com; loliver@amgprlaw.com; epo@amgprlaw.com; robert.berezin@weil.com; marcia.goldstein@weil.com; jonathan.polkes@weil.com; gregory.silbert@weil.com; agraitfe@agraitlawpr.com; maortiz@lvprlaw.com; rnegron@dnlawpr.com; castrodieppalaw@gmail.com; voxpopulix@gmail.com; paul.demoudt@shell.com; javier.ruajovet@sunrun.com; escott@ferraiuoli.com; SProctor@huntonak.com; GiaCribbs@huntonak.com; mgrpcorp@gmail.com; aconer.pr@gmail.com; axel.colon@aes.com; rtorbert@rmi.org; apagan@mpmlawpr.com; mpietrantoni@mpmlawpr.com.

In San Juan, Puerto Rico, this 20th day of December, 2019.

s/ Katuska Bolaños
Katuska Bolaños