

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

NEPR

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IN RE: PUERTO RICO ELECTRIC  
POWER AUTHORITY INTEGRATED  
RESOURCE PLAN

CASE NO.: CEPR-AP-2018-0001

SUBJECT: PETITION TO  
INTERVENE

LOCAL ENVIRONMENTAL ORGANIZATIONS'  
PETITION TO INTERVENE

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW, Comité Diálogo Ambiental, Inc., El Puente de 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 por la Salud y el Ambiente, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., Campamento Contra las Cenizas en Peñuelas, Inc., and CAMBIO Puerto Rico (collectively, "Local Environmental Organizations" or "Petitioners"), and respectfully petitions this Honorable Bureau for leave to intervene in the proceeding captioned above pursuant to Section 3.03 of Regulation 9021, known as the "Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority," and Section 3.5 of Act No. 38 of June 30, 2017, as amended, known as the "Uniform Administrative Procedure Act of the Government of Puerto Rico."

TABLE OF CONTENTS

I. INTRODUCTION ..... 2
II. ARGUMENT: Local Environmental Organizations’ Petition to Intervene
complies with all applicable requirements and should be granted..... 8
A. The Local Environmental Organizations have legitimate interests in the
Integrated Resource Plan proceeding. .... 9
B. The Local Environmental Organizations meet all seven factors for
intervention..... 10
i. The Local Environmental Organizations’ interests may be adversely
affected by the Integrated Resource Plan. .... 11
ii. There are no other legal means for the Local Environmental
Organizations to adequately protect their interests. .... 11
iii. The Local Environmental Organizations’ interests are not already
adequately represented by the parties to the Integrated Resource Plan
proceeding. .... 12
iv. The Local Environmental Organizations’ participation is reasonably likely
to help prepare a more complete record of the Integrated Resource Plan
proceeding. .... 12
v. The Local Environmental Organizations participation will not excessively
extend or delay the Integrated Resource Plan proceeding. .... 13
vi. The Local Environmental Organizations represent other groups or
entities in the community..... 13
vii. The Local Environmental Organizations can contribute information,
expertise, specialized knowledge and technical advice which is otherwise not
available in the procedure. .... 13
C. The Local Environmental Organizations’ petition is timely..... 14
III. CONCLUSION:..... 14

I. INTRODUCTION

On June 7, 2019, the Puerto Rico Electric Power Authority (“PREPA”) filed
before this Honorable Bureau a petition for approval of an Integrated Resource Plan
(“IRP”). On July 3, 2019, the Energy Bureau ruled that PREPA’s June 7 submission

substantially complied with Regulation 9021.<sup>1</sup> Consistent with Section 3.03 of Regulation 9021, the Local Environmental Organizations now respectfully seek leave of the Energy Bureau to intervene in the PREPA Integrated Resource Plan proceeding.

The Local Environmental Organizations comprise the following ten groups, the missions and membership of which will be substantially affected by the Integrated Resource Plan that is ultimately adopted as a result of the instant proceeding:

1. Comité Diálogo Ambiental, Inc. (“CDA”) is a community environmental group composed of residents of the Municipality of Salinas and the Guayama Region.<sup>2</sup> CDA promotes the general welfare of the communities it serves through education and citizen capacity building, focused on the adverse impacts of human activities on the ecologic balance of natural systems and the importance of restoring the environment. CDA works to promote conditions under which humans and the environment can exist in harmony to fulfill the economic, social, and other needs of present and future generations. The Energy Bureau granted CDA’s Petition to Intervene in the last Integrated Resource Planning proceeding. Energy Bureau Docket CEPR-AP-2015-0002.

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<sup>1</sup> Resolution and Order on the Completeness Determination of PREPA's IRP Filing and Procedural Calendar at 2, July 3, 2019, Case No. CEPR-2018-0001.

<sup>2</sup> Organized as a nonprofit corporation under the laws of the Commonwealth of Puerto Rico since 1997.

2. El Puente de Williamsburg, Inc. - Enlace Latino de Acción Climática (“El Puente – ELAC”) is a group whose members are Puerto Rico residents concerned about the impacts of climate change on the Island.<sup>3</sup> El Puente - ELAC promotes multisector discussion on the predictable effects of climate change in Puerto Rico; disseminates studies and information on climate change scenarios; generates discussion of mitigation and adaptation alternatives and their viability for Puerto Rico, and determines optimal parameters for planning for climate change, sea level rise, food security, water availability, and the impacts of power generation on climate change. The Energy Bureau granted El Puente – ELAC’s Petition to Intervene in the last Integrated Resource Planning proceeding. Energy Bureau Docket CEPR-AP-2015-002.
3. Comité Yabucoeño Pro-Calidad de Vida, Inc. (“YUCAE”) is a non-profit community-based group that ensures Yabucoa residents enjoy a sustainable development where economic development, social equity and the conservation of ecosystems are integrated.<sup>4</sup> YUCAE’s view is to achieve an effective commitment of diverse civic groups, religious and educational institutions, whose active participation promotes the empowerment of the community, and the search for solutions to the main

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<sup>3</sup> Organized as a nonprofit corporation since 1982 and authorized under the laws of the Commonwealth of Puerto Rico since 2015.

<sup>4</sup> Created in 1988 and organized as a nonprofit corporation under the laws of the Commonwealth of Puerto Rico since 1989.

environmental, economic and social problems faced by Yabucoa's communities.

4. Alianza Comunitaria Ambientalista del Sureste, Inc. ("ACASE") is a non-profit environmental organization whose members are from Humacao, Yabucoa, Las Piedras, Caguas, and Patillas. ACASE was created in response to the disposal of coal ash in the Humacao landfill.<sup>5</sup> ACASE raises awareness in the communities of Humacao and neighboring towns of the health impacts from coal combustion and coal ash. ACASE also offers talks and conferences on renewable energy, seed harvesting, and the public debt of Puerto Rico.
5. Sierra Club Puerto Rico, Inc. ("Sierra Club PR") is the local chapter of the biggest, oldest, and most influential environmental organization in the United States. Founded in 1892, the Sierra Club has more than three million members and followers, all inspired by the marvels of nature. Sierra Club's mission is to explore, enjoy, and protect natural treasures. Sierra Club's Puerto Rico chapter was founded in 2005. Since its beginning, the chapter has collaborated with different communities and community-based organizations to protect natural areas, promote public policies that protect the public health and environment, mobilize communities to resist pollution projects such as a proposed methane gas pipeline and waste incinerators, among other victories. After Hurricane

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<sup>5</sup> Created in 2015 and organized as a nonprofit corporation under the laws of the Commonwealth of Puerto Rico since 2019.

- Maria, the chapter has been helping develop sustainable and self-sufficient projects in communities around the island.
6. Mayagüezanos por la Salud y el Ambiente, Inc. (“MSA”) is a community and environmental organization. MSA’s volunteers offer educational, organizational, research and participatory services aimed at the defense and protection of natural resources, mainly in the western area of Puerto Rico.<sup>6</sup> MSA is the co-manager of the Caño Boquilla Natural Reserve. MSA focuses on the Reserve, renewable energy, and the quality and protection of coastal waters and the rivers that nourish them.
  7. Coalición de Organizaciones Anti Incineración, Inc. (“COAI”) is a coalition of citizens and more than 35 organizations concerned about waste incinerators in Puerto Rico, especially the solid waste incinerator proposed by Energy Answer-Arecibo, LLC, in Arecibo.<sup>7</sup> COAI promotes clean energy and opposes the generation of energy with incineration.
  8. Amigos del Río Guaynabo, Inc. (“ARG”) is an environmental and community organization created for the defense of the natural resources of Puerto Rico, especially water resources.<sup>8</sup>
  9. Campamento Contra las Cenizas en Peñuelas, Inc. is a community and environmental non-profit organization dedicated to the fight against

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<sup>6</sup> Established in 1989 and organized as a nonprofit corporation under the laws of the Commonwealth of Puerto Rico since 1990.

<sup>7</sup> Organized as a nonprofit corporation under the laws of the Commonwealth of Puerto Rico since 2017.

<sup>8</sup> Organized as a nonprofit corporation under the laws of the Commonwealth of Puerto Rico since 2004.

combustion residue from fossil fuel energy generation, especially the deposit of toxic coal ash from the AES coal plant in Guayama. Its mission is to raise community awareness about the dangers from toxic col ash and the urgency of ending coal combustion in Puerto Rico as soon as possible.

10. CAMBIO PR, Inc. (“CAMBIO”) provides services to the community, promotes and conducts research, and implements strategies on energy and other sustainability issues. CAMBIO contributes to the construction of a fairer society that has greater opportunities, capacities and resources.

These environmental and community organizations are active stakeholders on energy issues in Puerto Rico. Their members are concerned citizens that promote the development of renewable energy in Puerto Rico, and are impacted by pollution from fossil fuel power plants in Puerto Rico. Their members are also customers of PREPA, subject to PREPA’s billing for electric power service. For all of these reasons, these organizations and their members will be substantially affected by the economic, social, and environmental consequences of the final Integrated Resource Plan approved by the Energy Bureau.

The majority of the Local Environmental Organizations’ members are laypersons that strongly prefer to read in Spanish. Therefore, the Local Environmental Organizations will make every effort to provide summaries, in Spanish of the core concepts of their summaries to nontechnical audiences, using visual elements where appropriate.

The Local Environmental Organizations intend to provide expert testimony on integration of renewables into the island’s grid, the health impacts of continuing to burn fossil fuels, critiquing PREPA’s modeling results, and other aspects of the Integrated Resource Plan and electric system issues.

**II. ARGUMENT: Local Environmental Organizations’ Petition to Intervene complies with all applicable requirements and should be granted.**

Puerto Rico law emphasizes “[t]ransparency and citizen participation in every process related to electric power service,” and also requires “broad participation from citizens and other interested groups” in the development of the Integrated Resource Plan. 22 L.P.R.A. §§ 1051(o), 1051a(hh). The particular requirements and process to intervene in an Integrated Resource Plan proceeding are set out by Section 3.5 of Law 38-2017.<sup>9</sup> Consistent with the stated importance of public involvement, Puerto Rico law directs agencies to construe this statute “liberally” in order to “facilitate” public participation. 3 L.P.R.A. § 9645; *Comisión Ciudadanos v. G.P. Real Property*, 173 D.P.R. 998, 1011 (2008) (“Agencies are obliged to facilitate the participation of such citizens whose interests may be affected by the administrative action, to avoid applying [agency] expertise to information that does not reflect the real situation of said citizens.”) (translated from the original

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<sup>9</sup> Codified as 3 L.P.R.A. § 9645. Section 3.03(b) of Regulation 9021 provides that the Energy Bureau will address petitions to intervene in an Integrated Resource Plan proceeding according to Sections 3.5-3.6 of Law 38-2017 (codified as 3 L.P.R.A. §§ 9645-46), and to Section 5.05 of Regulation 8543, which itself refers to Sections 3.5-3.6 of Act 170-1988. Because Act 38-2017 replaces all references in regulations to Law 170-1988 with references to the new Law 38-2017, *see* Law 38-2017 § 8.3, the references of Section 5.05 of Regulation 8543 now refer to Sections 3.5-3.6 of Act 38-2017.

Spanish). The Local Environmental Organizations meet the substantive and procedural requirements for intervention, especially considering the mandate on agencies to facilitate public participation; therefore, this Honorable Bureau must grant the Local Environmental Organizations' Petition to Intervene.

**A. The Local Environmental Organizations have legitimate interests in the Integrated Resource Plan proceeding.**

Any person with a "legitimate interest in an adjudicatory procedure before an agency" may seek to intervene in that proceeding through a "duly grounded application" to that agency. 3 L.P.R.A. § 9645. The Puerto Rico Supreme Court has determined that a "legitimate interest" in an administrative proceeding embraces a "wide spectrum of possibilities" including "environmental, social, and economic interests." *San Antonio Maritime v. P.R. Cement Co.*, 153 D.P.R. 374, 392-393 (2001) (translated from the original Spanish).

The Local Environmental Organizations have several legitimate environmental, social, and economic interests in the development of PREPA's Integrated Resource Plan. First, the Local Environmental Organizations and their members have a significant interest in ensuring that the Integrated Resource Plan provides safe, affordable, and hurricane-resilient power to the people of Puerto Rico, as required by Law 57-2014 and Law 17-2019. Second, many of Petitioners' members live close to the existing and proposed fossil fuel plants and infrastructure. These members are already, and will continue to be, exposed to contaminants from fossil fuel combustion; these members will be particularly affected by the Integrated Resource Plan. Finally, the Local Environmental

Organizations have an interest in the Integrated Resource Plan's wider impacts on emission of hurricane-intensifying greenhouse gases and the pollution of Puerto Rico's air, soil, and water. These environmental impacts will be imposed on the citizens of Puerto Rico for generations. The legitimate interests of Local Environmental Organizations and their members merit full intervention in this proceeding.

**B. The Local Environmental Organizations meet all seven factors for intervention.**

Where a party seeking intervention has demonstrated a legitimate interest, Act 38-2017 identifies seven factors the agency must consider when evaluating whether to grant a petition for intervention, including:

- (a) Whether the petitioner's interests may be adversely affected by the adjudicatory procedure.
- (b) Whether there are no other legal means for the petitioner to adequately protect his interests.
- (c) Whether the petitioner's interests are already adequately represented by the parties to the procedure.
- (d) Whether the petitioner's participation may help, within reason, to prepare a more complete record of the procedure.
- (e) Whether the petitioner's participation may extend or delay the procedure excessively.
- (f) Whether the petitioner represents or is the spokesperson of other groups or entities in the community. [and]
- (g) Whether the petitioner can contribute information, expertise, specialized knowledge or technical advice which is otherwise not available in the procedure.

3 L.P.R.A. § 9645. Act 38-2017 further directs the agency to "apply the above criteria liberally" when making its determination. *Id.* The Puerto Rico Supreme Court has held that this statute "obligate[s] [agencies] to facilitate the participation of such citizens whose interests may be affected by administrative action." *Comisión*

*Ciudadanos v. G.P. Real Property*, 173 D.P.R. 998, 1011 (2008) (translated from the original Spanish).

The factors for evaluating petitions for intervention in an adjudicative proceeding strongly support granting the Local Environmental Organizations' petition, particularly considering the legislative, judicial, and regulatory mandates under Puerto Rico law to ensure public involvement in the Integrated Resource Plan process.

- i. The Local Environmental Organizations' interests may be adversely affected by the Integrated Resource Plan.*

Petitioners represent individual Puerto Rican citizens and communities who will be subject to the full weight of the environmental, social, and economic consequences of the Integrated Resource Plan that will be adopted as a result of this proceeding. Any outcome which does not address the Local Environmental Organizations' interests, testimony and arguments will have a harmful economic and environmental impact on the Local Environmental Organizations, and on Puerto Rico.

- ii. There are no other legal means for the Local Environmental Organizations to adequately protect their interests.*

Petitioners have no other legal means to fully protect their interests in the development of the Integrated Resource Plan, including through the ability to sponsor expert testimony, propound discovery, and cross examine PREPA's witnesses, to ensure that the final Integrated Resource Plan adequately protects the interests of their organizations and membership. The Integrated Resource Plan is

the best means for Petitioners to protect their interests in moving Puerto Rico to an affordable, hurricane-resilient grid powered entirely by renewable energy. This transition is necessary to achieve energy independence, and is required by Law 17-2019.

*iii. The Local Environmental Organizations' interests are not already adequately represented by the parties to the Integrated Resource Plan proceeding.*

Local Environmental Organizations have longstanding and unique interests on several relevant issues in this proceeding. Those interests are not adequately represented by any other party to this proceeding. The Local Environmental Organizations are also advocating for these interests in several other ongoing proceedings in Puerto Rico. For example, the PROMESA proceeding to resolve PREPA's debts,<sup>10</sup> and the Environmental Quality Board proceeding to consider renewal of the Clean Air Act Title V permit for the Aguirre Power Station.<sup>11</sup>

*iv. The Local Environmental Organizations' participation is reasonably likely to help prepare a more complete record of the Integrated Resource Plan proceeding.*

Because Petitioners speak for numerous community and citizen groups, their full participation as intervenors will lead to a significantly better representation of public input in the final record. Secondly, Petitioners have retained experts to independently evaluate PREPA's Integrated Resource Plan and its supporting modeling and work papers. By providing an independent analysis, Petitioners will enrich the record and enhance this Bureau's capacity to approve an Integrated

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<sup>10</sup> *Puerto Rico Electric Power Authority*, Case No. 17-BK-4780-LTS (D.P.R. 2017).

<sup>11</sup> Docket PFE-TV-4911-63-0212-0244.

Resource Plan that fully complies with the policies of Laws 57-2014, 38-2017, and 17-2019, and the public interest.

- v. *The Local Environmental Organizations participation will not excessively extend or delay the Integrated Resource Plan proceeding.*

Petitioners have legal representation, are organized, and are prepared to proceed in compliance with the schedule laid out by the Energy Bureau in its July 3, 2019 Order, and all schedules and rulings made by the Energy Bureau. Petitioners will work with all parties to ensure an efficient hearing process, and avoid duplicate of efforts, confusion or any delays.

- vi. *The Local Environmental Organizations represent other groups or entities in the community.*

Petitioners represent a broad coalition of citizens and communities spanning Puerto Rico and are firmly committed to protecting the interests of the general public in this proceeding.

- vii. *The Local Environmental Organizations can contribute information, expertise, specialized knowledge and technical advice which is otherwise not available in the procedure.*

Petitioners have been actively involved in energy and environmental issues in Puerto Rico for years, if not decades. Many of Petitioners' members live close to Puerto Rico's existing fossil fuel plants and infrastructure, and therefore can provide the Bureau with first-hand descriptions of the impacts of these plants. Finally, Petitioners have retained experts to independently evaluate PREPA's Integrated Resource Plan and its supporting modeling and work papers. Petitioners will contribute information, expertise, knowledge and advice essential for the

Bureau to determine whether the Integrated Resource Plan protects Puerto Rico's economy and environment.

Taken together, these seven factors strongly support intervention by the Local Environmental Organizations.

**C. The Local Environmental Organizations' petition is timely.**

Regulation 9021 provides that parties seeking to intervene in an Integrated Resource Plan proceeding are to submit a written petition within 30 days following the Energy Bureau's determination that PREPA's Integrated Resource Plan filings are complete. Regulation 9021 § 3.03(a).

The Energy Bureau made its determination that PREPA's Integrated Resource Plan filings were complete on July 3, 2019, and specifically noted petitions for intervention are due by August 2, 2019. Resolution and Order on the Completeness Determination of PREPA's Integrated Resource Plan Filing and Procedural Calendar, Attachment A, July 3, 2019, Case No. CEPR-AP-2018-0001. The Local Environmental Organizations have filed this petition before the deadline to intervene.

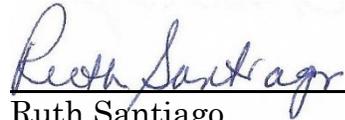
**III. CONCLUSION:**

For the foregoing reasons the Local Environmental Organizations' Petition to Intervene should be granted.

**RESPECTFULLY SUBMITTED** this 29 day of July, 2019, in San Juan, Puerto Rico.

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**CERTIFICATION OF FILING AND SERVICE**

I hereby certify that on July 29, 2019, I have filed the above Comment with the Puerto Rico Energy Bureau in hard copy format at the office of the Clerk of the Puerto Rico Energy Bureau, at the Seaborne Building Plaza (old World Plaza Building), 268 Munoz Rivera Avenue, Plaza Level, Suite 202, San Juan, Puerto Rico, 00918; and further, at the approximately the same time, that courtesy copies of the Motion were sent via email to the Puerto Rico Energy Bureau via email to secretaria@energia.pr.gov and mcintron@energia.pr.gov, and to the office of the Energy Bureau's internal legal counsel via email to legal@energia.pr.gov and sugarte@energia.pr.gov.

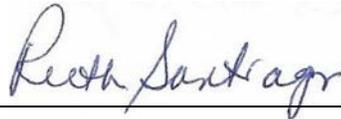
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