

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

IN RE: IMPLEMENTATION OF THE PUERTO RICO ELECTRIC POWER AUTHORITY INTEGRATED RESOURCE PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Renewable Energy Generation and Energy Storage Resource Procurement Plan – First Tranche Projects for Phase III Contract Negotiation and Final Interconnection Plan Approvals

RESOLUTION AND ORDER

I. Introduction

On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued the IRP Order¹, with respect to the Integrated Resource Plan (“IRP”) of the Puerto Rico Electric Power Authority (“PREPA”). The IRP Order approved a Modified Preferred Resource Plan that included a plan for six (6) tranches of procurement for renewable energy and battery storage resources.²

On December 16, 2021, PREPA filed a document titled *Motion Submitting 733 MW of PV Renewable Energy Draft Power Purchase and Operating Agreements Offered in Tranche 1 of PREPA’s Renewable Generation and Energy Storage Resources RFP for Energy Bureau Evaluation and Approval* (“December 16 Motion”). In the December 16 Motion PREPA mentioned fifteen (15) solar PV projects totaling 732.7 MW and submitted draft bespoke power purchase and operating agreements (“PPOAs”) contracts for nine (9) of those projects, for evaluation and approval by the Energy Bureau. In the submission, PREPA also identified three (3) energy storage resource projects totaling 220 MW (4-hour duration), for which PREPA indicated it planned the submission of bespoke energy storage services agreements (“ESSAs”) as well as the remaining six (6) draft bespoke PV PPOAs by or before December 23, 2021. PREPA included as Attachment A of the December 16 Motion, a memorandum from PREPA’s Tranche 1 Evaluation Committee describing the detailed evaluation approach taken to arrive at its selection of projects for approval.

On December 23, 2021, PREPA filed a document titled *Supplemental Motion Submitting PV Renewable Energy Draft Power Purchase and Operating Agreements (PPOAs) As Well As Energy Storage Service Agreements (ESSAs) As Part of PREPA’s Tranche 1 Renewable Generation and Energy Storage Resources RFP For Energy Bureau Evaluation and Approval* (“December 23 Motion”). PREPA submitted three (3) bespoke ESSA contracts totaling 220 MW and six (6) draft bespoke PV PPOAs reflecting the projects indicated in the December 16 Motion. PREPA also included three (3) draft bespoke solar PV PPOAs totaling 112.1 MW, additional to the 732.72 MW of solar PV projects submitted for approval in the December 16 Motion. The combined solar PV resource procurements for which approval is sought at this time by PREPA is 844.82 MW, consisting of eighteen (18) different projects.

On December 28, 2021, the Energy Bureau issued a Resolution and Order (“December 28 Order”) seeking additional information regarding the December 16 Motion. The December 28 Order included a set of questions as Attachment A, to which PREPA was ordered to respond by January 7, 2022.

The December 28 Order requested PREPA to submit four project offerings totaling 130 MW of solar PV, in addition to the 732.72 MW for which approval was requested in the December

¹ Final Resolution and Order on the Puerto Rico Electric Power Authority’s Integrated Resource Plan, *In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-001 August 24, 2020 (“IRP Order”).

² *Id.*, pp. 266-268, ¶ 860.



16 Motion, based on the full set of solar PV projects identified in PREPA's Attachment A to its December 16 Motion. These "Four Additional PV" projects were initially assessed by the Energy Bureau as in alignment with the IRP Order and Modified Action Plan and as meeting a \$105/MWh threshold for Levelized Cost of Energy ("LCOE") in real currency terms. The December 28 Order further requested submission by PREPA of "Six Additional Storage" projects in addition to the 220 MW of 4-hour duration project offerings contained in the December 16 Motion.

On January 6, 2022, PREPA submitted a document titled *Request for Clarification, Partial Reconsideration of the December 28 Order, Confidential Meeting, and for Extension of Time* ("January 6 Request"). In its January 6 Request PREPA noted that its December 23 Motion submission included a PREPA Tranche 1 Committee recommendation to approve, based on meeting LCOE thresholds, three (3) additional solar PV offerings totaling 112.1 MW for a total Tranche 1 solar PV capacity of 844.82 MW. PREPA further requested a confidential meeting to discuss energy storage proposal selection processes, extend the deadline for submitting responses to the December 28 Order questions, and be relieved from providing FOMB³ approvals for projects since FOMB will not be in position to review the PPOAs and ESSAs until the Energy Bureau approves the projects. PREPA requests clarification or reconsideration of the December 28 Order, and to set aside the Energy Bureau's request to submit additional solar PV offerings.

On January 12, 2022, PREPA submitted a document titled *Motion in Compliance with the December 28 Order Submitting 167 MW of VPP Resources and Reiterating Request for Confidential Meeting and Extension of Time* ("January 12 Motion"). In the January 12 Motion, PREPA reiterated its request for an extension of time to answer questions from the December 28 Order. PREPA also provided information on the status of virtual power plant ("VPP") grid service agreements ("GSAs") and reiterated its request for a confidential meeting to discuss energy storage resources selection.

On January 12, 2022, PREPA filed a document titled *Motion in Compliance with the December 28 Order Submitting 167 MW of VPP Resources and Reiterating Request for Confidential Meeting and Extension of Time* ("Second January 12 Motion"). In the Second January 12 Motion, PREPA reiterates the request for a confidential meeting and filed two (2) drafts bespoke GSAs for VPP resources.

On January 26, 2022, PREPA filed a document titled *Motion Reiterating Request for Meeting to Discuss Responses to Attachment A of the December 28 Order and Energy Storage Resources* ("January 26 Request"). In the January 26 Request PREPA reiterates its request for a confidential meeting to discuss the energy storage resource information as well as the questions from Attachment A to the December 28 Resolution. PREPA also requested the Energy Bureau to grant ten (10) business days after the requested meeting took place, to submit the information required.

On January 28, 2022, the Energy Bureau issued a Resolution and Order ("January 28 Order") addressing PREPA's requests for extensions to respond to questions from the December 28 Resolution and Order. The Energy Bureau granted certain PREPA requests concerning refiling of information and clarified aspects of the December 28 Order.

II. Applicable Law and Evaluation Standards

A. Energy Bureau jurisdiction in analyzing power purchase agreements

In 2010, recognizing the adverse impact that fossil fuels may have on the environment, the Puerto Rico Legislative Assembly approved Act 82-2010,⁴ which, among other things, established a mandatory Renewable Portfolio Standard ("RPS") to promote the production

³ Financial Oversight and Management Board for Puerto Rico ("FOMB").

⁴ *Public Policy Act on Energy Diversification through Sustainable and Alternative Renewable Energy in Puerto Rico*, as amended.



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of energy using renewable resources. Act 82-2010 established the RPS that retail energy providers (including PREPA) had to comply with, to achieve a goal of twenty percent (20%) power generation based on renewable sources by the year 2035.⁵ Retail energy providers may use Renewable Energy Credits (“RECs”)⁶ to demonstrate compliance with the established RPS.⁷

Act 57-2014⁸ created the Energy Bureau as the independent and specialized entity in charge of regulating, overseeing, and enforcing Puerto Rico’s energy public policy. Act 57-2014 entrusts the Energy Bureau with the power to establish RPS regulation and to ensure compliance with the RPS.⁹

Act 17-2019¹⁰ established public policy on energy in Puerto Rico to, among other things, set parameters for a resilient, reliable, and robust energy system, with just and reasonable rates for all classes of customers.¹¹ Through Act 17-2019, the Legislature adopted parameters for a fleet modernization that considers and promotes a broader use of renewable sources.

To that effect, Act 17-2019 adopted a public policy for phasing out the use of fossil fuels, and ultimately eradicate our reliance on gas, coal, and oil. Specifically, Act 17-2019 modified the RPS requirements established by Act 82-2010. It increased the RPS percentage of renewable generation to forty percent (40%) by 2025, sixty percent (60%) by 2040, and of one hundred percent (100%) by the year 2050.¹² On the other hand, Act 33-2019¹³ established that by 2022 twenty percent (20%) of all generation must come from renewable sources.¹⁴ Moreover, Act 17-2019 calls for a total ban of coal-based generation by January 1, 2028.¹⁵

Paragraph (b) of Article 1.11 of Act 17-2019 provides that any power purchase agreement, or any amendments to, or extension of, a power purchase agreement awarded prior to the approval of Act 57-2014 between PREPA, and any independent power producer shall be executed pursuant to the provisions of Article 6.32 of Act 57-2014 and the regulations adopted thereunder by the Energy Bureau.¹⁶

As part of its oversight duties, Article 6.32 of Act 57-2014 grants the Energy Bureau the power to evaluate and approve all power purchase agreements that PREPA intends to enter with any independent energy provider, prior to their execution. This includes all agreements for the acquisition of energy that is produced using renewable resources.¹⁷

⁵ Act 82-2010, Statement of Motives, Art. 2.3 (as enacted).

⁶ One (1) REC is equivalent to 1 MWh of electricity produced through renewables sources.

⁷ Act 82-2010, Art. 2.11 (as enacted) (amended and renumbered as Art. 2.10 by Act 17-2019, Art. 4.9).

⁸ *Puerto Rico Electric Transformation and RELIEF Act*, as amended.

⁹ Act 57-2014, Art. 6.3(f), (u).

¹⁰ Puerto Rico Energy Public Policy Act.

¹¹ Statement of Reasons of Act 17-2019.

¹² Act 17-2019, Art. 1.6(7); Art. 4.2 (amending Art. 2.3 of Act 82-2010).

¹³ *Puerto Rico Climate Change Mitigation, Adoption and Resilience Act*.

¹⁴ Act 33-2019, Art. 5(4).

¹⁵ *Id.*, Art. 1.6(3); Art. 4.11 (adding new Art. 2.13 to Act 82-2010).

¹⁶ Paragraph (b), Art. 1.11 of Act 17-2019.

¹⁷ Act 57-2014, Art. 6.32 (Act 57-2014, Art. 6.33 (as enacted), amended and renumbered as Art. 6.32 by Act 4-2016, Art. 26).



In order to ensure that such agreements have an appropriate and reasonable price, the parameters established by the Energy Bureau shall be consistent with the ones normally used in the industry for such purposes, as well as any other parameter or method used to regulate revenues attributable to power purchase agreement.¹⁸ In addition, power purchase agreements shall be awarded taking into account the goals and mandates established in the RPS, which compel the transition from energy generation from fossil fuels to an aggressive integration of renewable energy, as provided in Act 82-2010.¹⁹

B. Applicable Criteria in the Evaluation of Power Purchase Agreements

Article 6.32 of Act 57-2014 establishes a comprehensive statutory framework for the evaluation and approval of power purchase agreements, as well as other transactions involving electric power service companies, such as PREPA. It reiterates the Energy Bureau's authority to adopt the necessary regulations and regulatory actions that govern the process of evaluation and approval of power purchase agreements and other transactions involving electric power service companies.²⁰ Paragraph (b) of Article 6.32 expressly states that any extension of, or amendment to, a power purchase agreement executed prior to the approval of Act 57-2014 shall comply with the Puerto Rico Energy Public Policy Act and shall be subject to the approval of the Energy Bureau.²¹

In evaluating a proposal for an agreement between electric power service companies, the Energy Bureau must ensure that the proposed power purchase agreements are consistent with the energy public policy established by Act 17-2019, and the IRP Order. Agreements that are inconsistent with the IRP Order shall not be approved.²² The Energy Bureau must ensure that the charges and fees that will be paid to the independent energy producer are just, reasonable, and protect public interest and public finances.²³ The Energy Bureau should determine that parameters related to profit margin and price escalators are based on industry costs and profitability benchmarks, given the nature of the proposed projects.²⁴ The Energy Bureau should also ensure that the interconnection of the proposed projects will not jeopardize the reliability and safety of the electric system.²⁵

III. Discussion and Findings

1. Evaluation regarding consistency with the IRP Order

An integrated resource plan ("IRP") takes into consideration all reasonable resources needed to supply demand over a given planning period, which in our case is twenty (20) years.²⁶ As stated before, on August 24, 2020, the Energy Bureau approved the IRP Order which contains the approved Modified Action Plan.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Paragraph (c), Art. 6.32 of Act 57-2014.

²¹ Paragraph (b), Art. 6.32 of Act 57-2014.

²² Paragraph (d), Art. 6.32 of Act 57-2014.

²³ Art. 6.32(g) of Act 57-2014.

²⁴ *Id.*

²⁵ *Id.*, Art. 6.32(f).

²⁶ Art. 1.9 of Act 17-2019 and Art. 6.23 of Act 57-2014.



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As part of the instant proceeding, the Energy Bureau computed the LCOE values in nominal and real currency terms for twenty-six (26) separate²⁷ solar PV project offerings, including individual project offering values and the total costs of the portfolio of projects approved. Attachment A of this Resolution and Order, which is confidential until the RFP process is completed²⁸, contains the Energy Bureau's summary table of costs associated with all the submitted solar PV projects that have undergone the final phase of evaluation ("Phase 3") by PREPA's Evaluation Committee. The Energy Bureau used the IEA²⁹ metric, as defined by PREPA, to gauge the relative and absolute levelized costs of the Tranche 1 project offerings.

While levelized costs are a key consideration for project selection - because they can be compared to cost assumptions used during the IRP process - they do not reflect either the value renewable resources provide towards meeting Puerto Rico's mandated RPS, or the value of those resources in comparison with alternatives (*e.g.* energy from existing or new fossil-fired plants, or renewable energy from procurement in one of the subsequent Modified Action Plan procurement tranches to be issued over the next two years). While the IRP process did compare both costs and benefits of solar PV and alternative resources, the Tranche 1 RFP process does not allow for, and does not require, a formal update to the costs assumed for alternative resources.

The IRP Modified Action Plan prescribed competitive procurement for renewable energy resources.³⁰ Inherent in the planned procurement of more than 3,000 MW of solar PV (or other types of renewable energy generation) and as much as 1,500 MW of battery storage resources,³¹ through six (6) procurement tranches, will be an evolving development of a competitive market for these resources in Puerto Rico. The Energy Bureau expects there to be variation in per unit values for any particular solar PV, other renewable, or battery energy storage project. Issues of scale, location, interconnection, financing, and other factors will lead to a range of costs for procurement of these resources required to meet Puerto Rico's public policy goals. The Energy Bureau's use of a weighted, real currency portfolio price to define a threshold for project selection reflects this variation.

The Energy Bureau compared the individual and the total portfolio cost to a benchmark from the IRP. This benchmark, as depicted in Exhibit 6-34 of PREPA's June 2019 IRP filing, indicates the use of solar PV LCOE of roughly \$78/MWh for year 2022 (in 2018 currency) as a core input to many scenarios modeled in the IRP process. When adjusting for inflation, the benchmark cost assumption from the IRP rises to roughly \$83/MWh in 2021 dollars.³² The Energy Bureau used this benchmark value, \$83/MWh in real 2021 currency, to guide its initial decision. The selection of eighteen (18) PV projects whose costs in total are under this benchmark value allows for a major step forward in meeting the mandated RPS requirements, while maintaining a prudent approach mindful of the need to allow the competitive market for solar PV provision to continue to develop.

²⁷ The PREPA Evaluation Committee memorandum included examination of two different price offerings for one project, or twenty-seven offerings. The Energy Bureau evaluation uses the lower price offering for that one project.

²⁸ All information in the Attachment A regarding the PV analysis of the proposals shall be maintained confidential in compliance with Section 4.8(g) and 10.2 of the *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet*, October 11, 2016 ("Regulation 8815"). Such information shall be made public once the RFP process concludes as per Section 4.8(g) of Regulation 8815.

²⁹ International Energy Agency.

³⁰ IRP Order, ¶ 859.

³¹ IRP Order, ¶ 860, Table 17.

³² At 2%/year inflation.



It is important to note that, although the Energy Bureau used a benchmark cost assumption of roughly \$83/MWh in 2021 dollars to guide its decision regarding Tranche 1, such benchmark may change for future Tranches based on the specific circumstances at the time. Such circumstances may include PREPA exiting the Title III proceeding and the ensuing economics information as the referenced market develops, as well as any other factor that might affect the project's LCOE.

The Energy Bureau **DETERMINES** that using a weighted portfolio price, in real terms, compared to cost assumptions used in the IRP process, serves as a reasonable, though not absolute, threshold guidance when considering which Tranche 1 RFP renewable energy projects are aligned with the Modified Action Plan and whose selection, at this time, will benefit Puerto Rico. Based on this threshold guidance, the Energy Bureau **APPROVES** the eighteen (18) solar PV projects as requested by PREPA, based on their Power Purchase and Operating Agreement ("PPOA") terms.

Appendix A of this Resolution and Order contains additional Tranche 1 RFP project offerings for which PREPA did not submit bespoke solar PPOAs. After an initial evaluation of information associated with those projects, presented as part of the Phase 3 evaluation process, the Energy Bureau identified certain projects whose costs are closely aligned with approved projects herein and may fall within the threshold of alignment with the IRP Modified Action Plan's assumptions. After the receipt of additional information to be filed by PREPA, as required by the January 28 Order,³³ the Energy Bureau will be in position to finalize an evaluation of these additional solar PV projects.

The Energy Bureau completed the initial analysis of the levelized cost of storage ("LCOS"), as defined by PREPA's use of an IEA metric, for three (3) submitted template contracts for battery energy storage. For those offerings, the present value cost of storage capacity on a per unit basis (present value dollars per kW of capacity, for four-hour equivalent storage) and an LCOS metric has been computed. Additional information is required from PREPA to enable the Energy Bureau to complete its independent evaluation of the battery storage projects. As with the additional solar PV projects noted above, after such additional information submittal, the Energy Bureau will finalize its independent evaluation.

2. MTR's Evaluation

Minimum Technical Requirements ("MTRs") are contract specifications that require distributed energy resources to have mechanisms that control output fluctuations and ramp-rates. MTRs are used to prevent reliability issues that could arise from interconnecting large quantities of intermittent sources to a relatively small electrical system with limited inertia.

Contrary to other jurisdictions, PREPA renewable energy supply contracts include strict MTRs which make price comparison by technology difficult. The bespoke solar PV PPOAs require the developers to comply with such MTRs. The MTRs designed to comply with certain technical parameters are included in Appendix L of the bespoke contracts.

After evaluating the information filed by PREPA pertaining to the required MTRs, incorporated in Appendix L of the bespoke solar PV PPOAs, the Energy Bureau **DETERMINES** that the terms and conditions presented in Appendix L regarding the MTRs applicable to the projects, are favorable to the reliability and safety of the Puerto Rico electric system.

3. Compliance with Interconnection Requirements

The bespoke contracts for the solar PV projects include an Appendix I titled *Interconnection Description and Specifications* and an Appendix I-1 titled *Electrical Interconnection Single Line*. These appendices specify the details pertaining to the interconnection facilities,

³³ Resolution and Order, *In Re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, January 28, 2022.



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including the applicable codes and standards, and the responsibilities of each party within their respective interconnection facilities and the metering facilities.

PREPA states that the Resource Provider shall perform and comply with the interconnection specifications indicated in each bespoke PPOA contract. Such specifications and standards do not constitute an all-inclusive scope of work. PREPA and the Resource Provider will require a Facility Study and a System Impact Study to determine the final design of the interconnection facilities, as described in Article 3 (*Pre-Operation Period*) of the bespoke PPOA contracts.

PREPA, the Resource Provider and the T&D Operator shall enter into a reasonable agreement in form and substance to address, among other things: (i) the transfer of the PREPA interconnection facilities infrastructure to PREPA, (ii) the application of insurance proceeds relating to the PREPA interconnection facilities, (iii) PREPA audit rights with respect to the PREPA interconnection facilities, and (iv) the assignment of all warranties and claims under the interconnection construction contract after commissioning and acceptance of the PREPA interconnection facilities.

Based on the information provided, the Energy Bureau **CONCLUDES** that the proposed projects will not jeopardize the reliability and safety of the electric system.

4. Bespoke PV PPOAs Evaluation

PREPA requests the Energy Bureau to approve the (18) Bespoke PV PPOAs pursuant to the applicable provisions of Regulation 8815.³⁴ However, as stated before, Article 6.32 of Act 57-2014 establishes a comprehensive statutory framework for the evaluation and approval of power purchase agreements, as well as other transactions involving electric power service companies.

It is important to note that, even though Regulation 8815 does not include all provisions of Article 6.32 of Act 57-2014, Regulation 8815 is consistent with the referenced Article 6.32 regarding the requirement that a proposed contract must be aligned with the IRP. Moreover, Regulation 8815 provides a thorough evaluation process for the approval of a negotiated contract resulting from an RFP selection process, which is also consistent with Article 6.32 of Act 57-2014, Article 1.11 of Act 17-2019, and the general Energy Public Policy promulgated by Act 17-2019.

For example, in the evaluation of power purchase agreements, Regulation 8815, as well as Article 1.11 of Act 17-2019, considers parameters such as pricing, price adjustments, price escalators, and profit margins of the agreements. The common objective of Act 17-2019 and Regulation 8815 is to ensure that such parameters are consistent with industry standards, as well as any other parameter or method used to regulate revenues attributable to power purchase agreements, to ensure that such agreements have an appropriate and reasonable price.

As discussed in Parts III.1 through III.3 of this Resolution and Order, the eighteen (18) bespoke solar PV PPOAs comply with the criteria established in Section 6.32 of Act 57-2014 and Article 1.11 of Act 17-2019. Likewise, the Energy Bureau carefully evaluated the terms and conditions of the eighteen (18) bespoke solar PV PPOAs, taking into consideration the pertinent provisions of Sections 4 and 7.4 of Regulation 8815, which are in alignment with the provisions of Act 57-2014 and Act 17-2019. After such evaluation, the Energy Bureau **CONCLUDES** that the eighteen (18) bespoke solar PV PPOAs also comply with the pertinent provisions of Regulation 8815.



³⁴ Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, October 11, 2016 ("Regulation 8815").

Regulation 8815 requires that, prior to the issuance of an RFP, PREPA notifies in writing the Energy Bureau about the proposed project. Such notification must include, among other things, all associated documents that explain the project and a detail narrative regarding how the proposed project and the terms of the contract, as described in the proposed RFP, complies with the IRP.

Pursuant to Article 7.1 of Regulation 8815, upon completion of the negotiation of a contract, the project committee shall prepare a report, which shall include: (i) the reasons for selecting the chosen proponent and the reasons for entering into the proposed contract; (ii) a description of the followed procedure, including comparisons between the chosen proponent and other proposals presented; (iii) an explanation of how the pricing terms included in the contract comply with the parameters established in the RFP and previously approved by the Energy Bureau, as well as all other information pertinent to the followed procedure and the evaluation process.³⁵

The Energy Bureau must review the terms of the contract to ensure compliance with the previously approved terms of the RFP and the form of the contract included as part of the approved RFP. The Energy Bureau may approve or reject the proposed contract.³⁶

In the instant case, the Energy Bureau previously evaluated and approved the Tranche 1 RFP and the draft solar PV PPOA.³⁷ After reviewing the eighteen (18) bespoke solar PV PPOAs submitted by PREPA, along with the report required by Section 7.1 of Regulation 8815, the Energy Bureau **DETERMINES** that the referenced contracts do not include material modifications and are consistent with the previously approved terms of the Tranche 1 RFP and the form of the solar PV PPOA included as part of the Tranche 1 RFP.

IV. Conclusion

The Energy Bureau **DETERMINES** the referenced eighteen (18) solar PV projects are in alignment with the Modified Action Plan, as set forth in the IRP Order. To that effect, the Energy Bureau conducted an independent evaluation of the LCOE and related metrics. Based on this independent evaluation, the Energy Bureau **APPROVES** eighteen (18) solar PV projects totaling 844.8 MW, as detailed in Appendix A³⁸ to this Resolution and Order, in response to PREPA's Tranche 1 procurement process for renewable energy and storage resources.

Moreover, the Energy Bureau **DETERMINES** that the bespoke solar PV PPOAs associated with these eighteen (18) solar PV projects do not include material modifications and are consistent with the previously approved terms of the Tranche 1 RFP and the form of the solar PV PPOA included as part of the Tranche 1 RFP. Therefore, the Energy Bureau **APPROVES** the referenced eighteen (18) solar PV PPOAs.

The Energy Bureau **TAKES NOTICE** of PREPA's request for approval³⁹ for three (3) battery energy storage projects. However, the Energy Bureau requires additional information to complete its evaluation of those project offerings.

³⁵ *Id.* at Art. 7.1(a).

³⁶ *Id.* at Art. 7.1(d).

³⁷ See the following documents in the instant case: (i) Resolution and Order issued by the Energy Bureau on January 5, 2021, (ii) Resolution and Order issued by the Energy Bureau on and January 26, 2021, (iii) a document filed by PREPA on February 22, 2021, titled *Motion Informing Issuance of Renewables RFP Tranche 1* Tranche 1 and, (iv) a document filed by PRPEPA on February 24, 2021, titled Motion to Clarity PREPA's Webpage Public Link Access to Renewable RFP Tranche 1.

³⁸ The eighteen (18) approved PV PPOAs projects are those numbered from 1 to 18 in column titled # of projects in Appendix A of this Resolution and Order.

³⁹ December 23 Motion.



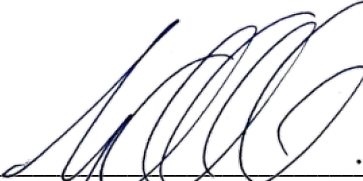
As stated before, PREPA is required to submit additional information in response to questions contained in the December 28 Order, in order to complete the evaluation of several additional projects as presented in Appendix A of this Resolution and Order.⁴⁰ The Energy Bureau will evaluate such information in order to issue a final determination regarding these projects.

Any party adversely affected by this 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 notification date of this Final Resolution and Order. Such request 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. Should the Energy Bureau reject it forthright or fails to act upon 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 such denial or the date in which said fifteen (15) day term expires, whichever occurs first. If the Energy Bureau considers the motion, the term to seek judicial shall commence from the notification date of such determination. Such resolution shall be issued and filed in the record within ninety (90) days after the motion for reconsideration has been filed. If the Energy Bureau considers the motion to reconsider but takes no action regarding said motion within ninety (90) days of its filing, it shall lose jurisdiction on the motion and the term to seek 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.

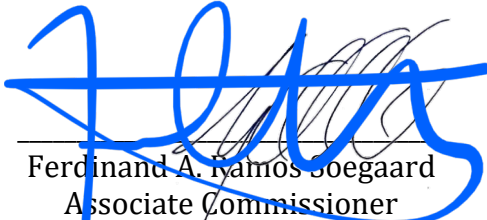
In the alternative, any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the notification date of this Final Resolution and Order. This in accordance with Section 11.03 of Regulation 8543, and the applicable provisions of the LPAU and the Court of Appeals Regulation.

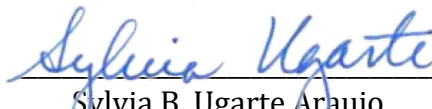
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Edison Avilés Deliz
Chairman


Ángel R. Rivera de la Cruz
Associate Commissioner


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner


Sylvia B. Ugarte Araujo
Associate Commissioner

⁴⁰ The January 28 Order directed PREPA to speedily file responses to those questions.



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 2, 2022. I also certify that on February 2, 2022 a copy of this Resolution and Order was notified by electronic mail to the following: laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com, kbolanos@diazvaz.law; and mvazquez@diazvaz.law and 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 February 2, 2022.



Sonia Seda Gaztambide
Clerk



Confidential Appendix A

# of projects	PREPA-ID	Project MW	Cumulative MW if selected	1stYr Mwh	Source of price stream data	Energy Bureau Initial Computed Nominal LCOE (IEA) \$/MWh	Energy Bureau Initial Computed Portfolio Weighted Nominal LCOE (IEA) \$/MWh	Energy Bureau Initial Computed \$2021 Real LCOE (IEA) \$/MWh	Energy Bureau Initial Computed Portfolio Weighted \$2021 Real LCOE (IEA) \$/MWh	PREPA LCOE Nominal \$/MWh	PREPA LCOE Real \$2023 \$/MWh	1st year contract price, Nominal \$/MWh	1st Year interconnecti on adder, Nominal \$/MWh	Annual Escalator	Estimated Annual Capacity Factor	Nominal Price Cap, Cents/kWh if applicable
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