



GOVERNMENT OF PUERTO RICO

Puerto Rico Electric Power Authority

Governing Board

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RESOLUTION 4694 FOURTH AMENDMENT TO FREEPOINT'S FUEL SUPPLY CONTRACT

- WHEREAS:** The Puerto Rico Electric Power Authority (PREPA) is a public corporation and an instrumentality of the Government of Puerto Rico created by Act No. 83 of May 2, 1941, as amended (Act No. 83). PREPA was created to provide electrical energy in a reliable way contributing to the general welfare and sustainable future of the people of Puerto Rico, maximizing benefits and minimizing social, environmental and economic impacts. In addition, it provides a service based on affordable, fair, reasonable and non-discriminatory cost that is consonant with environmental protection, non-profit, focused on citizen participation and its clients.
- WHEREAS:** Act No. 83, supra authorizes PREPA, in the management of its purposes, to grant contracts and formalize all the instruments that are necessary or convenient in the exercise of any of its powers.
- WHEREAS:** On July 31, 2015, PREPA entered into contract 902-02-15 with Freepoint Commodities, LLC (Freepoint), for the sale and delivery of No. 6 fuel oil (Bunker C) for the Aguirre, Costa Sur, San Juan and Palo Seco steam plants.
- WHEREAS:** Freepoint's contract expires on October 30, 2019.
- WHEREAS:** On February 21, 2019, Freepoint submitted an unsolicited proposal to PREPA requesting a two-year term extension of its current contract.
- WHEREAS:** In order to gauge the fuel markets' interest in supplying bunker fuel oil to PREPA, management issued a request for information (RFI).
- WHEREAS:** The result of the RFI only identified Freepoint, PREPA's current bunker supplier, as the only company interested in doing business with PREPA, on account of PREPA's current financial situation.
- WHEREAS:** If an RFP process for the supply of light distillate No. 2 were to be pursued at this time, it could place PREPA in a worse financial position than if the corporation were to accept the extension offer of the existing Freepoint contract.



WHEREAS: In order to determine the feasibility of the requested extension, both from a legal and practical standpoint, PREPA's management requested a legal opinion from PREPA's General Counsel, as well as an opinion from Sargent & Lundy, a PREPA contractor assisting PREPA in its revitalization and transformation efforts.

WHEREAS: On March 19, 2019, PREPA's General Counsel issued a legal opinion concluding that, based on Act No. 83 and a thorough analysis of case law by the Supreme Court of Puerto Rico, there was no legal impediment for PREPA to proceed and enter into an agreement with Freepoint, to extend the existing contract for a period of two (2) years.

WHEREAS: On February 26, 2019, Sargent & Lundy issued a recommendation to extend Freepoint's existing contract for a period of two (2) years.

WHEREAS: In its recommendation, Sargent & Lundy concluded that extending the contract would go hand in hand with Puerto Rico's public policy concerning PREPA's revitalization and transformation process and that extending the contracts would allow PREPA to secure fuel supply during the privatization and transformation process, guarantee fuel supply to assure the reliability of PREPA's generating system and allow a window of opportunity for a prospective purchaser to establish its own fuel supply strategy.

THEREFORE: In accordance with Act 83, PREPA's Governing Board resolves to:

Authorize PREPA to enter into an agreement with Freepoint to extend the current fuel supply contract for a term of two (2) years, beginning from the expiration date of the current contract.

Approved in San Juan, Puerto Rico, on the twenty seventh day of March, two thousand nineteen.



Eduardo Arosemena- Muñoz
Secretary of the Board