

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

In the Matter of:

**Puerto Rico Electric Power Authority and  
Genera PR, LLC,  
Palo Seco Steam Power Plant,  
Toa Baja, Puerto Rico,**

Respondents,

In a proceeding under Section 113(d)  
of the Clean Air Act, 42 U.S.C. § 7413(d)

**CONSENT AGREEMENT AND  
FINAL ORDER**

**CAA-02-2025-1203**

**A. PRELIMINARY STATEMENT**

1. This is an administrative penalty assessment proceeding pursuant to Section 113(d) of the Clean Air Act (the “CAA” or “Act”), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), codified at 40 C.F.R. Part 22.
2. On behalf of the United States Environmental Protection Agency (“EPA” or “Complainant”), the Director of the Caribbean Environmental Protection Division (“CEPD”) for EPA Region 2 is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the Act. Specifically, pursuant to EPA Delegation of Authority 7-6-A and EPA Region 2 Delegation of Authority 7-6-A, the Administrator has delegated to the Director of CEPD, through the Regional Administrator of EPA Region 2, the authority to (a) make findings of violations, (b) issue CAA Section 113(d) administrative penalty complaints, and (c) agree to settlements and sign consent agreements memorializing those settlements, for CAA violations that occur in the jurisdiction of EPA Region 2.

3. Section 113(d) of the CAA authorizes the EPA Administrator to issue an order assessing civil administrative penalties against any person that has violated or is violating any requirement or prohibition of subchapters I, III, IV-A, V, or VI of the Act, or any requirement or prohibition of any rule, order, waiver, permit, or plan promulgated pursuant to any of those subchapters, including but not limited to any regulation promulgated pursuant to Sections 111 and 114 of the Act, 42 U.S.C. §§ 7411, and 7414.
4. Pursuant to EPA Delegation of Authority 7-6-C, the Administrator has delegated to the Regional Administrator of EPA Region 2 the authority to execute CAA Section 113(d) Final Orders.
5. Pursuant to Section 113(d) of the Act, the Administrator and the Attorney General, through their respective delegates, have jointly determined that this matter is appropriate for an administrative penalty proceeding. Specifically, the United States Department of Justice has granted the EPA's request for a waiver of the CAA Section 113(d) 12-month and monetary limitations on the EPA's authority to initiate an administrative penalty action in this matter.
6. Respondent the Puerto Rico Electric Power Authority ("PREPA") is a public corporation and government instrumentality organized pursuant to the laws of the Commonwealth of Puerto Rico. PREPA is the owner of the Palo Seco steam-fired electric power plant located at State Road PR-165, Km. 30.8, Toa Baja, Puerto Rico, (the "Facility"). Prior to July 1, 2023, PREPA was also the operator of the Facility.
7. Respondent Genera PR LLC ("Genera") is a limited liability company headquartered in San Juan, Puerto Rico, and has been contracted by PREPA to be the private operator of the Facility since July 1, 2023.
8. Respondents are each a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

9. In a Notice of Violation, dated December 8, 2023 (“NOV”), EPA alleged that Respondents violated Section 111 of the Act, specifically, 40 C.F.R. Part 60 Subpart KKKK—the New Source Performance Standards (“NSPS”) for Stationary Combustion Turbines; Section 112 of the Act, specifically, 40 C.F.R. Part 63, Subpart YYYY – the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Stationary Combustion Turbines; and the Puerto Rico Regulations for the Control of Atmospheric Pollution, which are part of the federally enforceable CAA State Implementation Plan. This action will resolve Respondents’ alleged CAA violations, discussed below, at the Facility.

10. The violations determined by EPA are set forth in detail in Section E of this Consent Agreement and Final Order (“Consent Agreement”), entitled “Conclusions of Law.”

## **B. JURISDICTION**

11. This Consent Agreement is entered into pursuant to Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22.

12. Pursuant to Section 113(d)(1)(C), the Administrator and the Attorney General, through their respective delegates, have jointly determined that this matter is appropriate for an administrative penalty assessment. *See* 42 U.S.C. § 7413(d)(1)(C); *see also* 40 C.F.R. § 19.4.

13. The Regional Administrator is authorized to ratify this Consent Agreement, which memorializes a settlement between Complainant and Respondent. 40 C.F.R. § 22.18(b)(3).

14. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. §§ 22.13(b) and 22.18(b).



### C. GOVERNING LAW

15. CAA Section 302(e) states that whenever the term “person” is used in the Act, the term includes “an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.” 42 U.S.C. § 7602(e).

16. CAA Section 101 states that one of the purposes of the Act is to “protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

#### *New Source Performance Standards*

17. Section 111 of the Act authorizes EPA to develop technology-based standards that apply to specific categories of stationary sources. These standards are referred to as the New Source Performance Standards (“NSPS”), which are promulgated under 40 C.F.R. Part 60. The Act provides that after the effective date of any emission limit or other standard promulgated pursuant to Section 111, it shall be unlawful for any owner or operator of a new source to operate that source in violation of the emission limit or standard. *See* 42 U.S.C. §§ 7411(e); 7411(h)(5). A “new source” is one that is constructed or modified after the regulations are issued. *See id.* § 7411(a)(2).

18. 40 C.F.R. Part 60 Subpart KKKK regulates stationary combustion turbines constructed after February 2005 with a heat input at peak load of equal to or greater than 10 million British Thermal Units (“MMBtu”) per hour, imposing emission limits on nitrogen oxides (“NOx”) and sulfur dioxide (“SO<sub>2</sub>”).

19. Pursuant to 40 C.F.R. § 60.4335(a), if a facility uses water or steam injection to control NOx emissions, it may demonstrate compliance for NOx by installing, calibrating, maintaining, and operating a continuous monitoring system to monitor and record the fuel



consumption and the ratio of water or steam to fuel being fired in the turbine when burning a fuel that requires water or steam injection for compliance.

20. Pursuant to 40 C.F.R. § 60.4355(a), each facility must develop and keep on-site a parameter monitoring plan for each unit.

***National Emission Standards for Hazardous Air Pollutants***

21. Section 112 of the Act requires the EPA Administrator to: (i) periodically review and revise the initial list of hazardous air pollutants (“HAP”) identified by the Congress, (ii) publish and revise a list of categories and subcategories of major and area sources of those HAP, and (iii) promulgate regulations establishing emission standards for each such category and subcategory. 42 U.S.C. §§ 7412(b)(1), (2); (c)(1), (2).

22. Section 112(a) of the Act, 42 U.S.C. § 7412(a), contains the following relevant definitions:

- a. “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants. 42 U.S.C. § 7412(a)(1);
- b. “stationary source” means any building, structure, facility, or installation which emits or may emit any air pollutant. 42 U.S.C. §§ 7412(a)(3); 7411(a)(3);
- c. “new source” means a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under Section 112 establishing an emission standard applicable to such source. 42 U.S.C. § 7412(a)(4);

- d. “hazardous air pollutant” means any air pollutant listed pursuant to Section 112(b) of the Act. 42 U.S.C. § 7412(a)(6);
- e. “owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source. 42 U.S.C. § 7412(a)(9); and
- f. “existing source” means any stationary source other than a new source. 42 U.S.C. § 7412(a)(10).

23. Section 112(d) of the Act requires EPA to promulgate regulations establishing national emission standards for hazardous air pollutants (“NESHAP”) for certain categories of major sources. NESHAPs promulgated under the CAA as amended in 1990 are set forth in 40 C.F.R. Part 63. Part 63 NESHAPs are sometimes known as maximum achievable control technology (“MACT”) standards, because Section 112(d) of the CAA, as amended in 1990, directs EPA to promulgate emissions standards based on the MACT. *See* 42 U.S.C. § 7412(d)(2).

24. 40 C.F.R. Part 63 Subpart YYYY establishes NESHAP and operating limitations for stationary combustion turbines located at major sources of emissions of hazardous air pollutants. Sources must demonstrate initial and continuous compliance with the emission and operating limitations. *See* 40 C.F.R. § 63.6080.

25. 40 C.F.R. § 63.6110 explains when a regulated entity must conduct initial performance tests or other initial compliance demonstrations, and 40 C.F.R. § 63.7 provides performance testing requirements.

26. After initial performance testing is completed, annual performance testing must be completed pursuant to Table 3 of 40 C.F.R. Part 63 Subpart YYYY. *See* 40 C.F.R. § 63.6115.

*Puerto Rico Regulations for the Control of Atmospheric Pollution*

27. Pursuant to the Puerto Rico Environmental Public Policy Act Law No. 9 of June 18, 1970, the Puerto Rico Environmental Quality Board (“EQB”) developed the Puerto Rico Regulations for the Control of Atmospheric Pollution (“RCAP”).
28. Law 122 of December 18, 2017 established that EQB’s functions, services, programs and/or powers were transferred to the Puerto Rico Department of Natural and Environmental Resources (“DNER”).
29. On January 22, 1997, EPA approved DNER’s RCAP, as submitted to EPA on September 29, 1995, as part of the federally approved SIP for the Commonwealth of Puerto Rico. 62 Fed. Reg. 3211.
30. RCAP Rule 102 establishes that “federally enforceable” means all limitations and conditions that are enforceable by the Administrator and citizens under the Act or that are enforceable under other statutes administered by the Administrator. Examples of federally enforceable limitations and conditions include, but are not limited to:
  - a. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to Section 112 of the Act as amended in 1990;
  - b. New source performance standards established pursuant to Section 111 of the Act, and emission standards established pursuant to Section 112 of the Act before it was amended in 1990;
  - c. All terms and conditions in a Title V permit, including any provisions that limit a source’s potential to emit, unless expressly designated as not federally enforceable.



- d. All limitations and requirements under the applicable implementation plan for the Commonwealth of Puerto Rico;
  - e. Limitations and conditions that are part of a federal construction permit issued under 40 C.F.R. § 52.21 or any construction permit issued under regulations approved by the EPA in accordance with 40 C.F.R. Part 51; and
  - f. Limitations and conditions in a state rule or program that have been approved by the EPA under Subpart E of 40 C.F.R. Part 63 for the purposes of implementing and enforcing Section 112.
31. RCAP Rule 102 establishes that “responsible official” means the following:
- a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
    - i. The facilities employ more than 250 persons or have gross annual sales lb\* or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
    - ii. The delegation of authority to such representatives is approved in advance by DNER.
  - b. For a municipality: a state, federal, or other public agency, either a principal executive official or ranked elected official. For the purpose of the RCAP, a principal executive officer of a federal agency includes the chief executive

officer having responsibility for the overall operations of the principal geographic unit of the agency (*e.g.*, a Regional Administrator of EPA).

32. RCAP Rule 603(a)(7)(i) requires each permit contain the following statement:

“The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.”

33. RCAP Rule 602 establishes that an owner or operator of a Title V source shall submit to DNER a timely and complete permit application.

34. RCAP Rule 603(d) establishes that DNER may include a permit shield provision stating that compliance with the conditions of a permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that such applicable requirements are included and are specifically identified in the permit or DNER, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or concise summary thereof.

35. RCAP Rule 605(b) establishes the requirements for issuing a Title V source permit, including that no Title V source may operate after the time that it is required to submit a timely and complete permit application. However, if the source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a Title V permit is not a violation of Rule 605(b) until DNER takes final action on the permit application.

#### **D. FINDINGS OF FACT**

The following findings of fact are based on a review of Facility records and communications with Genera in October of 2023:

36. PREPA owns and, since July 1, 2023, Genera operates the Facility.
37. PREPA began installing the Facility MobilePacs (“MobilePacs”) on October 25, 2019, when it operated the Facility.
38. On July 30, 2022, a performance test was conducted on the MobilePacs to determine compliance with the emission limits contained in the NSPS Subpart KKKK and the NESHAP Subpart YYYY.
39. On November 9, 2022, and pursuant to the RCAP, DNER issued a permit to construct an air emission source for the MobilePacs, bearing permit number PFE-70-0120-0010-I-II-C (the “November 2022 permit”).
40. On November 10, 2022, PREPA applied for a modification of the Palo Seco plant’s Title V Permit (bearing permit number PFE-TV-4911-70-0319-0239) to include the parameters established in the November 2022 permit.
41. On November 23, 2022, and pursuant to RCAP Sections 602 and 605, DNER deemed the Palo Seco plant’s Title V Permit modification application as complete and issued a “Title V permit modification application shield.”
42. Section IV.13 of the November 2022 permit establishes a fuel limit of 12,281,995 gallons of ultra-low sulfur diesel (defined as 15 ppm or 0.0015% by sulfur weight) during any consecutive 12-month rolling period.
43. Pursuant to the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement, dated January 24, 2023 (the “O&M Agreement”), Genera assumed operation of the Facility on July 1, 2023.



44. On October 2, 2023, Genera sent a letter to EPA and DNER via email (the “October 2 email”), in which it requested an increase in the fuel consumption limit in its current permit, based on the fact that emissions testing completed in July 2022 demonstrated that the MobilePacs’ actual emissions are lower than the projected emissions listed in the permit.

45. The current limits in the permit are based on EPA’s Prevention of Significant Deterioration non-applicability analysis, contained in a letter to Genera dated June 28, 2024.

46. Genera explained in the October 2 email that under the current circumstances facing Puerto Rico’s electric grid, continued operation of the MobilePacs was critical, because repairs to baseload units such as Aguirre steam-fired electric power plant’s Unit 1 and Palo Seco Unit 4 were behind schedule, and Puerto Rico lost approximately 650 MW from those two units.

47. On October 3, 2023, Genera sent an email to EPA which included a comparison between the MobilePacs permit emission limits and the results of the July 2022 performance testing. Genera reported that the MobilePacs consumed 15,111,109 gallons from November 2022 through September 2023.

48. The November 2022 permit requires that if a change in the “responsible official” at the Facility occurs, the new “responsible official” must submit a permit revision request no later than 30 days after the change, and include a sworn affidavit to comply with all the conditions established in the permit.

49. On October 19, 2023, DNER confirmed to EPA via email that no request to change the Palo Seco Power Complex’s responsible official had been submitted by Genera or PREPA.

50. The November 2022 permit establishes the specific conditions applicable to the MobilePacs for complying with the NSPS Subpart KKKK and the NESHAP Subpart YYYY.

51. On October 31, 2023, Genera sent a letter to EPA via email which included performance testing schedules for several of the power generation units. According to the letter, performance testing for the MobilePacs was scheduled to be conducted from November 27 through December 1, 2023.

52. Genera conducted NESHAP Subpart YYYY and NSPS Subpart KKKK testing on December 5-7, 2023.

53. On March 12, 2024, Genera sent EPA the December 2023 testing report via email.

54. Around August 2023, the MobilePacs exceeded the 12-month fuel usage limit in the November 2022 permit.

55. On November 13, 2024, DNER issued a modified permit to construct bearing permit number PFE-70-0120-0010-I-II-C to authorize installation of a vaporizer and facilitate conversion of the MobilePacs to operating on natural gas (the “November 2024 permit”).

56. PREPA and Genera have not submitted any semi-annual compliance reports pursuant to the NESHAP Subpart YYYY and the NSPS Subpart KKKK.

#### **E. CONCLUSIONS OF LAW**

Based on the Findings of Fact set forth above, EPA reaches the following Conclusions of Law:

57. Respondents are “persons” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the Puerto Rico RCAP Rule 102.

58. As of the date of this Consent Agreement, PREPA is the “owner” and Genera is the “operator” of the Facility within the meaning of the Puerto Rico RCAP Rule 102.

59. As of July 1, 2023, Genera became the “responsible official” of the Facility within the meaning of the Puerto Rico RCAP Rule 102.
60. Around August 2023, Respondents violated the fuel consumption limit for the MobilePacs established in the November 2022 Permit.
61. Respondents violated the November 2022 Permit condition that required them to request a revision of the permit no later than 30 days after a change of the Facility’s responsible official.
62. Respondents violated the NESHAP, 40 C.F.R. Part 63 Subpart YYYYY, by failing to conduct annual performance testing of the MobilePacs by no later than July 30, 2023, in contravention of 40 C.F.R. § 63.6115 and Table 3.
63. Respondents violated the NSPS, 40 C.F.R. Part 60 Subpart KKKK, by failing to submit the testing report within 60 days of the completion of the testing, in contravention of 40 C.F.R. § 60.4375(b).
64. Respondents violated the NESHAP, 40 C.F.R. Part 63 Subpart YYYYY, by failing to submit the testing report within 60 days of the completion of the testing, in contravention of 40 C.F.R. § 63.6150(f).
65. Respondents violated the NSPS, 40 C.F.R. Part 60 Subpart KKKK, by failing to submit any of the required semi-annual compliance reports since the MobilePacs were installed in 2019. 40 C.F.R. §§ 60.4375; 60.4395; 60.7(c).
66. Respondents violated the NESHAP, 40 C.F.R. Part 63 Subpart YYYYY, by failing to submit any of the required semi-annual compliance reports since the MobilePacs were installed in 2019. 40 C.F.R. § 63.6150(a).



## **F. TERMS OF CONSENT AGREEMENT**

67. For purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondents:

- a. admit that the EPA has jurisdiction over the subject matter alleged in this Consent Agreement;
- b. neither admit nor deny the factual allegations and alleged violations stated above, including in sections D and E of this Consent Agreement;
- c. consent to the assessment of a civil penalty as stated below;
- d. consent to the conditions specified in this Consent Agreement;
- e. agree to maintain compliance with the November 2024 permit;
- f. agree to maintain compliance with the NSPS Subpart KKKK and the NESHAP Subpart YYYY;
- g. agree to submit all past-due semi-annual compliance reports required under the NSPS Subpart KKKK and the NESHAP Subpart YYYY for the period commencing January 1, 2023 within 30 days of the Effective Date;
- h. agree to submit a copy of the of the parameter monitoring plan required by 40 C.F.R. § 60.4355(a) for each of the MobilePac units within 30 days of the Effective Date;
- i. agree to post a copy to PREPA/Genera's public-facing website of all of the past-due semi-annual compliance reports for the NSPS Subpart KKKK and the NESHAP YYYY, and annual emission test reports under the NESHAP Subpart YYYY within 30 days of the Effective Date;
- j. agree to post a copy to PREPA/Genera's public-facing website of all semi-annual compliance reports for the NSPS Subpart KKKK and the NESHAP Subpart YYYY, and annual emission test reports under the NESHAP

Subpart YYYY not yet due as of the Effective Date within 30 calendar days of submission to EPA;

- k. agree to provide the EPA with 30 calendar days' advance written notice of all future emissions testing that is planned to be conducted on the MobilePacs, except in extenuating circumstances where such failure is due to reasons beyond Genera's reasonable control;
- l. waive any right to contest the allegations set forth in this Consent Agreement; and
- m. waive their right to appeal the Final Order accompanying this Consent Agreement.

68. For purposes of this proceeding, Respondents:

- a. agree that this Consent Agreement states a claim upon which relief may be granted against Respondents;
- b. acknowledge that this Consent Agreement constitutes an enforcement action for purposes of considering Respondents' compliance history in any subsequent enforcement actions;
- c. consent to the issuance of the attached Final Order;
- d. waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this Final Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- e. consent to personal jurisdiction in any action to enforce this Consent Agreement or Final Order, or both, in the United States District Court; and

- f. waive any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement or Final Order, or both, and to seek an additional penalty for such noncompliance, and agree that federal law shall govern in any such civil action.

69. Civil Penalty. Respondents agree to pay a civil penalty in the amount of \$145,000 (“Assessed Penalty”) within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (“Effective Date”).

70. Respondents shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

71. When making a payment, Respondents shall:

- a. Identify every payment with Respondents’ names and the docket number of this Agreement, **CAA-02-2025-1203**.
- b. Concurrently with any payment or within 24 hours of any payment, Respondents shall serve proof of such payment to the following person(s) via electronic mail to:

Office of Regional Hearing Clerk  
U.S. Environmental Protection Agency—Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007  
[Maples.Karen@epa.gov](mailto:Maples.Karen@epa.gov)

and



Nancy Rodríguez, Chief  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency - Region 2  
[rodriguez.nancy@epa.gov](mailto:rodriguez.nancy@epa.gov)

and

Alex Rivera, Enforcement Officer  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency - Region 2  
[rivera.alex@epa.gov](mailto:rivera.alex@epa.gov)

and

Liliana Villatora, Chief, Air Branch  
Office of Regional Counsel  
U.S. Environmental Protection Agency – Region 2  
290 Broadway – 16th Floor  
New York, New York 10007  
[villatora.liliana@epa.gov](mailto:villatora.liliana@epa.gov)

Amanda Prentice  
Office of Regional Counsel  
U.S. Environmental Protection Agency—Region 2  
290 Broadway –16<sup>th</sup> Floor  
New York, New York 10007  
[prentice.amanda@epa.gov](mailto:prentice.amanda@epa.gov)

and

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondents’ names.

72. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondents fail to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts:

- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS large corporate underpayment rate ("LCU"). Any lower rate would fail to provide Respondents adequate incentive for timely payment.
- b. Handling Charges. Respondents will be assessed monthly a charge to cover EPA's costs of processing and handling overdue debts. If Respondents fail to pay the Assessed Penalty in accordance with the Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Effective Date. Additional handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the Assessed Penalty as well as any accrued interest, penalties, and other charges are paid in full.
- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Effective Date.

73. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondents fail to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

- a. refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14;
- b. collect the debt by administrative offset (*i.e.*, withholding of money payable to the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H;
- c. suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17; and
- d. refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.

74. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

75. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

76. Notices. Any submissions or notices that Respondents are required to make under this Agreement shall be made to the EPA via electronic mail to the following individuals:



Harish Patel, Air Compliance Branch, [patel.harish@epa.gov](mailto:patel.harish@epa.gov); Ralph Lonergan, Air Compliance Branch, [lonergan.ralph@epa.gov](mailto:lonergan.ralph@epa.gov); Alex Rivera, CEPD, [rivera.alex@epa.gov](mailto:rivera.alex@epa.gov); and Amanda Prentice, ORC, [prentice.amanda@epa.gov](mailto:prentice.amanda@epa.gov).

**G. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER**

77. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondents' liability to the United States for federal civil penalties for the violations specifically alleged above.

78. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

79. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

80. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Administrator or other delegate.

81. Any violation of this Consent Agreement and Final Order may result in EPA pursuing a civil judicial action for an injunction or civil penalties of up to \$124,426 per day per violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2) (as adjusted for inflation pursuant to 40 C.F.R. § 19.4), as well as criminal sanctions, as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Consent Agreement and Final Order in an administrative, civil judicial, or criminal action. Respondents reserve and may assert any available argument and defense and may use any information submitted under this Consent Agreement and Final Order, in response to any such action pursued by the EPA.

82. Nothing in this Consent Agreement shall relieve Respondents of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Respondents reserve and may assert any available arguments and defenses in response to any such action pursued by the EPA.

83. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondents or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment. Respondents reserve and may assert any available arguments and defenses in response to any such action pursued by the EPA.

84. The EPA reserves the right to revoke this Consent Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Consent Agreement, that any information provided by the Respondents in connection with the matters described in this Consent Agreement was materially false or inaccurate at the time such information was provided to the EPA. The EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. Under such circumstance, Respondents reserve the right to assert any available arguments and defenses to any such claim by the EPA. The EPA shall give the Respondents notice of its intent to revoke, which shall not be effective until received by the Respondents in writing.

85. Notwithstanding any other provision of this Order, Respondents expressly reserve and do not waive any and all arguments, rights and defenses as to any claims or actions of any kind whatsoever by any person or entity of any kind that is not a party to this Order, including, without limitation, all arguments, rights and defenses to contest the Findings of Fact (Section D) and Conclusions of Law (Section E) in this Consent Agreement in

response to such claim or action by any person or entity of any kind that is not a party to this Order.

#### **H. EFFECTIVE DATE**

86. Respondents and Complainant agree to issuance of the attached Final Order.

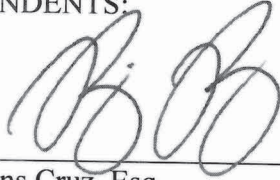
Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondents. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Administrator, on the date of filing with the Hearing Clerk.



## SIGNATURES

The foregoing Consent Agreement in the Matter of the Puerto Rico Electric Power Authority and Genera PR LLC, Docket No. CAA-02-2025-1203, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENTS:



\_\_\_\_\_  
Ricardo Pallens Cruz, Esq.  
Chief Regulatory Officer  
Genera PR LLC, as agent for PREPA  
400 Muñoz Rivera Ave., Suite 1200  
San Juan, Puerto Rico 00918  
ricardo.pallens@genera-pr.com

June 20, 2025

FOR COMPLAINANT:

CARMEN  
GUERRERO  
PEREZ

Digitally signed by CARMEN  
GUERRERO PEREZ  
Date: 2025.06.26 13:02:46  
-04'00'

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Carmen R. Guerrero, Director  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency - Region 2

June 26, 2025

**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Regional Administrator of EPA Region 2 concurs in the foregoing Consent Agreement, *In the Matter of the Puerto Rico Electric Power Authority and Genera PR LLC*, CAA-02-2025-1203. The attached Consent Agreement resolving this matter, entered into by the parties, is incorporated by reference into this Final Order and is hereby approved, ratified, and issued.

The Respondents are ORDERED to comply with all terms of the Consent Agreement, effective immediately.

**SO ORDERED**

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Michael R. Martucci  
Regional Administrator  
United States Environmental Protection Agency, Region 2  
290 Broadway  
New York, New York 10007-1866

DATE: \_\_\_\_\_

To:

Genera PR, LLC  
Attn: Ricardo Pallens Cruz  
400 Muñoz Rivera Ave., Suite 1200  
San Juan, Puerto Rico 00918  
ricardo.pallens@genera-pr.com