

FUEL PURCHASE CONTRACT 902-16-10  
NO. 6 FUEL OIL  
COSTA SUR STEAM PLANT

AS FIRST PARTY: The Puerto Rico Electric Power Authority, hereinafter referred to as "PREPA", a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act 83 of May 2, 1941, as amended, employer's Social Security [REDACTED] represented in this act by its Executive Director, mister Miguel Ángel Cordero López, of legal age, married, professional engineer, and resident of Caguas, Puerto Rico; and

AS SECOND PARTY: Petro West Inc., hereinafter referred to as "Seller", a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, authorized to do business in Puerto Rico, employer's Social Security [REDACTED] represented in this act by its President, José A. González Amador, of legal age, married, and resident of Mayagüez, by virtue of corporate resolution, dated as of March 25, 2010.

WITNESSETH

WHEREAS, PREPA issued a Request for Proposals (RFP) No. 902-16-10 for the supply of No. 6 fuel oil at its Costa Sur Steam Plant.

WHEREAS, in response to the referred RFP, Seller made an offer to supply No. 6 fuel oil at Costa Sur Steam Plant.

NOW THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties agree to the following:

*1. set.*  
*[Signature]*



## TERMS AND CONDITIONS

### ARTICLE I. Scope and Term of Contract

- A. Seller agrees to sell and deliver to PREPA and PREPA agrees to purchase from Seller approximately 2,000,000 barrels of No. 6 residual fuel oil in compliance with the specifications detailed in Exhibit A, for the Costa Sur Steam Plant.
- B. This Contract will become effective on the date of its signature.

### ARTICLE II. Termination

In the event Seller fails to comply with any of its obligations under Contract, PREPA may declare an immediate contract termination, cancellation or rescission, without prior notice to Seller. The exercise of its right to terminate, cancel or rescind the Contract shall not be understood as a waiver by PREPA to any other remedy it may have under this Contract or under the law for delays or breach incurred by Seller in the performance of its obligations under the Contract.

### ARTICLE III. Independent Contractor

Seller shall be considered as an independent contractor, for all material purposes under this Contract, and all persons engaged or contracted by the Seller for the performance of its obligations herein, shall be considered as its employees or agents or those of its subcontractors, and not as employees or agents of PREPA. In consequence Seller is not entitled to any fringe benefits such as, but not limited to: vacation, sick leave, and others.



ARTICLE IV. Delivery and Title

- A. Delivery of the fuel shall be for fuel as specified in Exhibit A into the Costa Sur Steam Plant and CORCO. The price shall be established on the day the fuel commences transfer into the Costa Sur Steam Plant or PREPA's designated tanks at CORCO. All costs relating to the handling of vessel or barge in CORCO's dock (line handling, hoses connection, etc.) shall be for Seller's account.
- B. PREPA shall submit Seller a fuel delivery schedule for the contracted fuel. Seller shall promptly acknowledge receipt of such schedule and shall, within three (3) days of such receipt, confirm or propose new delivery dates. Said delivery schedule, if accepted by PREPA, shall be final. Delivery dates shall consist of delivery windows of three (3) days each for actual delivery to occur.
- C. Title of product delivered shall pass to PREPA after the fuel passes the flange at the receiving dock or the pipeline interconnection at CORCO for deliveries made from Seller's tanks. Seller is responsible for cleaning, removing, and disposing of any spill of his product, which might occur before the pipeline interconnection during delivery; and shall be responsible for securing all materials, permits, and personnel required for handling the transfer of fuel.
- D. Deliveries via barge or vessel to the Costa Sur Steam Plant thru the CORCO dock, at present, are limited as follows:

DWT 82,000 tons
LOA 840 feet
BCM 425 feet
DRAFT 38 feet sw

Seller shall conduct his own investigation relative to navigational information or any natural changes that might occur at the Guayanilla bay, since PREPA does not assume any responsibility for the same.

- E. Maximum temperature of oil entering PREPA's pipeline shall not exceed one hundred eighty-five degrees F (185<sup>0</sup>), nor shall be less than one hundred twenty-five degrees F (125<sup>0</sup>), and at the pressure of not more than one hundred fifty (150) psig., nor less than one hundred twenty five (125) psig., measured at the intake flange.
- F. If Seller, for any reason, except as provided for in Force Majeure Article of this Contract, fails to deliver the fuel required as provided for in this Contract, PREPA may procure the product from any other supplier. In such event, PREPA may deduct from Seller pending invoices or Seller shall reimburse PREPA, for any difference which PREPA may have paid in excess of contracted price. It shall be understood that PREPA is not waiving any rights available to it under the law, including rights to any claims or actions for damages caused by noncompliance by Seller with the terms of this Contract.
- G. Seller will be responsible for any and all damages to the dock or to any other property caused by the vessel during delivery.
- All fuel oil deliveries and transfers should be in compliance with Homeland Security Regulations including, but not limited to 33 CFR 104 & 105. Also, all fuel oil operations should be in compliance with 33 CFR 154, 155 & 156.
- H. Should PREPA need fuel of the same type and quality of the fuel herein contracted for, at any of its other plants, PREPA at its option may request deliveries and Seller

shall deliver to such other plant up to a maximum of Seller's contractual commitment or inventory capabilities, if any. The fuel oil to be delivered under this condition by Seller shall be at the same delivered price or lower and under the same payment conditions as for this steam plant.

ARTICLE V. Specifications

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- A. Fuel shall be in accordance with the latest corresponding specifications, as specified in Exhibit A. PREPA requires a fuel with homogeneous hydrocarbons, free of inorganic acids and microorganisms and free of water, solid, or foreign matter, which will yield the lowest cost per kW hour produced. Seller shall provide a preliminary quality certificate of the fuel intended for delivery. Any product offered will be analyzed and evaluated in terms of the ultimate cost. The fuel required by PREPA shall be appropriate for burning successfully without requiring extraordinary maintenance to the boiler, associated equipment, or other extraordinary problems in the operation of the steam plant, and shall conform to all prevailing federal or local environmental rules and regulations.
- B. It is Seller's responsibility to provide PREPA, before or at the moment of delivery, with a quality certificate that ensure among others, that the fuel intended for delivery complies with the contracted specifications and that the same is homogeneous. A fuel shipment shall be considered to be homogeneous where the maximum difference between any two (2) samples for different strata or compartments is not greater than 0.3 degrees for tested API and 0.04 weight per cent in tested sulfur further provided that all tested samples shall be within the contracted specifications.
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C. Gravity and sulfur analysis of upper, middle, and lower samples shall be the appropriate means of establishing tank or vessel homogeneity.

A tank or vessel shall be considered to be homogeneous where the maximum difference in tested gravities between any two (2) samples from different strata is not greater than 0.3 degrees API and the maximum difference in tested sulfur content between any two (2) samples from different strata is not greater than 0.02 weight per cent, further provided that all tested samples shall be within the contracted specifications.

In the event that fuel oil is received via tanker into PREPA's facilities, samples for homogeneity shall be taken from at least three (3) tanks representing not less than seventy percent (70%) of the volume of cargo. Individual compartments samples shall be compared to vessel's composite to evaluate homogeneity of cargo. For fuel received via barge into PREPA's facilities which was loaded from a certified tank, a full certification of the barge sample is required.

D. To assure fuel compliance with specifications, before receiving each delivery, PREPA will perform or contract to perform laboratory analyses as per specified methods of the fuel actually being supplied. A laboratory certificate including all the parameters contained in Exhibit A and signed by an authorized chemist in Puerto Rico will be produced. Acceptance criteria will be based on these laboratory results. Should any discrepancy arise, at Seller's request, additional analyses shall be performed by an independent laboratory.

Additional costs due to the controversy will be absorbed by the non prevailing party.

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E. PREPA reserves the right to request special analysis from the independent inspector retained sample to determine whether the fuel delivered is in compliance with the specifications.

If it is determined that the fuel is not in compliance with the specifications, Seller will take such immediate measures as necessary to correct the deviation and to prevent further difficulties. PREPA's acceptance of, or agreement to, remedial or preventive measures shall not be interpreted or considered as a waiver of any rights available to it under the law, including, but not limited to, rights of actions or claims for damages caused by Seller's noncompliance with the fuel specifications or with any other provision of this Contract.

F. If during any delivery Seller fails to meet the specifications as awarded, PREPA reserves the right to reject the shipment, evaluate the deviation and deduct a monetary equivalent from the amounts due to Seller, establish a claim for nonperformance, or terminate the contractual relationship due to Seller's nonperformance.

G. Seller will be held responsible for any fines, penalties, damages, expenses, costs or claims, actions, and causes of actions, which may arise due to the fact that any of the fuel provided by Seller has deviations or variations from the contracted specification for the same. Therefore, if such circumstance takes place, Seller will hold and save harmless and will defend PREPA, its officers, agents, and employees, from any claims, actions, causes of actions, damages, costs, fines, penalties, and expenses due to the above.

ARTICLE VI. Laytime and Demurrage

A. PREPA assumes no responsibility or liability for demurrage incurred by the vessel(s) delivering fuel pursuant to this Contract, unless such demurrage is attributable to the fault or negligence of PREPA. Laytime shall commence six (6) hours: a) after Seller notifies PREPA that the vessel is ready to discharge cargo; b) upon arrival at berth and cleared by Customs, whichever occurs last.

B. Notice shall be given to PREPA seventy two (72) forty eight (48) and twenty four (24) hours before the vessel's arrival by the vessel's master or its agent. In the event the vessel is delayed in getting into berth after giving notice, for any reason over which PREPA has no control or due to docking restrictions, if any, such delay shall not count as used laytime.

It is understood and agreed that it is the practice of CORCO/Proterm to load and unload vessels at the docks in order of their arrival to CORCO/Proterm buoy, subject to the availability of the docks. PREPA shall not be responsible for demurrages attributable to dock unavailability unless said unavailability is caused by PREPA's intervention to change CORCO's practice.

Notices to be given under this agreement shall be deemed properly served on each other when delivered in writing personally by certified mail, or by fax machine.

C. Laytime shall commence within the meaning of this Article, whether the vessel arrives during or outside normal business hours. Laytime shall not be increased, nor PREPA held accountable for, any delay in berthing the vessel attributable to the failure of the Seller to give the notices set forth in this Article.

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- D. Allowed laytime shall be forty two (42) hours for each and every delivery of No. 6 residual fuel oil under this Contract. PREPA and Seller agree, however, that the allowed laytime of forty two (42) hours depends upon:
1. Seller's vessel being capable of pumping its entire cargo within thirty (30) hours.
  2. Seller's personnel or agents promptly performing the connection and disconnection of discharging hoses.
  3. An unloading temperature and pressure as specified in Article IV of this Contract.
  4. Seller's maximum cargo volume of 250,000 barrels.
- E. Allowed laytime shall be increased by the time a vessel is prevented or delayed from arriving, or departing, or discharging cargo due to:
1. tide conditions, heavy seas, wind or bad weather of any nature.
  2. vessel's condition, vessel's facilities, or vessel's failure to comply with U.S. Coast Guard or other governmental agency regulations, which do not permit connection, discharging cargo or disconnecting in the allowed laytime.
  3. the failure of the No. 6 residual fuel oil to meet the quantity or specifications by any of the determinations set forth in this agreement, or if the No. 6 residual fuel oil is otherwise unfit for PREPA's intended use.
  4. regulations of port authorities, vessel's owners or vessel's master, which prohibit discharging of the cargo at night.
  5. seller's cargo volume exceeds the established maximum cargo volume.
- F. If the vessel is delayed at any discharging berth for ships purposes or reasons beyond the control of PREPA, laytime shall cease when discharging is completed

M. J.  


even though hoses are not disconnected. If regulations of port authorities or vessel's owner prohibit discharging of the cargo at night, time so lost shall increase the allowed laytime. If PREPA prohibits discharging at night, time lost shall count as laytime. In all other cases laytime shall continue to run until cargo hoses or loading arms, as the case may be, have been disconnected.

G. PREPA shall pay demurrage per running hours, and pro rata for a part thereof, for all time that exceeds the allowed laytime at the rate stated in the Voyage Charter Agreement for the vessel.

H. If discharging has ceased because it is completed or if the discharging rate has decreased to a rate, which will not permit discharge of the entire cargo within forty two (42) hours or due to any other problem with the vessel, PREPA may order to move off the vessel from the dock at no cost to PREPA. If practical, the vessel shall be allowed to return later and complete discharging. In the event that the discharging rate has decreased to a rate which will not permit discharge of the entire cargo within forty two (42) hours, PREPA may delay ordering to move the vessel from the dock and allow pumping to continue. Provided however, Seller pays the per hour dock fee rate and any other associated cost.

I. Seller shall furnish all appropriate documentation and available evidence in support of any demurrage claim, which may be brought against PREPA.

ARTICLE VII. General Liabilities

A. Seller agrees to make, use, provide, and take all proper, necessary precautions, safeguards, and protection against the occurrence or happening of injuries, death,

and/or damages to any person or property during the delivery process. It also agrees to be responsible for, and indemnify, and save PREPA harmless from public liability, costs, and expenses resulting therefrom, or damages that may happen or occur solely through the fault, or negligent acts, or omissions of Seller, its employees, agents, and subcontractor, during the performance of the supply, or while carrying out any act or action directly or indirectly related, or in connection with the performance of this Contract, and from loss, liability, and fines incurred for, or by reason of violation by Seller of any federal, state or municipal ordinance or regulation of law, while said delivery is in progress.

B. Seller will be held responsible for any fines, penalties, damages, expenses, costs or claims, actions, and causes of actions, which may arise due to the fact that any of the fuel provided by Seller has deviations or variations from the contracted and guaranteed specifications for the same. Therefore, should such circumstances take place, Seller will hold and save harmless and will defend PREPA, its officers, agents, and employees from any claims, actions, causes of actions, damages, costs, fines, penalties, and expenses due or attributable to variations or deviations from fuel specifications as contracted and guaranteed by Seller.

ARTICLE VIII. Price

The contracted price includes all taxes, fees or established import tariffs for the fuel being supplied.

The price for the fuel oil to be supplied under this Contract is as follows:

- A. For each barrel of delivered fuel, the price to be paid will consist of an escalator plus a fixed price differential with a sixty (60) day credit term. The fixed price differential is \$2.5500 per barrel and the same is added to the escalator, to obtain the final fuel price.
- B. The escalator that is mentioned in Paragraph A shall be increased or decreased according to the Argus US Products and Platt's Oilgram Price Report, corresponding to the effective date of the posting at the time the fuel delivery commences, the day before, and the day after the fuel delivery, each one of these evaluated utilizing the following formula:

Fifty percent (50%) of fuel with zero point five per cent (0.5%) sulfur as interpolated from the means of the zero point three percent (0.3%) sulfur high pour and zero point seven percent (0.7%) sulfur fuels, as published by the *Argus U.S. Products* on its Delivered New York Harbor, Residual Fuel Oil columns rounded to four (4) decimal places;

Plus fifty percent (50%) of fuel with zero point five percent (0.5%) sulfur as interpolated from the means of the zero point three percent (0.3%) sulfur high pour and zero point seven percent (0.7%) sulfur fuels, as published by the *Platt's Oilgram Price Report*, New York/Boston No. 6 Fuel Oil Cargo columns, rounded to four (4) decimal places.

Municipal taxes are to be presented as a separate line item.

The price for a fuel delivery shall be based on:

1. The day the vessel commences the discharge, if the fuel is delivered via barge or vessel; or
2. The day when the delivery commences, if the fuel is delivered by pipeline.

In any of the two cases, should delivery take place on Saturday, Sunday or on a Holiday, the effective prices appearing in the last editions of Platt's Oilgram Price

Report and Argus U.S. Products, published before that date will be utilized to readjust the prices.

A sample calculation of the escalation factor appears as Exhibit C of these documents.

C. The date published prices are made effective will govern, holding the price firm until next publication date. Should the format used by the publishers for the postings be changed, both parties will meet within five (5) days of the occurrence to determine how to interpret the same.

D. Seller assumes the responsibility of the transportation of the product and all other related responsibilities up to PREPA's flange connecting Seller's vessel with the PREPA's pipeline at the dock.

E. Should PREPA require volumes of the same type and quality of the fuel herein contracted in excess of the requirements of the Costa Sur Steam Plant, PREPA may, at its option, require it from Seller. If Seller has such fuel available, then Seller will supply it under the same terms and conditions agreed hereupon.

ARTICLE IX. Duties and Taxes

The contracted price includes all taxes, fees, or established import tariffs for foreign material. In the event, that any new or increased taxes, fees, or tariffs, applicable to the product being supplied hereby are levied by Federal and/or Commonwealth of Puerto Rico Government, and as long as these taxes, fees, or tariffs do not discriminate whether the product is domestic or foreign, these will be passed on in their entirety to;

any changes up or down in these taxes, fees, or tariffs, should they be imposed, will be reflected in the price in its entirety and Seller will adjust the price accordingly.

ARTICLE X. Guaranteed Caloric Value

Seller guarantees that the minimum calorific values of the fuel supplied hereunder shall be as specified in Exhibit A. During any delivery by Seller, in which the fuel fails to meet such guarantee, the deficiency shall be determined in barrels, calculated on the basis of the example attached as Exhibit B. The deficiency thus calculated shall serve as a credit deficiency occurred, for an equivalent number of barrels, before computing the fuel billings for such invoice.

ARTICLE XI. Measurements and Payment

- A. The quantity of fuel oil delivered to PREPA shall be computed by measurements in PREPA's shore tanks; and such measurements, unless otherwise mutually agreed, are to be conducted by an independent inspector selected from a list of independent inspectors qualified by PREPA. Selection from this list shall be made giving every candidate the same opportunity to be selected for the task. Inspection cost shall be borne equally between PREPA and Seller. All measurements shall be corrected to 60 degrees Fahrenheit using ASTM Petroleum measurements Table 6-B. Quantities certified on the independent inspector's report, will be binding for both parties.
- B. Seller shall invoice PREPA regularly and promptly after fuel is delivered. Copies of the inspector's certificates of quantity shall be included with invoices. Such

invoices shall be paid by PREPA in U.S. currency immediately available funds sixty (60) days after completion of delivery.

- C. All invoices submitted by Seller shall include the following Certification in order to proceed with its payment. This is an essential requirement and those invoices without this Certification, will not be processed for payment.

Non Interest Certification:

*Under penalty of absolute nullity, I hereby certify that no employee, official or director of PREPA is a party or has any interest in the profits or benefits to be obtained under this Contract, or if any employee, official or director of PREPA has any interest in the profits or benefits under this contract a waiver has been previously obtained. I, also certify that the only consideration to (furnish the goods) or (provide the services) under this contract is the payment agreed with PREPA's authorized representative.*

*The total amount of this invoice is fair and correct. The products were delivered or the services were provided and no payment has been received for said concept.*

\_\_\_\_\_  
Seller's Signature

- D. Mail all billings and request for payment to:

Puerto Rico Electric Power Authority  
Attention: Fuels Office Manager  
PO Box 364267  
San Juan, Puerto Rico 00936-4267

ARTICLE XII. Most Favored Client

Seller recognizes that PREPA provides an essential service for the Commonwealth of Puerto Rico. Should any force majeure event cause Seller to suspend or reduce deliveries, Seller shall give PREPA first priority for supply.

ARTICLE XIII. Force Majeure

The parties hereto shall be excused from performing hereunder, other than any obligation to make payment, and shall not be liable in damages or otherwise, if and only to the extent that they shall be unable to perform or are prevented from performing by a Force Majeure event. For purposes of this Contract, Force Majeure means any cause without the fault or negligence, and beyond the reasonable control of the party claiming the occurrence of a Force Majeure event. Force Majeure may include, but not be limited to, the following: Acts of God, industrial disturbances, acts of the public enemy, war, blockages, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, interruptions of services due to the acts or failure to act of any governmental authority, provided that these events, or any other claimed as a Force Majeure event, and/or its effects, are beyond the reasonable control and without the fault or negligence of the party claiming the Force Majeure, and that such party, within ten (10) days after the occurrence of the alleged Force Majeure, gives the other party written notice describing the particulars of the occurrence and its estimated duration. The burden of proof as to whether a Force Majeure has occurred shall be on the party claiming the Force Majeure.

The party claiming the Force Majeure shall continue the performance of its obligations hereunder immediately after the conclusion of the Force Majeure.

In the event that the Force Majeure extends for a period of more than sixty (60) consecutive days, the party not claiming the Force Majeure may terminate this

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Agreement without further obligation. The burden of proof as to whether a Force Majeure has occurred shall be on the party claiming the Force Majeure.

Notice of termination under this provision shall create no liability to the parties, except that the parties shall still be responsible for the payments of amounts due and owing to the other party not subject to claims.

ARTICLE XIV. Termination on Insolvency

If Seller enters into bankruptcy proceedings, or if Seller becomes bankrupt or insolvent, or if a petition in bankruptcy is filed against Seller, or if a receiver is appointed for Seller, PREPA shall have the right to terminate the Contract upon written notice to Seller, without prejudice to any claim or any other right of PREPA under the Contract at the time of such termination. Notice of termination under this provision shall not create any liability to PREPA, except that PREPA shall still be responsible for the payment of amounts due and owing to Seller not subject to claims by PREPA.

ARTICLE XV. Performance Bond

Upon award of a contract, Bidder will furnish a performance bond payable to the order of PREPA issued by a qualified surety company, authorized to do business in Puerto Rico and acceptable to PREPA's Risk Manager, in an amount of \$7,908,750.00, equivalent to five percent (5.0%) of the estimated contract value.

PREPA will accept a letter of credit for the same amount in lieu of a performance bond, provided that the letter of credit shall incorporate the following conditions to be acceptable to PREPA:

1. to be issued or notified and confirmed by a local bank in Puerto Rico,

2. to be unconditional and irrevocable,
3. payments to be made by issuing bank on a business day by wire transfer, immediately after PREPA's instructions,
4. to be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico, applicable to contracts being made and performed solely within Puerto Rico, without giving effect to any conflicts or choice of law principles which otherwise might be applicable, except to the extent such laws are inconsistent with the uniform customs and practices for documentary credits,
5. final draft of the letter of credit shall be subject to approval by PREPA's Treasurer.

ARTICLE XVI. Notices

- A. Any notice to be given hereunder shall be in writing and will be sufficiently served when delivered in person or properly mailed to the following addresses:

To PREPA: Puerto Rico Electric Power Authority  
PO Box 364267  
San Juan, Puerto Rico 00936-4267  
  
Attention: Fuels Office Manager

To Seller: PETROWEST, Inc.  
PO Box 1256  
Mayagüez, P.R. 00681  
  
Attention: José A. González Amador

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B. Either Seller or PREPA, upon any change of its address as set forth above, shall notify the other party in writing and after giving of such notice, the address therein specified shall be deemed the address of such party for the giving of notices.

ARTICLE XVII. Certifications

Previous to the signing of this Contract, Seller will have to submit a valid Certificate of Eligibility issued by the General Service Administration or the following documents or certifications:

- A. Certification issued by the Treasury Department of Puerto Rico which indicates that the Seller has filed its Income Tax Returns during the five previous years and that it does not owe taxes to the Commonwealth of Puerto Rico, or is paying such taxes by an installment plan in full compliance with its terms.
- B. An Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico, Area of Internal Revenues, assuring that Seller has filed his Income Tax Return for the last five years.
- C. Certification issued by the Municipal Revenues Collection Center (MRCC), assuring that Seller does not owe any tax to such governmental agency.
- D. Certificate, issued by the Department of Labor and Human Resources of Puerto Rico, assuring that Seller has paid to the Department of Labor and Human resources of Puerto Rico his employees' contribution, in accordance with the Puerto Rico Employment Security Act (unemployment, temporary disability or sickness, or social security for drivers/chauffeurs); or is paying such contribution by an installment plan in full compliance with its terms.

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It shall be Sellers' responsibility, also, to require all subcontracted third parties to comply with all the previous Certifications and agrees to notify PREPA of such compliance within ten working days of subcontracting such third party.

If any of the previously required Certifications shows a debt, and the Seller has requested a review or adjustment this debt, the Seller will certify that it has made such request at the time of granting the Contract. If the requested review or adjustment is denied and such determination is final, the Seller will provide, immediately, proof of payment of this debt to PREPA; otherwise, the Seller accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. Specifically, Seller recognizes that submittal of the aforementioned certifications and documents is an essential condition of this Contract; and even in the case that they are partially incorrect, there will be sufficient cause for PREPA to terminate, cancel or rescind the Contract and Seller have to refund all payments received.

ARTICLE XVIII. Save and Hold Harmless

Seller agrees to save and hold harmless and to indemnify PREPA for all expenses and costs of any nature (including attorneys' fees) incurred by PREPA arising out damages, caused by Seller, by act or omission, in the performance or nonperformance of its obligations under the Contract.

ARTICLE XIX. Contract Assignment

This Contract, as well as any of the rights, duties, liabilities, and obligations under it, cannot be assigned, transferred, subcontracted, hypothecated, or otherwise disposed of by Seller without the previous written consent of PREPA.

ARTICLE XX. Novation

No modification, change, renewal, extension, discharge, or waiver of this Contract, or any of the provisions herein contained, shall be valid and binding except by a written, mutual agreement of the parties signed by a duly authorized officer of each party.

PREPA and Seller expressly agree that no amendment or change order which could be made to the Contract, during its term, shall be understood as a contractual novation, unless both parties agree to the contrary, specifically and in writing. The previous provision shall be equally applicable in such other cases where PREPA gives Seller a time extension for the compliance of any of its obligations under the Contract or where PREPA dispenses the claim or demand of any of its credits or rights under the Contract. Under no circumstances, except in such one where PREPA agrees to the contrary specifically and in writing, PREPA's rights under the Contract shall be understood as waived by any amendment, change order, time extension to the Contract, or by reason of dispense given by PREPA as to a claim or demand of any of its credits or contractual rights, even if PREPA has agreed, as provided under the previous paragraph, that any of these circumstances constitute a contractual novation, and PREPA by these means expressly reserves its right to claim and demand its credits and rights, and the compliance of any and all the contractual obligations of Seller, as if such amendment, change order, time extension, dispense, or novation, if any, had not been effectuated.

ARTICLE XXI. Contingent Fees

- A. Seller warrants that it has not employed any person to solicit or secure the Contract upon any agreement for a commission, percentage, brokerage, or contingent fee.

- Breach of this warranty will give PREPA the right to immediately terminate the Contract and/or to deduct from payments the amount of such commission, percentage, brokerage, or contingent fee, or to claim said amount by whatever means available under the law.
- B. No officer, employee, or agent of PREPA or of the Commonwealth of Puerto Rico, or of any Municipal Government shall be admitted to any share or part of the ensuing Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the ensuing Contract if made with a well known oil corporation for its general benefit, although said corporation employs a relative, by reasons of consanguinity or affinity, to a PREPA employee.
- C. Seller represents and warrants that it is authorized to enter into, and to perform its obligations under this Contract and that it is not prohibited from doing business in Puerto Rico or barred from contracting with agencies or instrumentalities of the Commonwealth of Puerto Rico.

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ARTICLE XXII. Choice of Law and Venue

*Handwritten signature*  
This Contract and any other document that form part of the RFP shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the contracting parties expressly agree that only the state courts of Puerto Rico will be the courts of competent and exclusive jurisdiction to decide over the judicial controversies that the appearing parties may have among them regarding the terms and conditions of this Contract.

ARTICLE XXIII. Code of Ethic

The Seller agrees to comply with the provisions of Act 84 of June 18, 2002, which establishes a Code of Ethics for the Contractors, Suppliers and Economic Incentive Applicants of the Executive Agencies of the Commonwealth of Puerto Rico.

ARTICLE XXIV. Separability

If a court of competent jurisdiction declares any of the Contract provisions as null or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of the Contract and the parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.

ARTICLE XXV. Sworn Statement

Previous to the signing of this Contract, the Seller will have to submit a sworn statement that neither Seller nor any of its partners have been convicted, nor have they plead guilty of any felony or misdemeanor involving fraud, misuse or illegal appropriation of public funds as enumerated in Article 3 of Public Law 428 of September 22, 2004, as amended.

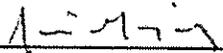
ARTICLE XXVI. Entire Agreement

This Contract constitutes the entire agreement of the parties as to the subject matter, however, should there be any difficulty or differences in understanding, interpreting, or applying its terms, the parties shall look for guidance and directives within the terms and conditions of the corresponding RFP, specifications and Notification of Award, dated April 27, 2010. If a court of competent jurisdiction declares any of the Contract's provisions as null or invalid, such holding will not affect the validity and effectiveness of

the remaining provisions of the Contract and the parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed as of May 6, 2010, at San Juan, Puerto Rico.

PETROWEST, INC.

  
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José A. González Amador  
President

PUERTO RICO ELECTRIC  
POWER AUTHORITY

  
\_\_\_\_\_  
Miguel Ángel Cordero López  
Executive Director

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## FUEL OIL SPECIFICATIONS NO. 6

PARAMETER	ASTM METHOD	MINIMUM	MAXIMUM
Sampling	D-4057	3 levels composite	(UML)
Gravity, API Degree at 60° F	D-287	10.5	18
Viscosity, SFS at 122° F.	D-445 D-88	150	350
Water and Sediment, % vol.	D-1796 D-473		1
Flash Point, Degree F., PMCT	D-93	150	
Sulfur, % weight <sup>1</sup>	D-4294		0.50
Ash, % weight	D-482		0.1
Asphaltenes, % weight	D-3279		8.0
Pour Point, Degree F	D-97		75
Sodium plus Potassium, PPM <sup>2</sup>	D-1318		35
Vanadium, PPM	D-1548 D-5708 D-5863-A		150
Calcium, PPM	D-5863-B		75
Heating Value, BTU/gal. (Gross) at 60° F	D-240	150,000	

<sup>1</sup>Reproducibility and repeatability must be taken into consideration in order to comply with the maximum sulphur per cent weight specification. Additional Top, Middle, and bottom analysis shall be performed to insure cargo is homogeneous.

<sup>2</sup>Method D-1318 for sodium analysis, however, sodium as well as potassium can be analyzed by other acceptable atomic absorption or spectrometric analysis.

SAMPLE CALCULATION  
BTU DEFICIENCY ADJUSTMENT

Example of calculation to determine credit due to PREPA if Seller supplies fuel of lower than the guaranteed Btus per gallon value.

The guaranteed value is 150,000 Btus per gallon of fuel measured at 60 degrees F.

Assume Seller delivers 5,000 barrels of fuel measured at 60 degrees F.

Assume the inspector's certificate of the fuel delivered indicates an API degree of 15.8 measured at 60 degrees F which is equivalent to 8.0 lbs. Per gallon and assume a heating value of 17,500 Btus per pound, or a fuel that measures 140,000 Btus per gallon measured at 60 degrees F, (8.00 lbs./gallon) (17,500 Btus/lbs.) = 140,000 Btus/gallon.

Therefore:

For each U.S: gallon the guaranteed value is of 150,000 Btus/gallon.

Actual Btus delivered were 140,000 Btus/gallon. Total barrels delivered were 5,000 barrels. To calculate the equivalent barrels deficiency divide the difference of Btus/gallon received by the guaranteed minimum and multiply this fraction by the delivered volume.

Example:

*A. J.*

*Q*

$$(5,000 \text{ barrels}) \times ((150,000 - 140,000) / 150,000) = 333.33 \text{ bbl. (deficiency)}$$

**SAMPLE CALCULATION  
ESCALATION FACTOR**

	Platt's Oilgram Price Report		Argus U.S. Products	
	0.3% S HiPr	0.7% S	0.3% S HP	0.7% S
January 12, 2010	79.05 – 79.15	75.85 – 75.95	78.75 – 79.00	75.90 – 76.15
January 13, 2010	77.80 – 77.90	74.85 – 74.95	77.70 – 77.95	74.95 – 75.20
January 14, 2010	76.85 – 76.95	74.25 – 74.35	77.10 – 77.35	74.35 – 74.60

FIRST STEP: AVERAGE
Platt's 0.3% S Average $\frac{(79.05 + 79.15 + 77.80 + 77.90 + 76.85 + 76.95)}{6} = 77.9500$
Platt's 0.7% S Average $\frac{(75.85 + 75.95 + 74.85 + 74.95 + 74.25 + 74.35)}{6} = 75.0333$
Argus 0.3% S Average $\frac{(78.75 + 79.00 + 77.70 + 77.95 + 77.10 + 77.35)}{6} = 77.9750$
Argus 0.7% S Average $\frac{(75.90 + 76.15 + 74.95 + 75.20 + 74.35 + 74.60)}{6} = 75.1917$

SECOND STEP: INTERPOLATION
Platt's 0.5% S Interpolation = $0.5 (0.3\% \text{ S Average}) + 0.5 (0.7\% \text{ S Average})$ $0.5 (77.9500) + 0.5 (75.0333)$ $38.97500 + 37.51665 = 76.49165$
Argus 0.5% S Interpolation = $0.5 (0.3\% \text{ S Average}) + 0.5 (0.7\% \text{ S Average})$ $0.5 (77.9750) + 0.5 (75.1917)$ $38.98750 + 37.59585 = 76.58335$

THIRD STEP: FINAL CALCULATION
Escalation Factor for a delivery commencing on January 13, 2010 = $\frac{(0.5\% \text{ S Platt's}) + (0.5\% \text{ S Argus})}{2}$
= $\frac{(76.49165) + (76.58335)}{2}$
= 76.5375 (\$/Bbl)

1.24

ESTAJO LIBRE ASOCIADO DE PUERTO RICO  
AUTORIDAD DE ENERGÍA ELÉCTRICA DE PUERTO RICO

SAN JUAN, PUERTO RICO



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DG-07092/nb  
902-16-10  
APARTADO 384267  
CORREO GENERAL  
SAN JUAN, PR 00936-4267

26 de abril de 2010

Miguel A. Cordero López  
Director/Ejecutivo

Josué A. Colón Ortiz, Director  
Generación, Transmisión y Distribución

William Rodney Clark, Administrador  
Oficina de Combustibles

AUTORIZACIÓN ADQUISICIÓN DE COMBUSTIBLE RESIDUAL  
MEDIANTE COMPRA DE EMERGENCIA CENTRAL COSTA SUR

El contrato de suministro de combustible residual para la Central Costa Sur expiró el 3 de julio de 2009. Para remplazarlo la Autoridad celebró la subasta Q-032449 el 8 de junio de 2009 y el Comité de Subastas A la canceló por entender que las ofertas recibidas eran onerosas.

El 28 de julio de 2009 se celebró una segunda subasta a la cual se le modificaron varios términos y condiciones, a manera de un plan piloto, para incentivar la participación en nuestras subastas. Se adjudicó el 8 de septiembre de 2009 y el licitador seleccionado, Petrolero del Sur Oil, Inc. no completó todos los requisitos del contrato, por lo que se revocó la adjudicación.

El 12 de marzo de 2010 la Autoridad firmó contrato con Quality Business Enterprises Oil, S.L. (Qube Oil) para la compra mediante emergencia de 4,000,000 barriles de combustible para continuar el suministro de combustible a esta Central. Esta compañía no ha realizado ni confirmado su primera entrega según requerido. Tampoco ha entregado su fianza de Ejecución la cual le fue solicitada hace más de treinta días.

El 29 de octubre de 2009 nuestra Junta de Gobierno aprobó la Resolución 3673 para autorizar la compra de combustible, contratación de servicios y alquiler de equipo por emergencia hasta que se normalicen las entregas de combustible para asegurar la operación de las unidades del sistema eléctrico. Incluimos copia de la Resolución.

Miguel A. Cordero López  
Página 2  
26 de abril de 2010

El 26 de abril de 2010 la Autoridad solicitó y recibió ofertas para la compra de 2,000,000 barriles de combustible según sus términos y condiciones típicas para continuar el suministro de combustible a esta Central.

Las ofertas son las siguientes:

Nombre Compañía	Volumen (Barriles)	Diferencial (\$/barril)	Término de pago
Petro West, Inc.	2,000,000	2.5500	60 días
Sempra Energy Trading	2,000,000	2.6800	60 días
Hess Corporation	240,000	5.0000	60 días

El inventario actual en la Central Costa Sur es de 273,686 barriles, equivalente a unos diez días de consumo. La operación de estas unidades es medular para mantener la estabilidad y la seguridad del sistema eléctrico del país. Incluimos copia de la solicitud y las ofertas.

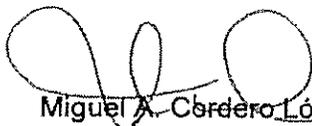
La Ley 83 del 2 de mayo de 1941, según enmendada, dispone, en lo pertinente, en la Sección 15, que no será necesario el requisito de subasta cuando, debido a una emergencia, se requiera la inmediata entrega de materiales, efectos y equipo, o ejecución de servicios. Por otra parte, el Reglamento de Subastas Núm. 6646, vigente, define una emergencia como:

"un suceso o combinación y acumulación de circunstancias que no, necesariamente, se limita a una circunstancia imprevista y que exigen una actuación inmediata que de no atenderse puede resultar en detrimento de los servicios que rinde la Autoridad y puede ocasionar daños graves a la construcción y daños a la vida o propiedad. Se entiende por emergencia, además, la situación donde se perdería toda oportunidad, de no actuarse de inmediato, de adquirir los suministros necesarios, afectándose adversamente las operaciones de la Autoridad."

Solicitamos se autorice la compra de aproximadamente 2,000,000 barriles de combustible residual a Petro West, Inc. mediante emergencia. Esto, para asegurar la operación de las unidades mencionadas. No actuar de forma inmediata puede afectar adversamente las operaciones de la Autoridad y resultar en detrimento de los servicios al Pueblo de Puerto Rico.

Anejos

Aprobado



Miguel A. Cordero López  
Director Ejecutivo

27 ABR 2010

**RESOLUCIÓN NÚM. 3673**

- POR CUANTO:** El contrato para el suministro de combustible a la Central Termoeléctrica de Costa Sur venció el 3 de julio de 2009.
- POR CUANTO:** La subasta Q-032449 abrió el 8 de junio de 2009 y sus ofertas fueron rechazadas por el Comité de Subastas "A" por entender que las mieras presentaban precios onerosos.
- POR CUANTO:** En la subasta Q-032834 la Autoridad de Energía Eléctrica (AEE), a manera de plan piloto, modificó varios términos y condiciones, en un esfuerzo por incentivar la participación en nuestras subastas. Esta subasta abrió el 28 de julio de 2009 y se adjudicó el 8 de septiembre de 2009.
- POR CUANTO:** Al momento la compañía Petrolero del Sur Oil, Inc. no ha presentado la fianza de cumplimiento para poder comenzar las entregas de combustible, lo que ha causado el inicio del proceso de cancelación de la subasta.
- POR CUANTO:** Esta Junta de Gobierno mediante su Resolución 3659 autorizó al Director Ejecutivo a comprar un máximo de 500,000 barriles para asegurar la operación de la central Costa Sur.
- POR CUANTO:** La AEE ya agotó el volumen autorizado por esta Junta de Gobierno sin que la situación de suministro a esta central se haya podido resolver satisfactoriamente para la AEE.
- POR CUANTO:** Esta Junta de Gobierno mediante su Resolución 3556 firmada el 5 de febrero de 2009 autorizó al Director Ejecutivo a realizar compras de emergencia de ser necesario para garantizar las entregas de combustible.
- POR CUANTO:** En la madrugada del 23 de octubre de 2009 ocurrió una explosión en las facilidades de Caribbean Petroleum Refining L.P. (CPR).

**POR CUANTO:** La magnitud de los daños en CPR es desconocida aún y no se espera que se puedan utilizar estas facilidades en el futuro cercano para almacenar y transferir combustible.

**POR CUANTO:** La Autoridad tiene alquilados seis tanques para el almacenamiento de 466,800 barriles de destilado liviano para ser utilizado en las unidades 5 y 6 de la Central San Juan y en las turbinas de gas de la Central Palo Seco, en adición a otros seis tanques para el almacenamiento y mezcla de 685,328 barriles de combustible residual Núm. 6 para ser utilizados en todas las unidades de vapor en San Juan y Palo Seco.

**POR CUANTO:** Por este evento las facilidades de CPR no están disponibles para continuar las operaciones rutinarias de recibo y despacho de combustible entre CPR y las centrales de San Juan y Palo Seco.

**POR CUANTO:** El actual suplidor del combustible clasificado como destilado liviano ha perdido la habilidad de realizar entregas mediante tanqueros de sobre 250,000 barriles en CPR conforme con los términos del contrato de suministro vigente. Actualmente la Autoridad tiene almacenados en estas facilidades unos 285,000 barriles de combustible que no pueden ser utilizados por la situación allí presente. Las transferencias típicas para las unidades 5 y 6 de San Juan son de aproximadamente 29,000 barriles cada cinco días, dependiendo de la demanda de los usuarios.

**POR CUANTO:** El actual suplidor de combustible residual Núm. 6 en las centrales de San Juan y Palo Seco ha perdido la habilidad de realizar mezclas de combustible en CPR, el cual se utiliza frecuentemente conforme a los términos del contrato de suministro vigente. El proveedor tiene en estas facilidades unos 340,000 barriles de combustible que no pueden ser utilizados.

**POR CUANTO:** Para garantizar la entrega de combustible en estas centrales será necesario realizar nuevas compras y utilizar otros métodos de entrega a los actualmente utilizados.

- POR CUANTO:** El nivel actual de combustible para las unidades 5 y 6 de San Juan es de aproximadamente 30,000 barriles, equivalente a unos cinco días de operación. El no realizar una compra de inmediato, tendría el efecto de limitar la operación de estas unidades.
- POR CUANTO:** El continuar recibiendo combustible es medular para mantener la operación, la estabilidad y la seguridad del sistema eléctrico del país.
- POR CUANTO:** La compra de este combustible adicional y el uso de equipo actualmente no contemplado para poder realizar las entregas sobrepasan los \$2,000,000.
- POR CUANTO:** En conformidad con la Norma sobre Niveles de Aprobación de la Autoridad (Revisada septiembre 2009), inciso IV(B), todos los contratos exentos del proceso de subastas sobre \$2,000,000; de acuerdo con la ley, son autorizados por esta Junta de Gobierno.
- POR CUANTO:** La Ley 83 del 2 de mayo de 1941, según enmendada, dispone, en lo pertinente, en la Sección 15, que no será necesario el requisito de subasta cuando debido a una emergencia se requiera la inmediata entrega de materiales, efectos y equipo o ejecución de servicios.
- POR CUANTO:** El Reglamento de Subastas vigente, define una emergencia como "un suceso o combinación y acumulación de circunstancias que no, necesariamente, se limita a una circunstancia imprevista y que exigen una actuación inmediata que de no atenderse puede resultar en detrimento de los servicios que rinde la Autoridad y puede ocasionar daños graves a la construcción y daños a la vida o propiedad. Se entiende por emergencia, además, la situación donde se perdería toda oportunidad, de no actuarse de inmediato, de adquirir los suministros necesarios, afectándose adversamente las operaciones de la Autoridad."
- POR CUANTO:** En consideración a lo anterior, el Director Ejecutivo, Ingeniero Miguel A. Cordero López, solicita que se autorice realizar compras de combustible, contratación de servicios y

alquiler de equipo por emergencia hasta que se normalicen las entregas de combustible en todas las centrales de la Autoridad para asegurar la operación de las unidades del sistema eléctrico. De no actuar de forma inmediata, pueden afectarse adversamente las operaciones de la Autoridad y resultar en detrimento de los servicios al pueblo de Puerto Rico.

**POR TANTO:**

La Junta de Gobierno de la Autoridad de Energía Eléctrica de Puerto Rico resuelve autorizar al Director Ejecutivo, ingeniero Miguel A. Cordero López, llevar a cabo la compra de combustible, contratación de servicios y alquiler de equipo por emergencia hasta que se normalicen las entregas de combustible en estas centrales y los pagos a los proveedores para asegurar la operación de las unidades del sistema eléctrico. Disponiéndose que al momento de finalizar la compra por emergencia se asegurará de que el suplidor cumple con todos los requisitos de ley y reglamentos para hacer negocios con esta Autoridad y en el Estado Libre Asociado de Puerto Rico.

Ninguna compra, contratación de servicios o alquiler de equipo se efectuará sin la previa autorización y firma del Director Ejecutivo y la notificación correspondiente a la Junta de Gobierno. Esta autorización tendrá una vigencia de seis meses a partir de la fecha de su aprobación sujeto a revisión, de ser necesario.

Aprobado en San Juan, Puerto Rico, a los veintinueve días de octubre de dos mil nueve.

COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ELECTRIC POWER AUTHORITY

SAN JUAN, PUERTO RICO



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REQUEST FOR PROPOSALS  
902-16-10  
No. 6 FUEL OIL

The Puerto Rico Electric Power Authority (PREPA), subject to compliance with Federal and/or Insular Laws or Regulations, makes this request for proposals (RFP) for the supply of approximately 2,000,000 barrels of No. 6 fuel oil to be delivered into Costa Sur steam plant to be used on the generation of electricity on an emergency basis.

Deliveries shall start on or about May 1, 2010. Deliveries to the site shall be as requested and following coordination with PREPA's Fuel Office.

Proposal shall be addressed to William Rodney Clark, Fuels office Manager and must be received at PREPA by April 26, 2010, at 1:00 PM Atlantic Standard Time.

Scope of Contract

The proposed RFP is for the supply of approximately 2,000,000 barrels of No. 6 fuel oil to be delivered into Costa Sur steam plant to be used on the generation of electricity. **The company selected will be required to sign a contract similar to the contract model for this RFP and to provide a performance bond equivalent to five percent (5%) of the estimated contract value.**

In making his proposal, Proponent shall submit proposed delivery schedule for the fuel and should consider all tax liability under federal and insular laws.

Delivery and Title

- A. Delivery of the fuel shall be for fuel as specified in this RFP to be delivered into the Costa Sur Steam Plant and CORCO. The price shall be established on the day the fuel commences.
- B. Title of product delivered shall pass to PREPA after the fuel passes the pipeline flange interconnection at CORCO's dock. Seller is responsible for cleaning, removing, and disposing of any spill of his product, which might occur before the

pipeline interconnection during delivery; and shall be responsible for securing all materials, permits, and personnel required for handling the transfer of fuel.

- C. Deliveries via barge or vessel to the Costa Sur Steam Plant thru the CORCO dock, at present, are limited as follows:

DWT 82,000 tons
LOA 840 feet
BCM 425 feet
DRAFT 38 feet sw

Seller shall conduct his own investigation relative to navigational information or any natural changes that might occur at the Guayanilla bay, since PREPA does not assume any responsibility for the same.

- D. Maximum temperature of oil entering PREPA's pipeline shall not exceed one hundred eighty-five degrees F (185), nor shall be less than one hundred twenty-five degrees F (125), and at the pressure of not more than one hundred fifty (150) psig. nor less than one hundred twenty five (125) psig., measured at PREPA's intake flange.
- E. If Seller, for any reason, fails to deliver the fuel required as provided for in this Contract, PREPA may procure the product from any other supplier. In such event, PREPA may deduct from Seller pending invoices or Seller shall reimburse PREPA, for any difference which PREPA may have paid in excess of contracted price. It shall be understood that PREPA is not waiving any rights available to it under the law, including rights to any claims or actions for damages caused by noncompliance by Seller with the terms of this Contract.
- F. **Should PREPA need fuel of the same type and quality of the fuel herein contracted for, at any of its other plants, PREPA at its option may request deliveries and Seller shall deliver to such other plant up to a maximum of Seller's contractual commitment or inventory capabilities, if any. The fuel oil to be delivered under this condition by Seller shall be at the same delivered price or lower and under the same payment conditions as for this steam plant.**
- G. Seller will be responsible for any and all damages to the dock or to any other property caused by the vessel during delivery. All fuel oil deliveries and transfers should be in compliance with Homeland Security Regulations including, but not limited to 33 CFR 104 & 105. Also, all fuel oil operations should be in compliance with 33 CFR 154, 155 & 156.

Specifications

PREPA requires a fuel with homogeneous hydrocarbons, free of inorganic acids and microorganisms and free of water, solid, or foreign matter, which will yield the lowest cost per kW hour produced. Seller shall provide a preliminary quality certificate of the fuel intended for delivery. Any product offered will be analyzed and evaluated in terms of the ultimate cost.

PREPA is requesting a fuel in accordance with the latest corresponding specifications, as follows:

PARAMETER	ASTM METHOD	MINIMUM	MAXIMUM
Sampling	D-4057-88	3 levels composite	(UML)
Gravity, API Degree at 60° F	D-287-82	10.5	18
Viscosity, SFS at 122° F.	D-445, D-88	150	350
Water and Sediment, % vol.	D-1796-83 D-473-81		1
Flash Point, Degree F., PMCT	D-93-90	150	
Sulfur, % weight <sup>1</sup>	D-4294-90		0.50
Ash, % weight	D-482-91		0.1
Asphaltenes, % weight	D-3279		8.0
Pour Point, Degree F	D-97-87		70
Sodium plus Potassium, PPM	D-1318-88		25
Vanadium, PPM	D-1548-91, D-5708 D-5863-A		150
Calcium, PPM	D-5863-B		75
Heating Value, BTU/gal. (Gross) at 60° F	D-240-87	150,000	

<sup>1</sup>Reproductibility and repeatability must be taken into consideration in order to comply with the maximum sulfur percent weight specification. Additional Top, Middle, and bottom analysis shall be performed to insure cargo is homogeneous.

Any deviation to the before mentioned specifications shall be clearly identified in Proponent's proposal and may be sufficient cause to reject the same.

PREPA requires a fuel with homogeneous hydrocarbons, free of inorganic acids and microorganisms and free of water, solid, or foreign matter, which will yield the lowest cost per kW hour produced. Any product offered will be analyzed and evaluated in terms of the ultimate cost.

To assure fuel compliance with specifications, before receiving each delivery, PREPA will perform or contract to perform laboratory analyses as per specified methods of the fuel actually being supplied. A laboratory certificate including all the parameters herein contained signed by an authorized chemist in Puerto Rico will be produced. Acceptance criteria will be based on these laboratory results. Should any discrepancy arise, at Seller's request, additional analyses shall be performed by an independent laboratory. Additional costs due to the controversy will be absorbed by the non prevailing party.

If during any delivery the Seller fails to meet the specifications as awarded, PREPA reserves the right to evaluate the deviation and deduct a monetary equivalent from the amounts due seller, establish a claim for nonperformance, or terminate the contractual relationship with Seller.

The Seller will be held responsible for any fines, penalties, damages, expenses, costs or claims, actions, and causes of actions, which may arise due to the fact that any of the fuel provided has deviations or variations from the contracted specification for the same. Therefore, if such circumstance takes place, the Seller will hold and save harmless and will defend PREPA, its officers, agents, and employees, from any claims, actions, causes of actions, damages, costs, fines, penalties, and expenses due to the above.

### Price

Base Price quoted shall be per barrel of forty-two (42) U.S. gallons, volume corrected to a temperature of 60o F. "as delivered" at plant site.

PREPA requires that every proposal submitted quote a unit price expressed in U.S. dollars per barrel (\$/bbl.). This unit price shall consist of a fixed price differential plus an escalation factor, as defined on the proposal.

Base prices quoted shall be for fuel delivered at plant site with payment due sixty (60) calendar days after completion of delivery of fuel (\$/bbl.), having in mind that PREPA will pay on the basis of received quality and quantity.

Proposals containing an escalator using the commercial banking interest rates as part of the price formula will be rejected.

The escalation factor shall use as input the data from the Table titled "Delivered New York Harbor", as published daily in the Argus U.S. Products and "Estimated New York Spot" - (Cargo), as it is published daily in the Platt's Oilgram Price Report. Said escalation factor for pricing of deliveries will be a three day average, being the day delivery starts; the day preceding the delivery date and the day after delivery commences. The escalation factor is hereby defined as follows:

*Fifty percent (50%) of fuel with zero point five per cent (0.5%) sulfur as interpolated from the means of the zero point three percent (0.3%) sulfur high pour and zero point seven percent (0.7%) sulfur fuels, as published by the Argus U.S. Products on its Delivered New York Harbor, Residual Fuel Oil columns rounded to four (4) decimal places;*

*Plus fifty percent (50%) of fuel with zero point five percent (0.5%) sulfur as interpolated from the means of the zero point three percent (0.3%) sulfur high pour and zero point seven percent (0.7%) sulfur fuels, as published by the Platt's Oilgram Price Report, New York/Boston No. 6 Fuel Oil Cargo columns, rounded to four (4) decimal places.*

Municipal taxes are to be presented as a separate line item.

The price for a fuel delivery shall be based on:

1. The day the vessel commences the discharge, if the fuel is delivered via barge or vessel; or
2. The day when the delivery commences, if the fuel is delivered by pipeline.

In any of the two cases, should delivery take place on Saturday, Sunday or on a Holiday, the effective prices appearing in the last editions of Platt's Oilgram Price Report and Argus U.S. Products, published before that date will be utilized to readjust the prices.

A sample calculation of the escalation factor is included.

The date published prices are made effective will govern, holding the price firm until next publication date. Should the format used by the publishers for the postings be changed, both parties will meet within five (5) days of the occurrence to determine how to interpret the same.

Seller assumes the responsibility of the transportation of the product and all other related responsibilities up to PREPA's flange connecting Seller's vessel with the PREPA's pipeline at the dock.

**Performance Bond**

Upon award of a contract, Bidder will furnish a performance bond payable to the order of PREPA issued by a qualified surety company, authorized to do business in Puerto Rico and acceptable to PREPA, in an amount equivalent to five percent (5.0%) of the estimated contract value.

PREPA will accept a letter of credit for the same amount in lieu of a performance bond, provided that the letter of credit shall incorporate the following conditions to be acceptable to PREPA:

1. To be issued or notified and confirmed by a local bank in Puerto Rico.
2. To be unconditional and irrevocable.
3. Payments to be made by issuing bank on a business day by wire transfer, immediately after PREPA's instructions.
4. To be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico, applicable to contracts entered and performed solely within Puerto Rico, without giving effect to any conflicts or choice of law principles which otherwise might be applicable, except to the extent such laws are inconsistent with the uniform customs and practices for documentary credits.
5. Final draft of the letter of credit shall be subject to approval by PREPA's Treasurer.

**Proposal Evaluation**

PREPA's evaluation procedure is designed to obtain a contract for acceptable fuel at the lowest ultimate cost while at the same time obtaining fuel on a timely basis. In so doing, PREPA reserves the right to reject any proposal which takes exception to any of the conditions and specifications herein contained.

**Contingent Fees**

Proponents warrant that they have not employed any person to solicit or secure a contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty will give PREPA the right to immediately terminate the contract and/or to deduct from payments the amount of such commission, percentage, brokerage, or contingent fee, or to claim said amount by whatever means available under the law.

No officer, employee, or agent of PREPA or of the Commonwealth of Puerto Rico, or of any Municipal Government shall be admitted to any share or part of the ensuing Contract or to any benefit that may arise from, but this provision shall not be construed to extend to the ensuing Contract if made with a well known oil corporation for its general benefit, although said corporation employs a relative, by reasons of consanguinity or affinity, to a PREPA employee.

Proponent represents and warrants that it is authorized to enter into, and to perform its obligations under, this Contract and that it is not prohibited from doing business in Puerto Rico or barred from contracting with agencies or instrumentalities of the Commonwealth of Puerto Rico, including the Puerto Rico Electric Power Authority.

*Exhibit A*

**SAMPLE CALCULATION  
BTU DEFICIENCY ADJUSTMENT**

Example of calculation to determine credit due to PREPA if Seller supplies fuel of lower than the guaranteed Btus per gallon value.

The guaranteed value is 150,000 Btus per gallon of fuel measured at 60 degrees F.

Assume Seller delivers 5,000 barrels of fuel measured at 60 degrees F.

Assume the inspector's certificate of the fuel delivered indicates an API degree of 15.8 measured at 60 degrees F which is equivalent to 8.0 lbs. Per gallon and assume a heating value of 17,500 Btus per pound, or a fuel that measures 140,000 Btus per gallon measured at 60 degrees F, (8.00 lbs./gallon) (17,500 Btus/lbs.) = 140,000 Btus/gallon.

Therefore:

For each U.S: gallon the guaranteed value is of 150,000 Btus/gallon.

Actual Btus delivered were 140,000 Btus/gallon. Total barrels delivered were 5,000 barrels. To calculate the equivalent barrels deficiency divide the difference of Btus/gallon received by the guaranteed minimum and multiply this fraction by the delivered volume.

Example:

$$(5,000 \text{ barrels}) \times ((150,000 - 140,000) / 150,000) = 333.33 \text{ bbl. (deficiency)}$$

## Exhibit B

**SAMPLE CALCULATION**  
**ESCALATION FACTOR**

	Platt's Oilgram Price Report		Argus U.S. Products	
	0.3% S HiPr	0.7% S	0.3% S HP	0.7% S
January 12, 2010	79.05 – 79.15	75.85 – 75.95	78.75 – 79.00	75.90 – 76.15
January 13, 2010	77.80 – 77.90	74.85 – 74.95	77.70 – 77.95	74.95 – 75.20
January 14, 2010	76.85 – 76.95	74.25 – 74.35	77.10 – 77.35	74.35 – 74.60

**FIRST STEP: AVERAGE**

$$\text{Platt's 0.3\% S Average } \frac{(79.05 + 79.15 + 77.80 + 77.90 + 76.85 + 76.95)}{6} = 77.9500$$

$$\text{Platt's 0.7\% S Average } \frac{(75.85 + 75.95 + 74.85 + 74.95 + 74.25 + 74.35)}{6} = 75.0333$$

$$\text{Argus 0.3\% S Average } \frac{(78.75 + 79.00 + 77.70 + 77.95 + 77.10 + 77.35)}{6} = 77.9750$$

$$\text{Argus 0.7\% S Average } \frac{(75.90 + 76.15 + 74.95 + 75.20 + 74.35 + 74.60)}{6} = 75.1917$$

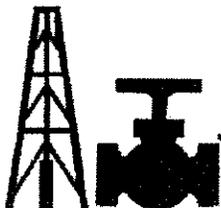
**SECOND STEP: INTERPOLATION**

$$\begin{aligned} \text{Platt's 0.5\% S Interpolation} &= 0.5 (0.3\% \text{ S Average}) + 0.5 (0.7\% \text{ S Average}) \\ &= 0.5 (77.9500) + 0.5 (75.0333) \\ &= 38.97500 + 37.51665 = 76.49165 \end{aligned}$$

$$\begin{aligned} \text{Argus 0.5\% S Interpolation} &= 0.5 (0.3\% \text{ S Average}) + 0.5 (0.7\% \text{ S Average}) \\ &= 0.5 (77.9750) + 0.5 (75.1917) \\ &= 38.98750 + 37.59585 = 76.58335 \end{aligned}$$

**THIRD STEP: FINAL CALCULATION**

$$\begin{aligned} \text{Escalation Factor for a delivery} \\ \text{commencing on January 13, 2010} &= \frac{(0.5\% \text{ S Platt's}) + (0.5\% \text{ S Argus})}{2} \\ &= \frac{(76.49165) + (76.58335)}{2} \\ &= 76.5375 (\$/Bbl) \end{aligned}$$



# *PetroWest, Inc.*

P. O. Box 1256 Mayagüez, Puerto Rico, 00681 - Tels. (787) 834-0555 / 265-5880 \* Fax (787) 833-8060

DATE : APRIL 26, 2010

TO : PUERTO RICO ELECTRIC POWER AUTHORITY (PREPA)  
ATTN: WILLIAM CLARK- ENERGY DIVISION  
PO BOX 364267  
SAN JUAN, PR 00936-4267

FROM : PETRO WEST INC  
SUPPLIER 006313  
PO BOX 1256  
MAYAGUEZ, PR 00681

RE : NO 6 FUEL OIL 0.5% s SUPPLY TO SOUTH COAST STEAM PLANT –  
SPOT SALE (902-16-10)

**PETRO WEST INC. IS PLEASED TO SUBMIT OUR OFFER FOR NO 6 FUEL OIL 0.5%**

SELLER : PETRO WEST INC.  
CONCORDIA 256  
MAYAGUEZ PR 00680

PRODUCT : NO.6 FUEL OIL 0.5% MAXIMUM SULPHUR CONTENT

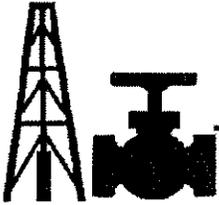
QUALITY : AS ATTACHMENT ENCLOSED HEREWITH

CONTRACT PERIOD : AS PREPA REQUESTED

TOTAL QUANTITY : **2,000,000** BBL APROXIMATELY

DISPORT : **CORCO TERMINAL, GUAYANILLA PR**

PRICE : FIFTY PERCENT (50%) OF FUEL WITH ZERO POINT FIVE PERCENT (0.5%) SULFUR AS INTERPOLATED FROM THE MEANS OF THE ZERO POINT THREE PERCENT (0.3%) SULFUR HIGH POUR AND ZERO POINT SEVEN PERCENT (0.7%) SULPHUR FUELS, AS PUBLISHED BY THE ARGUS U.S. PRODUCTS ON ITS DELIVERED NEW YORK HARBOR, RESIDUAL FUEL OIL COLUMNS ROUNDED TO FOUR (4) DECIMAL PLACES; PLUS FIFTY PERCENT (50%) OF FUEL WITH ZERO POINT FIVE PERCENT (0.5%) SULFUR AS INTERPOLATED FROM THE MEANS OF THE ZERO POINT THREE PERCENT (0.3%) SULFUR



# *PetroWest, Inc.*

P. O. Box 1256 Mayagüez, Puerto Rico, 00681 - Tels. (787) 834-0555 / 265-5880 \* Fax (787) 833-8060

HIGH POUR AND ZERO POINT SEVEN PERCENT (0.7%) SULFUR FUELS, AS PUBLISHED BY THE PLATT'S OILGRAM PRECE REPORT, NEW YORK/BOSTON NO. 6 FUEL OIL CARGO COLUMNS, ROUNDED TO FOUR (4) DECIMAL PLACES EFFECTIVE AT THE TIME THE FUEL DELIVERY COMMENCES, THE DAY BEFORE AND THE DAY AFTER THE FUEL DELIVERY

PLUS A PREMIUM OF USD \$2.55 / BBL. (USD TWO POINT FIFTY FIVE PER BBL.)

PAYMENT TERMS : 60 (SIXTY) CALENDAR DAYS AFTER COMPLETION DELIVERY OF FUEL

VALIDITY : 5:00 PM ON TUESDAY APRIL 27, 2010

DELIVERY : AS PREPA REQUEST AFTER AWARDED BY A PURCHASE ORDER.

NOTE : BECAUSE OF ACTUAL FUEL MARKET BEHAVIOR IS ALMOST IMPOSSIBLE, ALTHOUGH WE TRY VERY HARD, TO FIND A BETTER PRICE THAN ONE THAT WE ARE OFFERING. WE WILL KEEP LOOKING FOR THE BEST DEAL POSSIBLE TO PREPA.

WE LOOK FORWARD TO YOUR FAVORABLE REPLY.

CORDIALLY,

JOSE A. GONZALEZ  
PRESIDENT

/krb

**From:** "Degnan, Jim" <Jim.Degnan@rbssempra.com>  
**To:** <w-clark@prepa.com>  
**Date:** 4/26/2010 12:52 PM  
**Subject:** PREPA Tender 902-16-10

**CC:** "Peck, Robert" <Robert.Peck@rbssempra.com>, "Oztemel, Glenn" <Glenn.Ozte...  
Sempra Energy Trading is please to offer the Platts/Argus AC .5 Mean +  
\$2.68 per bbl.

All other terms and conditions as per your tender. Please contact me if you have any questions.

Sincerely,

Jim Degnan

\*\*\*\*\*  
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\*\*\*\*\*

**From:** "Munoz, Esteban" <EMunoz@hess.com>  
**To:** "WILLIAM CLARK MARTINEZ" <W-CLARK@PREPA.COM>, "EDWIN RODRIGUEZ RUIZ" <ER...>  
**Date:** 4/26/2010 11:10 AM  
**Subject:** FW: Request for Proposals - No.6 Fuel Oil 902-16-10  
**Attachments:** RFP - Residual Emergencia CSR.pdf; RFP 902-16-10 Contract Model.pdf

**CC:** "Munoz, Esteban" <EMunoz@hess.com>  
Dear William and Edwin,

Hess Corporation would like to bid on this RFP as per the following terms:

1. Volume 240,000 Bbls.
2. Delivery Dates: May 3-13/10 DES Corco Guayanilla or Capeco San Juan.
3. Premium over the RFP Formula: \$5.00 / Bbl DES Corco or Capeco.
4. Payment Terms: 60 calendar days after each delivery.
5. Quality: As per the RFP.
6. Vessel: Stena Performance, if delivery into CORCO, or TBN if into CAPECO.

If awarded, Hess Corporation will provide the oil in one delivery via vessel.

All other terms as per PREPA's RFP.

Looking forward to hearing from PREPA,

Esteban Munoz  
Hess Corporation  
+1.212.536.8212  
+1.347.346.0979

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**From:** WILLIAM CLARK MARTINEZ [mailto:W-CLARK@PREPA.COM]  
**Sent:** Thursday, April 22, 2010 11:27 AM  
**To:** EDWIN RODRIGUEZ RUIZ  
**Cc:** JOSUE COLON ORTIZ; MAGALI BERRIOS RIVERA; MARIA JUDITH FRANCO NOGUERAS  
**Subject:** Request for Proposals - No.6 Fuel Oil 902-16-10

Good morning:

Attached is a Request for Proposals (RFP) for the delivery of No. 6 Fuel Oil into Costa Sur Steam Plant on an emergency basis. Modifications to previous RFP's are in bold.

best regards,

William Rodney Clark  
Fuels Office Manager - PREPA  
Tel. 787-521-1097

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Verified by Puerto Rico Electric Power Authority McAfee Email and Web Security System (SCM1).

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Verified by Puerto Rico Electric Power Authority McAfee Email and Web Security System (SCM1).

