



Coalición de Organizaciones Anti-Incineración  
PMB 74 HC-01 Box 29030  
Caguas, Puerto Rico 00725

September 28, 2015.

The Honorable Tom Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, DC 20250

CERTIFIED MAIL

RE: 1. Formal complaint of Rural Utilities Service (RUS) Public Hearing celebrated Aug. 20, 2015 of the Draft Environmental Impact Statement (DEIS) for Energy Answers Arecibo, LLC pre-application for financial assistance and request for another Public Hearing  
2. FOIA request

Dear Secretary Vilsack:

The city of Arecibo, Puerto Rico, has been fighting incineration proposals for more than 30 years now. The previous two were defeated and rejected.

Since 2010, we have been fighting the third and most recent proposal by Energy Answers Arecibo, LLC. There is a strong opposition to this project and we have organized ourselves into a Coalition of Anti Incinerator Organizations, a nonprofit organization of volunteer groups and individuals.

On August 20, 2015, in a short noticed session for the discussion of a Draft Environmental Impact Statement (DEIS) held in the Arecibo Country Club, Puerto Rico, we were the subjects again, of a poorly planned, chaotic, meeting. Previously, we had expressed our deep disappointment with a disorganized and inadequately planned scoping meeting held in Arecibo's Colegio de Ingenieros on Jan 28, 2015. This was described by multiple attendees in the scoping meeting recordings and was vocally expressed to the USDA personnel present at the meeting.

Our interest is to make you aware of our absolute rejection of a number of decisions by the RUS Division that severely curtail the rights of public participation of interested citizens and organizations. Below is a non exhaustive itemized list of, what we understand to be, gross violations of the citizen's right to participate:



1. The meeting was convened with only 2 weeks of interval after the availability of the DEIS. The public could not be reasonably expected to evaluate and comment the extensive document properly for this hearing on such a short period of time, specially working fathers and mothers.
2. The arbitrary 3 minute limit for each person was inadequate for any serious discussion of the issues that arise from the DEIS. Just as an example, in an EPA meeting in 2013, they planned for 17 hours of meetings in 4 different sessions, including weekend hours, morning and afternoon sessions, and simultaneous translation. Also, the RUS staff wouldn't let people give up their allocated 3 minutes to any of the participants so that they could finish their statements. The participant had to wait until it was the person's turn, interrupting their comments and making it very difficult for the public to continue the line of thought and understand.
3. RUS staffers were not Spanish-speaking and did not provide for simultaneous translation, which generated the sensation that they were not interested in what the attendees had to say. How can RUS fulfill the requirements of the National Environmental Policy Act (NEPA) regarding the public comments if they didn't understand a word anyone was saying? It seems as if the RUS decision of granting a loan to Energy Answers was already made and the meeting was held as a protocol, with no real input by the public.
4. Homeland security guards, including one with a sniffing dog, seemed totally inadequate and offensive to the attendees, like the participants could be suspected of terrorism or drug dealing. This is how most attendees felt. This was very intimidating and caused some attendees to leave. They even went as far as to limit the attendance of the press and the TV crews. Which further limited information for the people who could not attend.
5. The room was too small and a number of attendees had to remain standing during the session.
6. Educational materials about the RUS were limited and they ran out of them quickly.
7. RUS didn't make sure everyone signed up on the attendance sheet and they were incomplete. The person in charge of attendance informed one of our Coalición members that there were 250 attendees at the meeting. Our head count at that moment was of 550 persons.
8. The selection of a Thursday, a workweek day, for the meeting, was probably a disincentive for better public participation.
9. The allotted time for the meeting (5:00 PM to 8:00 PM) was totally insufficient for adequate public participation.

We hereby request another Public Hearing that assures real public participation.



Secretary Tom Vilsack  
Secretary of Agriculture  
September 28, 2015

Additionally, we hope to make you fully aware that, in the Aug 20, 2015 comments meeting for the DEIS, the mayors of the island, represented by the *Asociación y Federación de Alcaldes* stated clearly that they oppose that the USDA provides any financial assistance to this incineration project. They explicitly stated that an agreement signed by the central government through its Solid Waste Administration (SWA) and Energy Answers behind the mayor's backs was illegal, a violation of local and possibly federal laws and would be challenged in the courts of law. This agreement would coerce the municipalities to take their solid waste to the incinerator. As the statement of the *Asociación de Alcaldes* reads: "please be certain that this undesirable incineration project is destined to fail". (Attachments A and B). How is RUS going to be paid back on this loan if the municipalities of Puerto Rico don't have a contract for sending their trash to this incinerator? Who would be responsible for repayment of this loan?

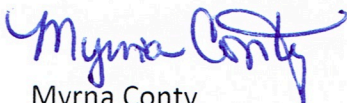
On the other hand, we were surprised to learn that Freedom of Information Act (FOIA) requests by several of our members for the communications between Energy Answers and your agency have been responded as "unable to locate any information pertaining to your request", including an appeal response dated Sept. 3, 2015.

We cannot understand how it is possible that a process that started in 2013 by Energy Answers, that has generated so much work on the part of your agency, has taken place without any communications whatsoever between this corporation and your agency. We request an explanation to this. (Attachments C and D). Is this adequate use of the taxpayer's dollars?

This letter does not preclude that any individuals or organizations may raise any other issue or appropriate request.

If there should be any additional information that we could provide about this request, do not hesitate to contact me.

Sincerely yours,



Myrna Conty  
Coordinator  
787 360-6358  
[gmchg24@gmail.com](mailto:gmchg24@gmail.com)

Cc: Pedro Pierluisi, Puerto Rico Resident Commissioner

Secretary Tom Vilsack  
Secretary of Agriculture  
September 28, 2015

Rep. Luis Gutierrez, Congressman, Chicago 4<sup>th</sup> District  
Rep. Nydia Velázquez, Congresswoman, New York 7<sup>th</sup> District  
Rep. José Serrano, Congressman, New York 15<sup>th</sup> District  
Rep. K. Michael Conaway, Chairman, Committee on Agriculture  
Sen. Pat Roberts, Chairman, Committee on Agriculture, Nutrition and Forestry



**Junta de Directores**

August 20, 2015

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Lcdo. Francisco Amill  
**Director Ejecutivo**

**USDA/RUS**

1400 Independence Ave. SW.  
 Room 2244-S, Stop 1571  
 Washington, DC 20250-1571

**RE: ENERGY ANSWERS ARECIBO LLC**

Good afternoon. On behalf of the Puerto Rico's Mayors Association, which represents 47 of the 78 municipalities in Puerto Rico, we appreciate the opportunity to appear today before the Rural Utilities Service (RUS) of the US Department of Agriculture to present comments on the Environmental Impact Statement (EIS) draft prepared in support of the financial assistance request presented by Energy Answers Arecibo LLC's (Energy Answers) for a proposed Waste to Energy incinerator project in Arecibo, Puerto Rico.

The Association reserves its right and those of its members to submit detailed comments on the adequacy, completeness and sufficiency of the EIS draft that has been prepared for this project. However, the Association takes this opportunity to alert RUS on the critical absence of any information in the EIS draft that assesses the social and economic impacts on municipalities in Puerto Rico should this project advance pursuant to the contracts that have been executed by Energy Answers and the Puerto Rico Solid Waste Management Authority (SWMA) and which most likely support Energy Answers' financial model for loan payment.

The National Environmental Policy Act (NEPA) process that is been conducted by RUS, as a result of the financial assistance requested by Energy Answers, is intended to evaluate the project's potential effects on all environmental resources, including socio-economic factors affecting the human environment. NEPA further requires that when a federal agency is considering taking a federal action (in this case, whether or not



to provide financial assistance) it must identify and assess the reasonable alternatives to that action that would avoid or minimize adverse environmental effects. In addition, NEPA requires federal agencies to examine the effect on not taking any action at all, that is, the No-action alternative. Consequently, these socio-economic factors must be evaluated in determining whether this proposed federal financing of the waste incinerator project should be considered reasonable pursuant to a informed choice among alternatives.

It is the Association's position that the EIS draft for the Energy Answers project does not contain essential and critical information on the foreseeable significant and damaging socio-economic impacts on the affected municipalities' operational budgets and public services due to increases in waste transportation and tipping costs associated with hauling municipal waste to Arecibo to feed the incinerator. No information is presented on these matters in the EIS draft in order to enable to predict, with reasonable certainty, the socio-economic impacts on the affected municipalities. Neither the EIS draft properly evaluates the noted steady improvements in landfill operations, waste reduction, minimization and recycling efforts, that should be viewed objectively under the category of No Action alternative.

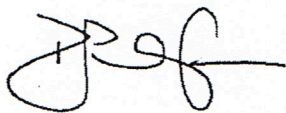
RUS' objectivity would be compromised for lack of an in depth evaluation of these serious socio-economic impacts on municipalities. Absent this critical socio-economic evaluation in the EIS draft, the agency should deny Energy Answers' financial assistance request for lack of objective pertinent information and transparency that would enable proper evaluation of the socio-economic impacts on the affected municipalities which are called to support with their municipal wastes and public funds the financial model presented by Energy Answers to RUS in support of financial capacity for loan payment.

Financial assistance to Energy Answers should be denied by RUS in absence of sound and credible information to draw conclusions on the economic feasibility of the project, particularly when the municipalities of Puerto Rico, with their respective wastes and tipping fees, are not willing partners in this project and will not support with their municipal funds Energy Answers' loan payment capacity.



Please be also advised that the Association and/or some of its individual member municipalities intend to pursue legal action to contest the legality of the contracts executed between Energy Answers and the SWMA, in violation of the US Constitution's Commerce Clause and the Puerto Rico's Autonomous Municipalities Law, set forth by Public Law 81, August 30th, 1991, and of any future attempts to impose municipal waste flow control mechanisms to benefit private interests at the expense of the public. Please be certain that this undesirable incinerator project is destined to fail.

Cordially,



**Rolando Ortiz Velázquez**  
President  
Puerto Rico's Mayors Association



August 19, 2015

USDA/RUS  
1400 Independence Ave. SW.  
Room 2244-S, Stop 1571  
Washington, DC 20250-1571

**RE: Financing for Arecibo Waste to Energy Generation and Resource  
Recovery Facility Arecibo, Puerto Rico**

To whom it may concern:

Good afternoon. My name is Reinaldo Paniagua and I appear here today in my capacity as Executive Director of the Federation of Mayors of the Commonwealth of Puerto Rico. We shall commence by thanking USDA/RUS for this public meeting concerning a waste to energy incinerator that has generated significant opposition not only with the communities in Arecibo but throughout Puerto Rico. The Federation of Mayors (hereinafter, the Federation), representing 31 Municipalities in Puerto Rico, appreciates the opportunity to submit comments on the draft Environmental Impact Statement (EIS) prepared for Energy Answers Arecibo, LLC, under the federal EIS guidelines.. Additional comments may be submitted by the Federation and/or member municipalities on or before the announced written comment deadline once it concludes the proper examination of the entire EIS and its attachments.

That being said, the Federation wishes to express its deepest concern and dissatisfaction for the lack of information in the draft EIS on the financial model proposed by Energy Answers to guarantee loan payment and meet its financing obligations. . The draft EIS also is totally silent on the economic impacts on the affected municipalities' in the event these are required to provide their municipal wastes to Energy Answers for incineration, as set forth under the contracts executed between Energy Answers and the Puerto Rico Solid Waste Authority (SWMA) that the municipalities, as the entities responsible for waste collection and

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disposal in Puerto Rico, were not participants. The draft EIS does not provide any information concerning the anticipated increases in transportation costs and tipping fees and potential detrimental effects on the municipalities' operational budgets, thereby affecting essential services provided to the communities. In consideration of the above, the Federation respectfully requests that the draft EIS be revised to include these financial model and socio-economic impacts associated with the incineration project under consideration by RUS and that this process be held in abeyance until this essential information is provided for public review and a new hearing or comment period be afforded to allow proper participation by the public and the municipalities with the pertinent socio-economic information at hand.

Please also be cautioned that the entire process since its inception has suffered from a total absence for a rigorous and objective analysis on the economic prospect for the Municipalities that, pursuant to the abovementioned contracts that Energy Answers has sought from SWMA, are "bound" to provide their waste to feed the incinerator in total disregard and/or disruption of their own Municipal Solid Waste (MSW) management programs and contracts. .

Also, please be aware the process involving Energy Answers' financial model has been conducted behind closed doors and without the participation of the entities lawfully responsible and most affected by its effects, the Commonwealth of Puerto Rico's 78 Municipalities. The entire economic model of this project is based on the erroneous assumption that the affected Municipalities will passively sit idle while their operational budgets and MSW resources get virtually obliterated. USDA/RUS and/or any other financial entity considering providing financial assistance to Energy Answers of Arecibo, LLC. can be certain that this shall not be so.

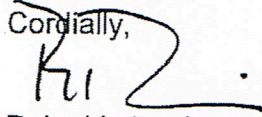
Please be advised that the Federation, in order to preserve the wide and explicit mandate for Municipal Autonomy vested upon our Municipalities by Public Law 81, August 30<sup>th</sup>, 1991 known as the Autonomous Municipalities Law, shall be advising and supporting all its members to pursue all courses of action, including but not limited to a judicial challenge of the contractual relationship between Energy Answers of Arecibo, LLC's and the Puerto Rico Solid Waste Management Authority (PRSWMA) and any unlawful attempt to enforce upon the Municipalities the same.

It's our position that the aforementioned contracts are void, null and unconstitutional. The PRSWMA lacks any authority to bind the economic resources of the Municipalities and control the flow of Municipal Solid Waste to favor a private interest.

Again, the Federation of Mayors appreciates this opportunity to express its preliminary comments on the draft EIS and request that the draft EIS be revised to

include essential information on the financial model presented by Energy Answers to RUS and the socio-economic impacts to municipalities and the communities in Puerto Rico resulting from such financial model

Cordially,

A handwritten signature in black ink, appearing to read 'R. Latimer', with a large, stylized flourish extending from the end.

Reinaldo Paniagua Latimer  
Executive Director





Rural Development

Operations and  
Management

Procurement and  
Administrative  
Services

1400 Independence  
Ave SW  
Washington, DC  
20250  
Voice 202.690-5394  
Fax 202.692.0034

July 6, 2015

Angel Gonzalez, MD  
PMB 74 HC-01  
Box 29030  
Caguas, PR 00725

Re: FOIA Case No. 2015-RD-04644-F

Dear Dr. Gonzalez:

This responds to your request for information received in the Rural Development Freedom of Information Act (FOIA) Unit on July 16, 2015 and received on July 16, 2015. You requested all information regarding a possible or actual request for financial or other assistance by the Energy Answers Corporation, or Energy Answers Arecibo, LLC or any other name related to this incineration or so called Waste to Energy project in Arecibo, Puerto Rico.

A search of our records was conducted and we were unable to locate any information pertaining to your request. USDA Rural Development (RD) does not maintain records such as those you have described. The FOIA provides you the right to appeal this determination. Any appeal must be made in writing to:

Administrator  
Rural Development  
1400 Independence Ave., SW  
Stop 0706  
Washington, DC 20250-0706

The appeal must be received within 45 days from the date of this letter. The phrase "FOIA APPEAL" should be placed in capital letters on the front of the envelope.

Sincerely,

Mr. Charles Schnepfe  
Government Information Specialist

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).





United States Department of Agriculture

Attachment D

Rural Development

September 3, 2015

Operations and  
Management

Procurement and  
Administrative  
Services

Angel Gonzalez, MD  
PMB 74 HC-01  
Box 29030  
Caguas, PR 00725

1400 Independence  
Ave SW  
Washington, DC  
20250  
Voice 202.690-5394  
Fax 202.692.0034

Re: FOIA Case No. 2015-RD-04644-F

Dear Dr. Gonzalez:

This letter is in response to your correspondence dated August 26, 2015 and is intended to expand upon our no records determination. This office responded to your Freedom of Information Act (FOIA) request indicating that no records, such as those described in your request, could be located at the responsible program office.

To elaborate further, we were notified by the Rural Electric Service (RUS) that Energy Answers has notified RUS of their intention to seek financial assistance with the Arecibo project and that RUS has placed their notice in an anticipated status; as such, no application for funds exists to date. Agency personnel that are involved with the RUS project funding process have indicated that they have no e-mail or meeting notes concerning any funding for Energy Answers. In an e-mail message dated August 14, 2015, Ms. Lauren McGee Rayburn informed you that RUS Electric Programs had, to date, received no application for funds from Energy Answers and that the agency conducts and completes its environmental review before it accepts a loan or loan guarantee application.

This office may only release the information that the Agency currently possess and we are unable to speculate as to when records such as those you seek may or may not become available. As indicated by our previous response, a search of our records was conducted and we were unable to locate any information pertaining to your request. USDA Rural Development (RD) does not maintain records such as those you have described. If, upon receipt of this correspondence, you still wish to appeal this determination you may do so by writing to the address below:

Administrator  
Rural Development  
1400 Independence Ave., SW  
Stop 0706  
Washington, DC 20250-0706

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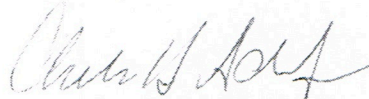
If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).



Angel Gonzalez, MD  
2015-RD-04644-F

The appeal must be received within 45 days from the date of this letter. The phrase "FOIA APPEAL" should be placed in capital letters on the front of the envelope.

Sincerely,



Mr. Charles Schnepfe  
Government Information Specialist