

COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ENERGY COMMISSION



IN RE: REVIEW OF RATES OF THE  
PUERTO RICO ELECTRIC POWER  
AUTHORITY,

Petitioner.

No.: CEPR-AP-2015-0001

**SUBJECT: PREPA'S VERIFIED  
APPLICATION FOR WAIVER OF  
CERTAIN FILING  
REQUIREMENTS AND FOR  
CLARIFICATIONS UNDER  
ENERGY COMMISSION  
REGULATION NO. 8620,  
SECTION 2.19**

**PREPA'S VERIFIED APPLICATION FOR WAIVER OF  
CERTAIN FILING REQUIREMENTS AND FOR  
CLARIFICATONS UNDER ENERGY COMMISSION  
REGULATION NO. 8620, SECTION 2.19**

TO THE HONORABLE PUERTO RICO ENERGY COMMISSION:

Comes now the Puerto Rico Electric Power Authority ("Petitioner" or "PREPA", also known as "AEE" and the "Authority"), a public power entity of the government of the Commonwealth of Puerto Rico, under Section 2.19 of the Puerto Rico Energy Commission's (the "Commission") Regulation No. 8620, Regulation on Rate Filing Requirements for the Puerto Rico Electric Power Authority ("Regulation 8620"). PREPA respectfully requests: (1) approval of waivers of the filing requirements under Subsection 3.02(D), Subsection 2.10(A), and Subsection 1.08(43) of Regulation 8620; and (2) clarifications of requirements under Subsection 3.02(A) and Subsection 2.10(C) of Regulation 8620. This Application is filed in anticipation of PREPA filing a formal petition to institute a rate review and is supported by the attached Verification. In support of this Application, PREPA states as follows:

**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING REQUIREMENTS AND FOR CLARIFICATIONS UNDER ENERGY COMMISSION REGULATION NO. 8620, SECTION 2.19**

**Background**

On July 24, 2015, Regulation 8620, which defines terms for purposes of the rate review process and establishes the filing requirements for PREPA's formal petition for rate review, was adopted. These filing requirements set forth specific information that variously must be contained in, attached to, or submitted in advance of or contemporaneously with the formal petition.

Regulation 8620 also contains, however, a waiver provision, as discussed further below. The Commission had noted in its May 29, 2015, First Order on Rate Case Proceeding that: "PREPA is undergoing a major internal restructuring while also negotiating with its bondholders. Therefore, the Commission takes notice that several events might affect the availability of some of the information PREPA needs to calculate proposed rates."

More specifically, Section 2.19 of Regulation 8620 allows PREPA to request a waiver of any of the filing requirements, upon a demonstration of good cause shown. Pursuant to Regulation 8620, Section 2.19(C), the Commission allows waiver requests under this subsection under two alternative conditions:

- (1) The particular requirement is not applicable to PREPA; or
- (2) The particular information required is not available to PREPA, in which case, PREPA shall describe the reasons the information is not available, all the actions taken by PREPA to obtain the information, and a date by which PREPA commits to provide the information.

**Specific Waiver or Clarification Requests**

PREPA respectfully requests waiver or clarification of the following filing requirements:



**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING REQUIREMENTS AND FOR CLARIFICATIONS UNDER ENERGY COMMISSION REGULATION NO. 8620, SECTION 2.19**

1. **Subsection 3.02(D):** PREPA respectfully requests waiver under condition (2) of Section 2.19(C) because the particular information required is not available to PREPA. In this case, Subsection 3.02(D) requires PREPA to submit, prior to the filing of the formal application, "[a] copy of the Consulting Engineers' Report for the Fiscal Year ending June 30, 2014." This information is unavailable to PREPA because the requested document does not exist.

The most recent year for which PREPA has a Consulting Engineers' Report is Fiscal Year 2013, *i.e.*, as of the 12 month period ending June 30, 2013. A copy of that report, which was completed by independent consultant URS Corporation in April 2014 and addresses the Fiscal Year ending on June 30, 2013, is available on the Internet at the following link.

<http://www.aepr.com/INVESTORS/DOCS/Financial%20Information/Annual%20Reports/Consulting%20Engrs%20Annual%20Report%20FY2013.pdf>

The preparation of such a report was required under a Trust Agreement governing certain Power Revenue bonds. PREPA is not aware of any requirement by the Trustee requesting the 2014 Fiscal Year report. Although PREPA is responsible for the cost of preparing the report, the report is an independent assessment and is not prepared at PREPA's direction or under PREPA's control. In order to prepare the report, the independent consultant must have the audited financials of PREPA for the Fiscal Year at issue, and the audited financials for Fiscal Year 2014 were only completed in January 2016.

**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING REQUIREMENTS AND FOR CLARIFICATIONS UNDER ENERGY COMMISSION REGULATION NO. 8620, SECTION 2.19**

PREPA can provide the Consulting Engineers' Report for Fiscal Year 2013, which is available on the Internet, as noted above. This report contains information regarding Fiscal Year 2013 as well as projections regarding Fiscal Year 2014. PREPA anticipates that much of the information that would form the basis for a Consulting Engineers' Report for Fiscal Year 2014 will be provided to the Commission as part of the rate review. The information that is available will be provided to the Commission as applicable, but it is unavailable as a report as requested. PREPA cannot provide a date by which to make the information requested in 3.02(D) available because such information is unavailable to PREPA. If and when a report is prepared, PREPA will provide it to the Commission, but the preparation of the report is not under PREPA's control.

2. **Subsection 2.10(A):** PREPA respectfully requests waiver under condition (2) because the particular information required is not available to PREPA. In this case, Subsection 2.10(A) requires PREPA to submit as Schedule I-1 "a copy of the Consulting Engineers' Report for the Fiscal Year that is being used as the historic test year." This information is unavailable to PREPA because the requested document does not exist. The 2014 Fiscal Year (starting on July 1, 2013, and ending on June 30, 2014), is being used as the historic test year, subject to certain known and measureable changes, as explained further in the next section of this Application. PREPA does not have a Consulting Engineers' Report for Fiscal Year 2014; rather, the most recent year for which PREPA has a Consulting Engineers' Report is Fiscal Year 2013, as discussed above. See the above discussion with respect to Subsection 3.02(D), which also provides the reasons a waiver is needed of this requirement under Subsection 2.10(A).



**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING  
REQUIREMENTS AND FOR CLARIFICATIONS UNDER ENERGY COMMISSION  
REGULATION NO. 8620, SECTION 2.19**

3. **Subsection 1.08(43):** Although PREPA does not believe it is required, as explained further below, PREPA respectfully requests, as a precautionary or protective measure, waiver under condition (2) because the particular information required is available to PREPA as to Fiscal Year 2014 but is not yet available as to Fiscal Year 2015. Subsection 1.08(43) defines "Test Year" as "the most recent twelve (12) month period for which audited financial statements exist."

As indicated above, in its rate filing, PREPA will use the 2014 Fiscal Year (starting on July 1, 2013, and ending on June 30, 2014) as the historic test year, subject to certain known and measureable changes through Fiscal Year 2017. However, as part of identifying and presenting the known and measureable adjustments, PREPA will use data from Fiscal Year 2015 as well as other data pertaining to the applicable period. On any given subject, Fiscal Year 2015 data may be helpful in formulating known and measureable adjustments. PREPA has identified as a potential concern, therefore, the possibility that Fiscal Year 2015 might be characterized as the test year, a year for which PREPA does not yet have audited financial statements. If so, then a question potentially could be raised as to whether PREPA should have sought a waiver of Section 1.08(43).

Accordingly, to avoid any unnecessary potential legal issue about the test year and compliance with Section 1.08(43), and in light of PREPA's desire to use some data from Fiscal Year 2015, PREPA requests a waiver of Section 1.08(43), to the extent that it might be found applicable to this case.

4. **Subsection 3.02(A):** PREPA respectfully requests clarification of the requirements imposed by Subsection 3.02(A). In this case, Subsection 3.02(A) requires PREPA to

**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING REQUIREMENTS AND FOR CLARIFICATIONS UNDER ENERGY COMMISSION REGULATION NO. 8620, SECTION 2.19**

submit, prior to the filing of the formal petition, “[a]ny and all reports made by PREPA’s Chief Restructuring Officer to PREPA’s Governing Board regarding its restructuring.”

PREPA requests a clarification that this subsection seeks only those written reports made by PREPA’s Chief Restructuring Officer to PREPA’s Governing Board that are relevant to PREPA’s current or proposed rates and its applicable costs and revenues. PREPA’s Chief Restructuring Officer, Lisa Donahue, makes reports to PREPA’s Governing Board relating to many subjects that variously are or are not relevant here. PREPA also notes that these reports are voluminous and they will require extensive review and in some instances redaction (e.g., for privilege) in accordance with applicable law in order to be available for production to the Commission.

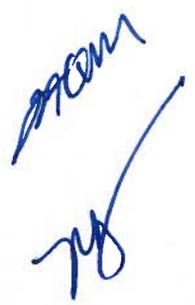
Furthermore, PREPA will submit Ms. Donahue’s prefiled written direct testimony as part of its formal Petition, and that testimony will address PREPA’s financial situation and how the rate review relates to the efforts to restructure PREPA’s debt. Any additional existing discoverable information the Commission has not obtained is or can be provided by Ms. Donahue and/or PREPA in direct testimony, other exhibits, other filings or responses, and/or in response to cross-examination.

5. **Subsection 2.10(C):** PREPA respectfully seeks clarification of Subsection 2.10(c) for the same reasons detailed in paragraph 4 above. In this case, Subsection 2.10(C) requires PREPA to submit, as Schedule I-3, “the Chief Restructuring Officer’s reports to PREPA’s Board of Directors or Governing Board from September 2014 through the filing date, [and update] through the duration of PREPA’s rate case as additional reports are prepared.” PREPA seeks clarification that this requirement seeks only those written

**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING  
REQUIREMENTS AND FOR CLARIFICATIONS UNDER ENERGY COMMISSION  
REGULATION NO. 8620, SECTION 2.19**

reports made by PREPA's Chief Restructuring Order to PREPA's Governing Board that are relevant as discussed above.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully requests that the Commission: (1) find just cause for these requests for waivers and grant them under Section 2.19 of Regulation No. 8620 and (2) approves the requested clarifications set forth above.



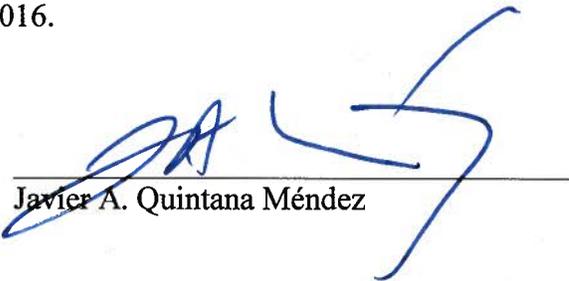
**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING REQUIREMENTS AND FOR CLARIFICATONS UNDER ENERGY COMMISSION REGULATION NO. 8620, SECTION 2.19**

**VERIFICATION**

I, Javier A. Quintana Méndez, of legal age, engineer, married, and resident of Guaynabo, Puerto Rico, in my capacity of Executive Director of the Puerto Rico Electric Power Authority ("PREPA"), under oath declare as follows:

1. My name and personal circumstances are those stated above.
2. I have reviewed the foregoing Verified Application for Waiver of Certain Filing Requirements and for Clarifications Under Energy Commission Regulation No. 8620, Section 2.19.
3. In my capacity as Executive Director of PREPA, I have been duly authorized to provide this Verification in support of the Application.
4. The information included in the Application is true on the basis of my personal knowledge or on the basis of the information supplied to me by employees of PREPA and, with respect to legal points, by counsel for PREPA.

In San Juan, Puerto Rico, this 30th day of March, 2016.

  
\_\_\_\_\_  
Javier A. Quintana Méndez

*AFFIDAVIT NUMBER: 1847*

Sworn and subscribed before me by Javier A. Quintana Méndez, of the personal circumstances above mentioned, whom I personally know, in San Juan, Puerto Rico, this 30th day of March, 2016.

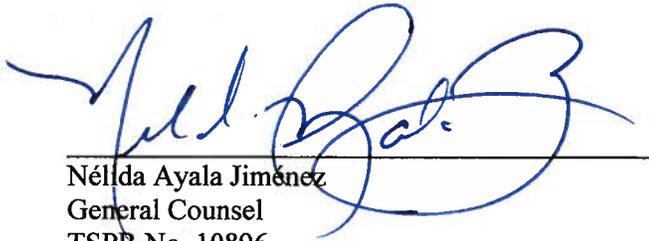
  
\_\_\_\_\_  
Public Notary



EXENTO PAGO ARANCEL  
LEY 47  
4 DE JUNIO DE 1982

**PREPA'S VERIFIED APPLICATION FOR WAIVER OF CERTAIN FILING  
REQUIREMENTS AND FOR CLARIFICATIONS UNDER ENERGY COMMISSION  
REGULATION NO. 8620, SECTION 2.19**

I hereby certify that I have sent the above document to the Puerto Rico Energy Commission, through its President Agustín Carbó Lugo at [acarbo@energia.pr.gov](mailto:acarbo@energia.pr.gov) and through its General Legal Counsel at [gbonet@energia.pr.gov](mailto:gbonet@energia.pr.gov) on March 30, 2016.



---

Nélda Ayala Jiménez  
General Counsel  
TSPR No. 10896  
P.O. Box 363928  
San Juan, Puerto Rico 00936-3928  
787-521-4431; 787-521-4433  
Email: [n-ayala@aepr.com](mailto:n-ayala@aepr.com)