

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION



IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: CEPR-AP-2015-0001

SUBJECT: Technical Hearing Panel
Scheduling.

RESOLUTION AND ORDER

I. Introduction

Article 6.25 of Act 57-2014¹ and Article 6A of Act 83² require the Puerto Rico Energy Commission (“Commission”) to evaluate the Puerto Rico Electric Power Authority (“PREPA”) Petition for Rate Review (“Petition”) in order to ensure that the proposed rates are just and reasonable.³ Sub-section (b) of Article 6.25 of Act 57-2014 and sub-section (c) of Article 6A of Act 83 establish that the Commission shall issue a final determination on rates no later than one hundred and eighty (180) days from the date the Commission determined that PREPA’s Petition was complete. PREPA filed the Petition on May 27, 2016. Through a Resolution and Order of June 13, 2016, the Commission determined the Petition was complete, for the purposes of Article 6.25 of Act 57-2014 and Article 6A of Act 83. Consequently, the Commission stated that it should issue its final determination on or before January 11, 2017.

To ensure compliance with said mandate, the Commission will hold a Technical Hearing beginning at **9:00 A.M. on Tuesday, November 29, 2016** at the Commission’s Hearing Room, located at Seaborne Building, Eighth Floor, 268 Muñoz Rivera Ave., San Juan, Puerto Rico. Said Technical Hearing shall be extended for the period of time the Commission deems appropriate. Because of the technical nature of the hearing, it will be conducted in the English language, with simultaneous translation to the Spanish language. This shall not prevent the deponents to present their arguments or answer questions in the Spanish language. All participants must conduct themselves efficiently and in full compliance with the procedures set forth herein or established by the Commission at a later date.

In order to facilitate a thorough evaluation of the Petition and the proposed rates within the limited timeframe specified by Article 6.25 of Act 57-2014 and Article 6A of Act 83, the Commission establishes the following guidelines, which will apply to all participants in the Technical Hearing. The purpose of this Technical Hearing, and of the guidelines

¹ Act No. 57 of May 27, 2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act.

² Act. No. 83 of May 2, 1941, as amended, known as the Puerto Rico Electric Power Authority Act.

³ See, sub-section (a) of Article 6.25 of Act 57-2014.

stated herein, is to enable the Commission to conduct an effective and efficient process, while giving all parties a reasonable opportunity to question witnesses with whom they disagree.

II. Technical Hearing Format and Schedule

The Commission, as it has done in other proceedings, will organize the questioning of the witnesses by subject-matter panels. The composition of the panels was established by the Commission (*see* Exhibit A). Each panel will address a specific set of topics or issues identified by the Commission. This approach allows for a more useful dialogue, and more organized hearing record. In addition, simultaneous appearances by these witnesses provides for better time management and allows for a more detailed and efficient examination of their testimonies and its relationship to the merits of the Petition.

Exhibit A of this Resolution and Order contains a list of the panels, the issues, the required witnesses who will be appearing on each panel and the date in which each panel session will begin. The list of topics or issues to be addressed during each panel is not exhaustive and may be modified at the Commission's discretion.

III. Witnesses Appearances

Some witnesses have indicated unavailability for the time periods now designated for them. The Commission will not entertain any requests to change the order of the panels or to reschedule a panel. Witnesses have an obligation to appear when the Commission directs them to appear. The magnitude and historic importance of this proceeding requires the commitment of all parties and witnesses in ensuring the Commission has all the information necessary to comply with its statutory obligations. Appearing at a different time than the designated one, disrupts the logical sequence of the hearing and reduces that witness's chance to be helpful to the Commission. Unless there is a family emergency or a witness appearance in another jurisdiction that cannot be rescheduled, the Commission expects the witness to be present at the designated date and time. Mere inconvenience is not a reason not to appear. We expect all parties to join the Commission in sharing the burden of creating a proceeding that promotes the public interest.

If any witness, despite its strongest efforts, will find it impossible to appear in one or more of its designated panels, the attorney for such witness shall inform Commission Staff, **via email** to **tnegron@energia.pr.gov**, **no later than November 21, 2016**, the nature of the schedule conflict and the precise date or dates in which the witness can be available. Commission Staff will evaluate the information and will contact such attorney to establish the precise time period when such witness will appear. If necessary, on November 22, 2016, Commission Staff will publish a final schedule that identifies (a) the final panels as amended due to witness unavailability, and (b) the precise time when each witness requiring a change will appear. At that time, Commission Staff will consult as necessary

with parties to determine who will need to cross-examine such rescheduled witnesses. Notifications shall **only** be made via email and **shall not** be filed with the Commission's Clerk. Lack of confirmation or late responses to this requirement risks having the witness's testimony struck from the record and that witness dismissed.

Each panel will start no later than the stated date, and therefore will end no later than the date the next panel is scheduled to begin. It is possible that the Commission will reschedule the short panels on industrial customers and on Puerto Rico Aqueducts and Sewers Authority ("PRASA"), if a more convenient time slot opens up and if the relevant witnesses are available at those other times. All witnesses should be available, and in contact with their counsel, the full day before their scheduled panel, except for panels that begin on a Monday.

IV. Witness Examination

Each panel will consist of questions directed at specific witnesses. Witnesses will not read their testimonies nor make opening statement. All panels will begin with questions by the Commission to the witnesses, followed by questions from PREPA to Commission's consultants and intervenors' witnesses and finally questions by intervenors to PREPA's witnesses and Commission's consultants.

The Staff's review of all testimony indicates that there is no opposition among intervenors, therefore there is no right for an intervenor to cross-examine another intervenor's witness or to ask questions to its own witness. If any party disagrees with this conclusion they shall communicate such disagreement via email to Commission Staff, no later than November 21, 2016 at 5:00 p.m. In its email, the party must precisely explain which intervenor witness such party opposes. There shall be no "amicable" cross-examination.

All parties may ask any question to a Commission's consultant, regardless of whether such question is traditional cross-examination or "amicable" cross-examination. However, any "amicable" cross-examination of a Commission's consultant may only be for purposes of clarification or to educate the Commission and the parties. A cross-examiner may not use a Commission's consultant to develop testimony which the cross-examiner should have submitted itself. Redirect examination will be permitted at the Commission discretion and only if there is time remaining on that particular panel.

With respect to questions asked by PREPA or intervenors, **only one attorney** from each party may question a particular witness. However, different attorneys from a party may ask questions to different witnesses, provided they address different subjects. PREPA and intervenor questioners must refrain from asking repetitive questions which were already asked during the proceeding, however they may reference such questions if the latter question is related to their line of questioning and will not elicit a repetitive answer. As in the Transition Charge proceeding, the Commission's questioners intend to ask all the questions they deem necessary for the Commission to make its decisions.

In answering questions, witnesses must refrain from repeating answers previously given. Their response must be succinct but sufficient to adequately answer each question. Only the witness to whom a question is addressed may answer that question.

V. Closing Statements

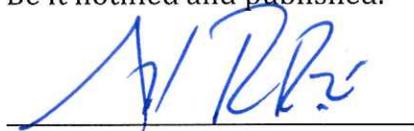
Should there be sufficient time on the final day of the hearings, the Commission may provide, at its discretion, an opportunity to each party to present closing statements. The Commission will determine the time slots for such statements during the final week. The Commission will require parties with similar interests to coordinate and combine their closing statements.

VI. Pre-Hearing Conference

The Commission will hold a Pre-Hearing Conference on **November 28, 2016 at 10:00 a.m.** at the Commission's Hearing Room. Any objections or questions related to the procedures described herein must be addressed at such hearing and must take into account the legal and time constraints placed on the Commission by Act 57-2014 and Act 83. The Commission would prefer, however, to learn of any concerns before November 28. The Commission will address any concerns, questions or objections during the pre-hearing conference. The Commission may also address any other matters such as, but not limited to, marking of exhibits and submission of corrections. Finally, the Commission will not address any procedural or legal objection or request during the technical hearing, unless such objection or request is the result of an unforeseen circumstance which could not have been addressed during the Pre-Hearing Conference.

For the benefit of all the parties involved, the Commission issues this Resolution and Order in both Spanish and English languages. Should any conflict between each version arise, the English version shall prevail.

Be it notified and published.



Ángel R. Rivera de la Cruz
Associate Commissioner



José H. Román Morales
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Commission has so agreed on November 18, 2016. The Chairman, Agustín Carbó Lugo did not intervene. I further certify that on this date a copy of this Resolution and Order was notified by electronic mail to the following: n-ayala@aepr.com, c-aquino@aepr.com, glenn.rippie@r3law.com, michael.guerra@r3law.com, john.ratnaswamy@r3Law.com, codiot@opic.pr.gov, jperez@oipc.pr.gov, mmuntanerlaw@gmail.com, jfeliciano@constructorespr.net, abogados@fuerteslaw.com, jose.maeso@aae.pr.gov, edwin.quinones@aae.pr.gov, nydinmarie.watlington@cemex.com, aconer.pr@gmail.com, epenegypr@gmail.com, jorgehernandez@escopr.net, ecandelaria@camarapr.net, pga@caribe.net, manuelgabrielfernandez@gmail.com, agraitfe@agraitlawpr.com, maribel.cruz@acueductospr.com, mgrpcorp@gmail.com, attystgo@yahoo.com, eirizarry@ccdlawpr.com and pnieves@vnblegal.com. I further certify that today, November 18, 2016, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Commission and I have sent a true and exact copy to the following:

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For the record, I sign this in San Juan, Puerto Rico, today, November 18, 2016.

María del Mar Cintrón Alvarado
Clerk

**EXHIBIT A – PANEL DESCRIPTION
TECHNICAL HEARING
CEPR-AP-2015-0001**



**Panel A:
Revenue requirement: Form and calculation (plus the reasonableness of a limited
number of costs)**

Issues:

1. Appropriateness of FY2017 as the test year;
2. The proper revenue requirement equation;
3. Accuracy of the numbers, including double-counting issues;
4. Appropriate reflection in the revenue requirement of fuel and purchase power expense, debt service margin, and other special items;
5. Reasonableness of certain expenses (other than the generation-transmission-distribution, which are addressed in the Panel on reasonableness of costs);
 - a. Labor
 - b. Working capital
 - c. Depreciation
 - d. Irrigation subsidy calculation
 - e. CILT calculation
 - f. Reconnection fee
 - g. Fines and penalties
6. Income from other sources;
7. Calculation of required revenue increase;
8. Reconciliation of permanent rates with provisional rates;
9. Coordination of the new revenue requirement with the provisional revenue requirement;
10. Coordination of the new revenue requirement with the Transition Charge;
11. Procedures for a compliance filing after the Jan. 11 order;
12. Improvements in financial reporting and cost reporting.

Commencement Date: Tuesday, November 29, 2016

Witnesses: Stathos, Pampush, Porter, Ramos, Miranda, Pérez and Sosa, (PREPA); Feliciano (ACONER); Glass (ICSEPR) and Smith and Dady (Commission).



**Panel B:
PREPA's financing and financial condition**

Issues:

1. PREPA's financial condition;
2. The appropriate role of the rate case in restoring PREPA's access to capital markets;
3. Reasonableness of the finance costs in general;
4. The appropriate debt service coverage ratio;
5. The possibility of additional bondholder concessions;
6. PREPA's non-utility affiliates (1-HOUR);

Commencement Date: Thursday, December 1, 2016.

Witnesses: Donahue, Quintana, Stathos, Pampush, Porter and Ramos (PREPA); Hill (Commission); Masses (Manufacturers Association); Feliciano (ACONER) and Kunkell, Sanzillo and Glass (ICSEPR)

**Panel C:
PRASA-PREPA dispute on rate treatments**

Commencement Date: Friday, December 2, 2016.

Witnesses: PRASA Legal Representative and Ramírez Rivera (PRASA); Estrada Rivera (PREPA).

**Panel D:
Industrial and commercial customers concern**

Issues:

1. Effects of a rate increase on customers generally;
2. Effects of discounts on consumption and on rates for non-discounted customers;
3. Alternatives, if any, to an increase in the revenue requirement based on cost;

Commencement Date: Friday, December 2, 2016.

Witnesses: Rivera (PREPA); García Morelos and Valente Reinaldo Agüero (CEMEX); Cao, Kunkell and Sanzillo (ICSEPR); Zavala (Homebuilders Association); Hospitals Association; Cosme Nuñez (Chamber of Commerce).



Panel E:
Revenue requirement: Reasonableness of the cost and revenue inputs

Issues:

1. Principles to apply in determining when and whether to allow or disallow costs;
2. PREPA's improvement efforts;
3. Reasonableness of prospective generation, transmission, distribution and fuel costs (both op ex and capex);
4. Reallocation of certain costs from capital expenditure to operating and maintenance;
5. Reasonableness of already-incurred or already-committed costs;
6. Usefulness of benchmark analysis;
7. Forecasts of loads and sales;
8. Quality of the numbers.

Commencement Date: Tuesday, December 6, 2016.

Witnesses: Donahue, Quintana, Miranda, Pérez, Sosa, Rivera, Kaufman and PREPA's operational team in the areas of generation, transmission and distribution; Fisher and Horowitz (Commission); Feliciano (ACONER); Kunkell, Sanzillo and Glass (ICSEPR).

Panel F:
Methods for updating rates and ensuring prudence

Issues:

1. Criteria for assessing future procedures;
2. Options for updating revenue requirement based on prior period's performance or based on later-discovered errors;
3. Implementing reconciliation of permanent with provisional rates (timing only);
4. Options for monitoring compliance with budget;
5. Linkage of update procedures to performance investigations;
6. Procedures for altering budget mid-year;
7. Consequences to PREPA, executives and managers for exceeding budget;
8. Resources required by PREPA to comply with the procedures;
9. Resources required for oversight by the Commission and ICPO;
10. Energy efficiency rider.

Commencement Date: Thursday, December 8, 2016.

Witnesses: Rivera (PREPA); Garcia Morelos and Valente Reinaldo Agüero (CEMEX); Kunkell, Sanzillo and Cao (ICSEPR); Zavala (Homebuilders Association); Plá Cortes (Hospitals Association); and Cosme Nuñez (Chamber of Commerce).

**Panel G:
Revenue allocation and rate design (other than net-metering and renewable energy issues) and certain subsidies**

Issues:

1. All cost allocation & rate design (other than renewable energy and net metering);
2. Quality of the load research data and cost of service study;
3. Fuel and purchased power clause;
4. "Subsidies": Appropriate categorization and allocation;
5. CILT: allocation and rate design;
6. Load research program;
7. Reconnection charge.

Commencement Date: Monday December 12, 2016.

Witnesses: Zarumba and Granovsky (PREPA); Chernick (Commission); Feliciano (ACONER); Masses (Manufacturers Association); Riera (ICPO); Kunkell and Sanzillo (ICSEPR) and González (Windmar).

**Panel H:
Net Metering and Renewable Energy Rate Design**

Issues:

1. Net-metering;
2. Costs to include in charges to renewable energy;
3. Renewable energy rate design.

Commencement Date: Thursday, December 15, 2016.

Witnesses: Zarumba, Granovsky and Rivera (PREPA); Chernick (Commission); Maeso (CEPPO); Previdi and Feliciano (ACONER); Masses (Manufacturers Association); Riera (ICPO); Gabel (Sunnova); and González (Windmar).



**Panel I:
Legal Issues**

Purpose: To educate the Commission on legal issues arising under Act 4-2016 and Act 57-2014, as those Acts apply to or affect the Application.

Issues:

1. To be announced no later than 3 days prior to this panel

Commencement Date: Thursday, December 15, 2016.

Attorneys: Attorneys from all parties, subject to Commission's determination to consolidate parties for some issues.