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VIA ELECTRONIC MAIL:

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COMMISSION RECOMMENDATIONS AND DETERMINATIONS ON CRITICAL PROJECT PROPOSALS, PURSUANT TO SECTION 503 OF PROMESA

Dear Mr. Zamot:

The Puerto Rico Energy Commission (“Commission”) hereby provides its recommendations and determinations regarding the eligibility of certain proposed energy projects to receive critical project designation pursuant to Section 503 of PROMESA.¹ Under PROMESA, a critical project has access to an Expedited Permitting Process, which consists of the “alternate procedures, conditions and terms mirroring those established under [Act 76-2000].”²

On March 26, 2018, the Commission received written communication from the Fiscal Oversight and Management Board for Puerto Rico (“FOMB”) requesting the evaluation of five energy-related projects seeking critical project designation. These are: (i) Blue Beetle III PV Solar Plant; (ii) Carraizo Dam, Hydroelectric Generation Rehabilitation; (iii) Cabo Rojo Solar Photovoltaic Energy System; (iv) Vega Serena Solar Plant; and (v) M Solar Generating, LLC.

Section 503 of PROMESA describes the process by which the FOMB assesses “critical projects.” Section 503(b)(1) requires the FOMB’s Revitalization Coordinator to develop a “Critical Project Report within 60 days of the project submission.” Section 503(b)(1)(D) establishes:

¹ Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), Public Law No. 114-187.

² PROMESA Section 501.

In the case of an Energy Project that will connect with the Puerto Rico Electric Power Authority's transmission or distribution facilities, [the Critical Project Report shall include] a recommendation by the Energy Commission of Puerto Rico, if the Energy Commission determines such Energy Project will affect an approved Integrated Resource Plan, as defined under Puerto Rico Act 57-2014. If the Energy Commission determines the Energy Project will adversely affect an approved Integrated Resource Plan, then the Energy Commission shall provide the reasons for such determination and the Energy Project shall be ineligible for Critical Project designation, provided that such determination must be made during the 60- day timeframe for the development of the Critical Project Report."

The referenced statute requires the Commission to make two findings: first, whether the project "affects" an approved Integrated Resource Plan and, second, whether it will "adversely affect" an approved Integrated Resource Plan ("IRP"). For the Commission to determine a project has no adverse effect on an IRP, it must be consistent with such IRP by: (i) being specified in an approved IRP; (ii) being a reasonable substitute for a project specified in an approved IRP; or (iii) satisfying a legitimate need, as determined by the Commission, regardless of whether such need is identified in an existing approved IRP. Furthermore, to avoid a determination of adverse effect, projects not specified in an approved IRP must also demonstrate cost-effectiveness, which may be achieved by demonstrating having been selected through a competitive bidding process or that its costs are no greater than necessary to satisfy the project's stated purpose.

Consistent with Section 503 of PROMESA, the Commission based its assessment of the aforementioned proposed energy projects on the existing Puerto Rico Electric Power Authority's ("PREPA") Approved Modified IRP.³ Such Approved Modified IRP consists of two sections, first, the Action Plan, and second, the Resource Planning Information. The Modified Action Plan consists of specific directives to PREPA. It details the specific actions PREPA shall take over the next five fiscal years. The Resource Planning Information, on the other hand, specified the information and data related to PREPA's system and resource options which informed the development of the Modified Action Plan.⁴ Together, these sections form the substantive basis for the resource planning determinations made as part of the Approved Modified IRP and serve as the benchmarks against which proposed energy projects are evaluated.

³ The Commission issued its final approval to PREPA's Modified IRP on February 10, 2017. *See* Resolution on the Verified Motion for Reconsideration of the Puerto Rico Electric Power Authority, February 10, 2017, Case No. CEPR-AP-2015-0002.

⁴ The Commission determined that the information provided as part of the Updated Fuel IRP, presented on April 25, 2016 would serve as the Resource Planning Information of the Approved Modified IRP.

Accordingly, the Commission hereby submits its evaluation of the **Carraizo Dam, Hydroelectric Generation Rehabilitation** proposed project.

The Carraizo Dam project proposes to install three turbines at the Carraizo Dam with a generating capacity of 8 MW. The sponsors plan to install the three turbines at the existing dam to generate electricity from discharge water.⁵

The Commission identified several deficiencies in the information provided in support of the sponsor's application for critical project designation which limit the Commission's ability to determine that the proposed project (i) will connect to PREPA's transmission and distribution system; and (ii) will not have an adverse effect on the Approved Modified IRP.

Section 503(b)(1)(D) of PROMESA establishes that Commission evaluation is required for energy projects that will connect to PREPA's transmission or distribution facilities. The Carraizo Dam proposal does not specify if it will interconnect to PREPA's grid or if the energy produced by the system will be consumed entirely on-site (without any need for it to be transmitted through PREPA's grid).

On this subject, the application and supporting documentation provide contradicting information. The application states as one of the benefits of the proposed projects that it will "produce electric energy at very low costs [which] will help considerably in lowering the cost of electric power for PRASA's operation."⁶ However, the Proposal for PPA between the Puerto Rico Aqueduct and Sewer Authority ("PRASA") and Steamflow Technology Corp. ("SFTC") ("Project Proposal") states that SFTC will "[a]ssist and/or represent PRASA in negotiations for the formalization of the Electric Power Selling Agreement with the Local Electric Utility."⁷

Similarly, it is unclear whether PRASA's facilities will consume the total energy output generated by the project or if excess energy output will be injected to PREPA's grid. The total projected capacity of the proposed project (7 MW - 8MW) suggests that not all the energy produced by the system will be consumed on-site, which, unless the project sponsor intends to build its own transmission and/or distribution infrastructure, may require excess energy output being injected to PREPA's grid.

Certainty regarding the project's impact on PREPA's grid, including whether the project interconnects to PREPA's grid, is a necessary component of the Commission's evaluation of a proposed critical project under Section 503 of PROMESA. A project that

⁵ See Carraizo Dam Application at p. 1, "Project Description". It should be noted that the document titled "Proposal for PPA between PR Aqueduct & Sewer Authority & Steamflow Technology Corp.", at p. 6, ("Proposed Facility") states that the approximate generating capacity of the facility will be 7 MW.

⁶ See Carraizo Dam Application at p. 2 ("Problem/Opportunity identification").

⁷ See Carraizo Dam Project Proposal at p. 7 ("Construction Period").

does not interconnect to PREPA's grid, and therefore will operate separately and independently from PREPA's system, is not subject to the Commission's evaluation under Section 503 of PROMESA.

The Carraizo Dam project is not specified in the Approved Modified IRP, nor has the sponsor shown that the proposed project is a reasonable substitute to a project specified in the IRP or whether the project satisfies a legitimate need. Therefore, assuming that excess output from the project will be injected into PREPA's grid, the Commission finds that, based on the information available, the proposed project *will have* an adverse effect on the Approved Modified IRP, because it consists of generation capacity in excess of the capacity required for safe operation of the electric grid, as such capacity was identified in the Approved Modified IRP. Therefore, the Commission determines that this project is **INELIGIBLE** for critical project designation at this time.

Should the project sponsor provide information addressing the aforementioned deficiencies, the Commission will reassess the proposed project pursuant to Section 503 of PROMESA.

Should you have any questions or comments, you may contact us at your earliest convenience.

Cordially,



José H. Román Morales
Associate Commissioner
Interim Chairman



Ángel R. Rivera de la Cruz
Associate Commissioner

c. Omar Cuadrado, Esq.