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Approved: Hon. Víctor A. Suárez Meléndez

Secretary of State

A handwritten signature in black ink, appearing to read 'Francisco J. Rodríguez Bernier'.

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**NEW REGULATION ON RATE FILING REQUIREMENTS FOR THE  
PUERTO RICO ELECTRIC POWER AUTHORITY'S FIRST RATE CASE**

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# **NEW REGULATION ON RATE FILING REQUIREMENTS FOR THE PUERTO RICO ELECTRIC POWER AUTHORITY'S FIRST RATE CASE**

## **CHAPTER I - GENERAL PROVISIONS**

### **ARTICLE I.- GENERAL PROVISIONS**

#### **Section 1.01.- Title.**

This Regulation shall be known as the New Regulation on Rate Filing Requirements for the Puerto Rico Electric Power Authority's First Rate Case.

#### **Section 1.02.- Legal Basis.**

This Regulation is adopted pursuant to Articles 6.3 and 6.25 of Act 57-2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act ("Act 57-2014"); to Section 6B of Act No. 83 of May 2, 1941, as amended, known as the Electric Power Authority Act ("Act 83-1941"); and pursuant to Section 2.13 of Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

#### **Section 1.03.- Purpose and Executive Summary.**

On July 24, 2015, the Commission issued Regulation No. 8620 on Rate Filing Requirements for the Puerto Rico Electric Power Authority pursuant to the emergency mechanism set forth in Article 6.20 of Act 57-2014 and Section 2.13 of the Uniform Administrative Procedure Act. Said Regulation defined the specific financial and statistical information, reports and prefiled direct testimony that the Puerto Rico Electric Power Authority ("PREPA") shall include in its formal application to the Commission for the first rate review case. Although Act 57-2014 required PREPA to file its first rate case within a specified period of time, and this Commission had ordered PREPA to do so through its May 29, 2015 Order (See Case No. CERP-AP-2015-0001), ongoing restructuring negotiations between PREPA and its bondholders and main creditors forcibly postponed the filing of a rate case until a clear understanding of PREPA's financial obligations could be obtained. The eighteen-month long negotiations resulted in the approval of Act 4-2016, known as the PREPA Revitalization Act, which established the mechanism for the restructuring of PREPA's financial obligations and operational and administrative procedures.

Act 4-2016 also amended several provisions of Act 57-2014 related to the review of PREPA's rates, further highlighting the need to adopt a new regulatory framework which is consistent with current legal and factual developments. As such, given the overall urgency of reviewing PREPA's rates, both to the benefit of PREPA's

consumers, as well as its bondholders and creditors, the Governor of Puerto Rico, Hon. Alejandro J. García Padilla certified the existence of an emergency which required urgent action in relation to PREPA's rates and financial condition. Consistent with the aforementioned emergency, the Commission identified the need to update PREPA's rate filing requirements to ensure that the information filed by PREPA along with its rate case is consistent with the current legal framework, addresses changes in PREPA's financial obligations as a result of the debt restructuring negotiations and responds to PREPA's fiscal and financial reality in light of recent developments.

As such, the Commission adopts this New Regulation on Rate Filing Requirements for the Puerto Rico Electric Power Authority's First Rate Case pursuant to Section 2.13 of the Uniform Administrative Procedure Act. The purpose of this Regulation is to establish the filing requirements and instructions to ensure that the Commission has the information it needs to comply with its statutory mandate to review and approve PREPA's proposed rates and guarantee they are just and reasonable, consistent with sound fiscal and operational practices which result in a reliable service at the least reasonable cost and take into account the results of the restructuring negotiations. This Regulation also establishes the procedure to present and address any confidentiality claim that PREPA could have with regards to any information included in its formal application pursuant to this Regulation. As a result of the provisions of this Regulation and of Article 6.15 of Act 57-2014, PREPA cannot refuse to provide required information to the Commission on the grounds that PREPA believes the information is confidential or has not yet received the confidential designation it desires. Finally, this Regulation states the information and procedural requirements with which PREPA must comply if it is to request the approval of a Provisional Rate and provides the mechanism for the proposal of base rate design to be evaluated by the Commission as part of the rate case.

The filing requirements established in this Regulation for PREPA's formal application for the review of its rates not only require PREPA to submit the information that is usually required to utilities in rate procedures to justify their current or their proposed rates, but also requires PREPA to submit information specific to its unique situation. Thus, pursuant to this Regulation, PREPA's formal application for the first rate case in the Commonwealth of Puerto Rico will include, amongst other, detailed information related to PREPA's plant investment, cost of capital and debt service requirements, income statements, financial statements, projections and forecasts, and the cost of service, among other. In addition, it will include detailed information about the proposed tariffs and their effects on the customers, as well as a description of the function of the companies operating within PREPA Holdings, like, for example, PREPA Networks, LLC.

#### **Section 1.04.- Application.**

This Regulation shall apply to PREPA's first formal application for rate review before the Commission.

#### **Section 1.05.- Interpretation.**

This Regulation shall be interpreted in a way that promotes the highest public good and the protection of the interests of the residents of Puerto Rico, and in such a way that the proceedings are carried out rapidly, justly and economically.

#### **Section 1.06.- Provisions of Other Regulations; Repeal of Regulation No. 8620.**

The provisions of this Regulation may be supplemented by the provisions of other regulations of the Puerto Rico Energy Commission that are compatible with the provisions of this Regulation.

Regulation No. 8620, known as the Rate Filing Requirements for the Puerto Rico Electric Power Authority, is hereby repealed.

#### **Section 1.07.- Unforeseen Proceedings.**

When a specific proceeding has not been planned for in this or another Commission regulation, the Commission may conduct them in any way that is consistent with Act 57-2014, as amended.

#### **Section 1.08.- Definitions.**

- A) These definitions are to be used for this Regulation and are not intended to modify the definitions used in any other Commission rules or orders.
- B) For the purposes of this Regulation, the following terms will have the meaning established below, except when the context of the content of any provision clearly indicates something else:
  - 1) "Accounting System" shall mean accrual accounting in conformity with U.S. generally accepted accounting principles and with the Uniform System of Accounts for Electric Utilities prescribed by the Federal Energy Regulatory Commission.
  - 2) "Accumulated Depreciation" shall mean depreciation of electric utility plant recorded in account 108 of the Uniform System of Accounts for Electric Utilities as of a specific balance sheet date. For general ledger and balance sheet purposes, this account shall be regarded and treated as a single composite provision for depreciation. For purposes of analysis, however, PREPA shall maintain subsidiary records in which this account is segregated according to the following functional classification for electric plant: (1) Steam production, (2) Hydraulic production, (3) Other production, (4) Transmission, (5) Distribution, and (6) General. These subsidiary records shall reflect the current

credits and debits to this account in sufficient detail to show separately for each such functional classification: (a) the amount of accrual for depreciation, (b) the book cost of property retired, (c) cost of removal, (d) salvage, and (e) other items, including recoveries from insurance.

- 3) "Base Rates" shall mean the rates charged by PREPA for the provision of electric service pursuant to a Commission-approved tariff. Base rates shall not include those costs included in the fuel adjustment clause, the purchased power clause, the Transition Charge, or other cost pass-through adjustor mechanisms, such as those that may be established for municipal lighting or Contributions in Lieu of Taxes (CILT).
- 4) "Bill Frequency Analysis" shall mean a sort of the numbers of bills in a customer class by usage, bill amount, or other feature.
- 5) "Bill Impact Analysis" shall mean an analysis that identifies the impact of a given set of rates on each customer class.
- 6) "Bondholder" shall mean any owner of a bond issued by PREPA registered in his/her name or unregistered; or the owner, according to the register, of any bond issued by PREPA that at the time is registered in the name of a person other than the bearer.
- 7) "Cash Flow Statement" refers to the statement of cash flows from operations.
- 8) "Commission", "Energy Commission" or "PREC" refers to the "Puerto Rico Energy Commission" created by virtue of Act 57-2014, as amended, known as the Puerto Rico Energy Transformation and RELIEF Act.
- 9) "Cost of Debt" shall mean the interest payments with respect to bonds issued by PREPA which have not been defeased or are not scheduled to be defeased pursuant to the PREPA Revitalization Act required to be made in the test year (or other time period) and any amounts of debt premium or discount which are recorded as amortization in the test year (or other time period).
- 10) "Customer" refers to any natural or legal person that has requested and obtained electric power or energy services from PREPA.
- 11) "Debt Service" shall mean the principal, interest, debt service reserves and/or debt service coverage ratio ("DSCR"), but excludes any debt service recovered through the Transition Charge and excludes debt

which has been or is scheduled to be defeased through the issuance of Restructuring Bonds. Debt Service Coverage for PREPA shall be consistent with the requirements of the 1974 Trust Agreement, as amended through the date of PREPA's rate filing application, and shall reflect as pro forma adjustments the impact of any amendments that are made during the period in which PREPA's rate filing application is being evaluated by the Commission.

- 12) "Debt Service Coverage Ratio" refers to the annual free cash flow available to cover annual debt service payments, excluding debt which has been defeased or is scheduled to be defeased, through the issuance of Restructuring Bonds, divided by the annual requirement to pay principal and interest on the debt.
- 13) "Depreciated Original Cost" shall mean the cost of property to the person first devoting it to public service, less the depreciation reserve, which depreciation reserve shall include accrued depreciation and amortization. Depreciated original cost shall not include any goodwill or going concern value, nor shall it include certificate value in excess of payment made or costs incurred in the initial acquisition thereof.
- 14) "Embedded Cost of Service" shall mean the total cost of providing electric utility service to all customers and to each class of customers, as calculated by the application of logical cost analysis and cost allocation techniques that are generally accepted in electric utility regulation in the United States.
- 15) "Exhibit" shall mean one or more schedules or documents that support a rate filing or testimony in a rate proceeding before the Commission.
- 16) "Formal Application" shall mean an application and required schedules, exhibits, written prefiled direct testimony and other documents filed by PREPA to initiate any rate proceeding under these Filing Requirements. PREPA shall prefile written direct testimony of witnesses sponsoring each exhibit and schedule in its rate application filing.
- 17) "Fuel Adjustment" and "Energy Purchase Adjustment" shall mean the mechanism or mechanisms by which PREPA recovers fuel costs and purchased energy costs, subject to the requirements that only those costs directly related to the purchase of fuel and the purchase of energy, respectively, or such variable portion in the fuel and energy price that is not included in the basic rate, as the case may be, can be recovered through the "fuel adjustment" or "energy purchase adjustment." No other expense or charge may be denominated nor



included as "fuel adjustment" or "energy purchase adjustment."

- 18) "Funds from Operations" shall mean earnings from net operating income plus depreciation, amortization, and other noncash items.
- 19) "Gross Revenue Conversion Factor" refers to any factor that is used to convert net income (or net operating income) into an equivalent revenue requirement amount, and may take into consideration elements such as uncollectibles, or other elements that impact the revenue requirement and that vary directly with changes in net income (or net operating income). An explanation and support must be provided for each item that is incorporated into the Gross Revenue Conversion Factor.
- 20) "Interest Coverage Ratio" refers to earnings before interest divided by interest expense for the same period. Also see Debt Service Coverage Ratio.
- 21) "Interest Expense" shall mean the amounts recorded in accounts 427 through 431 in the Uniform System of Accounts for Electric Utilities.
- 22) "Intermediate Year" and "Intermediate Periods" refers to the period between the end of the Test Year and the beginning of the Rate Year.
- 23) "Known and Measurable Change" shall mean verifiable and quantified changes that have occurred or are expected to occur after the test year in the capitalization, rate base elements, operations and maintenance expenses, revenues or other factors used in determining Embedded Cost of Service.
- 24) "Long Term Debt" refers to all debt issued by PREPA obligated to be repaid in more than one year, including the bonds, convertible bonds, obligations, notes, interim bonds, receipts, certificates, or other evidence of indebtedness or obligations that PREPA is authorized to issue in accordance with the provisions of applicable statutes. It includes, without limitation, conventional long-term debt, variable-rate debt, senior and subordinated debt, capital lease obligations and other obligations that would be recorded in accounts 221 through 226 in the Uniform System of Accounts for Electric Utilities. Long Term Debt shall not include any debt which has been defeased or is scheduled to be defeased through the issuance of Restructuring Bonds, pursuant to the PREPA Revitalization Act.
- 25) "Net Revenues" shall mean the excess of total revenue over operating expenses for a specified period. Any amount collected by PREPA by means of the Transition Charge shall not be considered as PREPA

revenue.

- 26) "Non-recurring" refers to an item of revenue or cost that has taken place or will take place once, and is not expected to be an ongoing revenue or cost.
- 27) "Operating Expenses" refers to expenses recorded in accounts 500 through 935 per the Uniform System of Accounts for Electric Utilities.
- 28) "Original Cost Rate Base" shall mean an amount consisting of the depreciated original cost, prudently invested, of the property (exclusive of contributions and/or advances in aid of construction) at the end of the test year, used or useful, plus a proper allowance for working capital and including all applicable pro forma adjustments.
- 29) "Person" shall mean any natural or legal person.
- 30) "Plan of Rider or Surcharge Administration" refers to a document which is prepared for each surcharge or rider, which explains the purpose of the rider or surcharge, the authority for implementing the rider or surcharge, the specific reports and filing requirements associated with the rider or surcharge, and which has calculation and schedule forms pertaining to the rider or surcharge.
- 31) "Plant in Service" shall mean Electric Plant in Service pursuant to the definition in account 101 of the Uniform System of Accounts for Electric Utilities, which specifies that this account shall include the original cost of electric plant, included in accounts 301 to 399, prescribed in the Uniform System of Accounts, owned and used by the utility in its electric utility operations, and having an expectation of life in service of more than one year from date of installation, including such property owned by the utility but held by nominees. "Plant in Service" shall also include unclassified construction costs of completed plant actually in service as described in account 106 of the Uniform System of Accounts for Electric Utilities, as of the end of the test year. For unclassified plant actually in service, at the end of the test year, account 106 shall include the total of the balances of work orders for electric plant which has been completed and placed in service but which work orders have not been classified for transfer to the detailed electric plant accounts. For the purpose of reporting to the Commission the classification of electric plant in service by accounts is required, the utility shall also report the balance in account 106 tentatively classified as accurately as practicable according to prescribed account classifications. The purpose of this provision is to avoid any significant omissions in reported amounts of electric plant in service.

- 32) "PREPA" or "Applicant" refers to the Puerto Rico Electric Power Authority, a corporate entity created by virtue of Act No. 83 of May 2, 1941, as amended, which, according to its statute, is currently an electric power generation, transmission, and distribution company.
- 33) "PREPA Revitalization Act" shall mean Act No. 4 of February 16, 2016, known as the Puerto Rico Electric Power Authority Revitalization Act.
- 34) "Pro Forma Adjustments" shall mean adjustments to actual test year results and balances.
- 35) "Projected Year" and "Rate Year" refers to the twelve (12) month period immediately following the estimated date on which new rates established in the rate case would be in effect.
- 36) "Projections" refers to estimates of future results of operations based upon known facts or logical assumptions concerning future events.
- 37) "Proof of Revenue" refers to a schedule showing a pro forma revenue statement which provides the expected or estimated adjusted billing units, proposed prices, and the resulting base rate revenue and fuel and purchased power revenue for the proposed rate classes. The statement shall also list other revenue. The total adjusted sales volume used in this proof of revenue shall correspond to the total adjusted sales volume in Schedule H-2.
- 38) "Provisional Rate" shall mean any temporary base rate established and authorized by the Commission as part of a rate review case pursuant to Article 6.25 of Act 57-2014.
- 39) "Prudently Invested" shall mean investments which at the time made were necessary to provide utility service, and which were neither dishonest nor wasteful.
- 40) "Rate Base Elements" shall mean test year Plant in Service, Accumulated Depreciation, and each other balance sheet account, and Working Capital which comprise the items that are included in rate base.
- 41) "Rate Schedule" refers to a schedule of rates and conditions for a specific classification of customers or for other specific services.
- 42) "Restructuring Bonds" shall mean any bonds issued by the PREPA Revitalization Corporation pursuant to the PREPA Revitalization Act.

- 43) "Rider" shall mean each rate mechanism that recovers a defined cost or changes in a cost outside of PREPA's base rates. A Rider may address recovery of cost for fuel, purchased power, or other costs, and requires Commission approval.
- 44) "Short Term Debt" shall mean debt to be repaid in one year or less from the date it was incurred.
- 45) "Statement of Financial Position" refers to the balance sheet. It is one of the main financial statements and it reports an entity's assets, liabilities, and the difference in their totals. The amounts reported on the statement of financial position are the amounts as of the final moment of an accounting period.
- 46) "Surcharge" shall mean each rate mechanism that recovers a cost or changes in a cost outside of PREPA's base rates for a specified period of time. A surcharge may address recovery of cost for fuel, purchased power, or other costs, and requires Commission approval.
- 47) "Test Year" shall mean the one-year historical period used in determining rate base, operating income, interest coverage ratio and debt service coverage ratio. The historical test year to be used in the formal application is the most recent twelve (12) month period for which audited financial statements exist.
- 48) "Transition Charge" shall mean those charges which are separate from any other fees charged by PREPA and which are established pursuant to the debt securitization process set forth in the PREPA Revitalization Act.
- 49) "Typical Bill Analysis" refers to an estimation of the total bill and each component of the bill of one or more representative hypothetical members of a class. This is used to ascertain the impact of the rate changes on customers such as those described in the *Bill Impact Analysis* defined above.
- 50) "Working Capital" refers to a proper allowance for cash, materials, inventories, and supplies and prepayments.

C) Every word used in the singular in this Regulation, shall be understood to also include the plural, unless the context indicates otherwise.

#### **Section 1.09.- Dates and Terms.**

In computing any time period established in this Regulation, or by order of the Commission, the day of the occurrence of the event, act or omission that triggers the

period shall not be counted and the fixed period shall begin to accrue the day after. If a period ends on a Saturday, Sunday or legal holiday, the period shall be extended until the next day that is not a Saturday, Sunday or legal holiday.

#### **Section 1.10.- Language.**

- A) If there is a discrepancy between the Spanish version and the English version of this Regulation, the provisions of the English version shall prevail.
- B) The formal application and any other document filed pursuant to this Regulation shall be in the English language. At its discretion, the Commission may order PREPA to submit a translation to the Spanish language of the formal application and of any other document filed by PREPA in accordance with the provisions of this Regulation.

#### **Section 1.11.- Severability.**

If any article, provision, word, sentence, paragraph or section of this Regulation is disputed, for any reason, before a court and declared unconstitutional or void, such ruling shall not affect, damage, or invalidate the remaining provisions of this Regulation, but their effect shall be limited to the article, provision, word, sentence, paragraph or section that is declared unconstitutional or void. The nullity or invalidity of any article, word, sentence, paragraph or section in any specific case, shall not affect or jeopardize in any way its application or validity in any other case, except when it specifically and expressly invalidates for all cases.

#### **Section 1.12.- Forms.**

The Commission shall establish the forms it deems necessary to conduct the proceedings pursuant to this Regulation, and shall inform the public via its website. Notwithstanding, the fact that the Commission has not adopted one or more forms, is in the process of reviewing them, or the Internet website is out of service, shall not relieve anyone of their obligation to comply with the provisions stated herein or the Commission's orders.

#### **Section 1.13.- Mode of Submission.**

The forms, documents and appearances required by virtue of this Regulation or any order of the Commission, must be submitted before the Commission in electronic format according to the instructions, which, from time to time, the Commission establishes through an order in relation to the electronic filing system.

If the electronic filing system is temporarily not operating or out of service, the forms, documents and appearances required by virtue of this Regulation or by any order of the Commission, shall be submitted before the Commission through the means, in the forms, in the place, and terms of the instructions that, from time to

time, the Commission establishes by way of an order.

#### **Section 1.14.- Effect of Submission.**

The presentation of a document which content has been formulated by the undersigned party, shall be equivalent to certifying that the content of said document is true and that, according to the signer's best knowledge, information and belief, formed after reasonable inquiry, the document is based on facts, arguments, judicial sources and correct information.

#### **Section 1.15.- Confidential Information.**

If in compliance with the provisions of this Regulation or any of the Commission's orders, a person has the duty to disclose information to the Commission considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged information, request the Commission the protection of said information, and support, in writing, its arguments for a claim of information of privileged nature. The Commission shall evaluate the petition and, if it understands the material merits protection, proceed according to what is set forth in Article 6.15 of Act 57-2014, as amended.

#### **Section 1.16.- Validity.**

Pursuant to Section 2.13 of Act 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act, this Regulation shall enter into effect immediately after its submission to the Department of State and the Legislative Library of the Office of Legislative Services.

## **CHAPTER II – FILING REQUIREMENTS**

### **ARTICLE II.- FORMAL APPLICATION CONTENT**

#### **Section 2.01.- In general; Information required from PREPA for its first rate case before the Commission.**

In the first rate case, PREPA shall file a formal application for rate review containing the information required in this Chapter and pursuant to the schedules and presentation order specified in the Appendix to this Regulation. The substantive information required in this Regulation and its Appendix must be contained on PREPA's schedules together with the titles and schedule numbers provided in the Appendix.

## **Section 2.02.- Request for Provisional Rates.**

Pursuant to Article 6.25(d) of Act 57-2014 and Section 6A(e) of Act 83-1941, when filing a formal application for rate review, PREPA may include a request for the Commission to establish Provisional Rates. The Commission will not address any request for Provisional Rates made on any date after the date a formal application for rate review is filed. The application for Provisional Rates must be clearly marked as such and must include the following elements:

- A) The Provisional Rates shall be calculated by applying a specific percentage uniformly to the then-existing base rates, not to any new rate design proposed by PREPA for permanent rates. Such percentage shall be applied to the per-kilowatt hour (kWh) rate and to each other component of the existing base rate structure, including without limitation, the fixed customer charge and any demand charge. The Provisional Rate shall not modify the rider that recovers the cost of fuel and purchased power.
- B) It shall demonstrate how the Provisional Rates collect the new revenue requirement proposed by PREPA.
- C) It shall include a mechanism for tracking any increase or decrease resulting from the Provisional Rates, so as to ensure compliance with Article 6.25(e) of Act 57-2014 and Section 6A(f) of Act 83-1941 (which require PREPA to credit or collect any difference between the Provisional Rate and the permanent rate established by the Commission accrued during the term in which the Provisional Rate remained in effect).
- D) If PREPA is requesting that the Provisional Rate enter into effect prior to the statutory sixty (60) day period, the application for Provisional Rate shall include the specific date on which the Provisional Rate would go into effect.
- E) It shall include pre-filed testimony and exhibits demonstrating the need for the proposed Provisional Rates. Such demonstration shall include documentation for the requested revenue requirement and the amount to be recovered in the Provisional Rates. Such testimony shall be separate from, but may reference, testimony supporting the Application for Permanent Rates.

The Commission shall have thirty (30) days, from the date the application for Provisional Rates was filed, to issue a final ruling on whether to grant, modify or deny PREPA's request for Provisional Rates. If the Commission determines to set Provisional Rates, such rates shall enter into effect sixty (60) days after the date on which the Commission notified its ruling granting the establishment of Provisional Rates. If PREPA requested that such Provisional Rate enter into effect prior to the statutory sixty (60) days, the Commission may determine that such rates should enter into effect in a lesser period. However, Provisional Rates shall never enter into

effect before thirty (30) days from the date in which the Commission notified its ruling granting the establishment of Provisional Rates.

Pursuant to Article 6.25(e) of Act 57-2014 and Section 6A(f) of Act 83-1941, when issuing a final order establishing permanent rates, the Commission shall order PREPA to adjust its customer's bills in order to credit or collect any difference between (a) the Provisional Rate charged by PREPA during the time period in which such Provisional Rate remained in effect and (b) the permanent rate which the Commission determines should have applied during such time period, so as to ensure that the Provisional Rates were just and reasonable. Such order shall reflect any upward or downward adjustment, effective as of the date the Provisional Rates were established, necessary to ensure the Provisional Rates were just and reasonable.

Within five (5) days from the date in which the Commission issues a ruling establishing Provisional Rates, PREPA shall publish in a general circulation newspaper and on its website a public announcement notifying the general public the Commission's determination regarding Provisional Rates. The announcement shall include, but is not limited to: (i) a detailed description of the Provisional Rate authorized by the Commission, including the percentage change in relation to then current base rates; (ii) the date in which the Provisional Rate shall enter into effect; and (iii) an explanation regarding the nature of the Provisional Rate and its effectiveness during the rate review process conducted by the Commission. The information contained in the public announcement must be included along with the first bill sent by PREPA to its customers after the date in which the Commission notifies its ruling regarding the establishment of Provisional Rates.

### **Section 2.03.- Content of Schedules A-1 through A-6; Summary Information.**

The formal application shall contain the following information, to be marked accordingly as Schedules A-1 to A-6:

- A) Schedule A-1 shall present a computation of the change in the Base Rates gross revenue requirement being requested by PREPA. It shall include information on the test year Embedded Cost of Service and pro forma adjusted rate year Embedded Cost of Service as well as the debt service and interest costs. It will also include the proposed coverage on debt service and interest, as well as a comparison of revenues at proposed and current rates.
- B) Schedule A-2 shall contain a summary of the Results of Operations for the test year and with PREPA's pro forma adjustments.
- C) Schedule A-3 shall contain a summary of debt service and interest coverage requirements that are used by PREPA to develop its requested revenue requirement.



- D) Schedule A-4 shall present a summary of Plant in Service and Accumulated Depreciation for the test year, the previous two (2) years, and estimated for the next three (3) years, as well as projected construction expenditures for the three (3) years following the end of the test year.
- E) Schedule A-5 shall present PREPA's financial position, and changes in the financial position through the end of the test year, and as projected for the three (3) years subsequent to the test year.
- F) Schedule A-6 shall present all charges and costs included under "Fuel Adjustment" and "Energy Purchase Adjustment" as of the effective date of Act 57-2014 and shall detail PREPA's proposed method of recovering fuel and purchased power costs. PREPA's proposed method for recovery of fuel and purchased energy costs must conform with the following requirements from Act 4-2016: The Commission shall approve under the "fuel adjustment" and "energy purchase adjustment" items only those costs directly related to the purchase of fuel and the purchase of energy, respectively, or such variable portion in the fuel and energy price that is not included in the basic rate, as the case may be. No other expense or charge may be denominated nor included as "fuel adjustment" or "energy purchase adjustment."

**Section 2.04.- Content of Schedules B-1 through B-3; Rate Base and Plant Investment.**

The formal application shall contain the following information, to be marked accordingly as Schedules B-1 to B-3:

- A) Schedule B-1 shall present a summary of test year original cost rate base elements.
- B) Schedule B-2 shall present each pro forma adjustment to rate base (one column for each adjustment). PREPA shall discuss and explain each adjustment in prefiled direct testimony and shall provide supporting workpapers showing the derivation of each adjustment.
- C) Schedule B-3 shall present a computation of Working Capital.

**Section 2.05.- Content of Schedules C-1 through C-3; Test Year Income Statements.**

The formal application shall contain the following information, to be marked accordingly as Schedules C-1 to C-3:

- A) Schedule C-1 shall present the test year income statement, showing the amounts recorded during the test year in each account in column 1; pro forma adjustments, by account, in column 2; and adjusted results in column

3.

- B) Schedule C-2 shall present the income statement pro forma adjustments (one adjustment per column). PREPA shall discuss and explain each adjustment in prefiled direct testimony and shall provide supporting work-papers showing the derivation of each adjustment.
- C) Schedule C-3 shall present the calculation of the Gross Revenue Conversion Factor. An explanation and support must be provided for each item that is incorporated into the Gross Revenue Conversion Factor.

**Section 2.06.- Content of Schedules D-1 through D-6 Capitalization and Debt Service Requirements.**

The formal application shall contain the following information, to be marked accordingly as Schedules D-1 to D-6

- A) Schedule D-1 shall include a summary of capitalization, including long-term debt, short term debt, owners' equity, and any other components of capitalization that are being used to develop the revenue requirement.
- B) Schedule D-2 shall include an itemized listing of long-term debt and related interest and debt service requirements.
- C) Schedule D-3 shall include an itemized listing of short-term debt and related interest and debt service requirements.
- D) Schedule D-4 shall include information for capital leases and the related payment obligations for the test year and each of the three (3) years following the test year.
- E) Schedule D-5 shall include information for long-term purchased power agreements, including for payment obligations for the test year and each of the three (3) years following the test year.
- F) Schedule D-6 shall include an itemized listing of any debt that has been securitized through the securitization process set forth in the PREPA Revitalization Act and related interest and debt service requirements.

Schedules D-2 (and, if applicable, D-3) shall also show the estimated effect on the test year revenue requirement of the utility of any proposed issuance of Restructuring Bonds for which a request for a Restructuring Order is pending before, or has been granted by, the Commission under Article 6.25A of Act 57-2014, as amended by Act 4-2016, at the time of the filing. Such showing shall include an itemized listing of the bonds expected to be refunded or defeased with Restructuring Bonds. The utility will submit an update to its estimate of the effect on

the test year revenue requirement for the actual issuance of Restructuring Bonds within ten (10) days after the issuance of such Bonds, provided that the rate case remains pending at the time of such issuance.

**Section 2.07.- Content of Schedules E-1 through E-9; Financial Statements and Statistical Schedules.**

The formal application shall contain the following information, to be marked accordingly as Schedules E-1 to E-9:

- A) Schedule E-1 shall show balance sheets for the beginning and end of test year, for the previous two (2) years, and estimated for the three (3) years following the test year.
- B) Schedule E-2 shall show income statements for the test year, for the previous two (2) years, and estimated for the three (3) years following the test year.
- C) Schedule E-3 shall show a statement of changes in financial position for the test year, for the previous two (2) years, and estimated for the three (3) years following the test year.
- D) Schedule E-4 shall show a statement of changes in PREPA's Net Position (Deficit) balance for the test year, for the previous two (2) years, and estimated for the three (3) years following the test year.
- E) Schedule E-5 shall show a listing of Utility Plant in Service and Accumulated Depreciation by account for the beginning and end of test year, for the previous two (2) years, and estimated for the three (3) years following the test year.
- F) Schedule E-6 shall show departmental/functional operating income statements for the test year, the previous two (2) years, and estimates for the three (3) years following the test year.
- G) Schedule E-7 shall show operating statistics, including debt service coverage, interest coverage, funds from operations, number of employees (in full time equivalents) and other operating statistics used to manage the business, for the test year, the previous two (2) years, and estimated for the three (3) years following the test year.
- H) Schedule E-8 shall show details of Contributions in Lieu of Taxes (CILT), including the test year amounts of CILT associated with each PREPA government client to which CILT applies. This schedule shall also show details of accounts receivable from each PREPA government client to which CILT applies as of the beginning and end of test year, including an aging of such accounts receivable. A schedule of accounts receivable aging for other

PREPA government clients to which CILT does not apply will also be provided.

- I) Schedule E-9 shall include notes to the financial statements.

**Section 2.08.- Content of Schedules F-1 through F-4; Projections and Forecasts.**

The formal application shall contain the following information, to be marked accordingly as Schedules F-1 to F-4:

- A) Schedule F-1 shall contain projected income statements at present and proposed rates, for a minimum of three (3) years.
- B) Schedule F-2 shall contain projected changes in financial position and debt service coverage at present and proposed rates, for a minimum of three (3) years.
- C) Schedule F-3 shall list projected construction and capital expenditure requirements for each of the three (3) years following the test year. This Schedule shall include an explanation of how the projected capital expenditures correspond with PREPA's Integrated Resource Plan.
- D) Schedule F-4 shall include a detailed description and references to supporting documentation used in developing the projections.

**Section 2.09.- Content of Schedules G-1 through G-6; Cost of Service Study and Rate Design.**

The formal application shall contain the following information, to be marked accordingly as Schedules G-1 to G-6:

- A) Schedule G-1 shall show a fully allocated embedded cost of service study at present rates.
- B) Schedule G-2 shall show a fully allocated embedded cost of service study at proposed rates.
- C) Schedule G-3 shall show the total revenue at proposed rates and the allocation of revenue at proposed rates among the customer service classes.
- D) Schedule G-4 shall show the total expenses, by account, at proposed rates and the allocation of expenses at proposed rates among the customer service classes.

- E) Schedule G-5 shall provide explanations and calculations showing how each of the allocation factors used in the Embedded Cost of Service study was derived.
- F) In Schedule G-6, PREPA may present optional information, such as alternative methodologies and results for calculating the class Embedded Cost of Service. An explanation shall be provided for each alternative method that is being presented by PREPA, along with detailed supporting calculations.

**Section 2.10.- Content of Schedules H-1 through H-6; Effect of Proposed Tariff Schedules.**

The formal application shall contain the following information, to be marked accordingly as Schedules H-1 to H-6:

- A) Schedule H-1 shall present a summary, by customer classification, of revenues at present and proposed rates.
- B) Schedule H-2 shall present an analysis of the revenue requirement by detailed class of service at present and proposed rates, showing the billing determinants, rates and revenues, by class of service.
- C) Schedule H-3 shall present and explain changes between current and proposed rates, by class of service.
- D) Schedule H-4 shall present a customer bill impact analysis, showing dollar and percent impacts for each customer class at varying levels of electric usage.
- E) Schedule H-5 shall present a bill count and bill frequency analysis.
- F) Schedule H-6 shall present a proof of revenue.

**Section 2.11.- Content of Schedules I-1 through I-4; Required Reports.**

The formal application shall contain the following information, to be marked accordingly as Schedules I-1 to I-4:

- A) Schedule I-1 shall include a copy of the Consulting Engineers' Report for the Fiscal Year that is being used as the historic test year.
- B) Schedule I-2 shall include audited financial statements and an independent auditor's opinion on such financial statements for the Fiscal Year that is being used as the historic test year.

- C) Schedule I-3 shall include the Chief Restructuring Officer's reports to PREPA's Board of Directors or Governing Board from September 2014 through the filing date, and shall be updated through the duration of PREPA's rate case as additional reports are prepared.
- D) Schedule I-4 shall include the Business Plan for the period encompassing the Rate Year.

**Section 2.12.- Content of Schedules J-1 through J-5; Tariffs.**

The formal application shall contain the following information, to be marked accordingly as Schedules J-1 to J-5:

- A) Schedule J-1 shall present PREPA's proposed tariffs.
- B) Schedule J-2 shall present PREPA's current tariffs with changes shown in legal redline to derive PREPA's proposed tariffs.
- C) Schedule J-3 shall contain a draft Plan of Rider Surcharge Administration for each proposed surcharge or rider.
- D) Schedule J-4 shall contain a draft Energy Efficiency Tariff Rider designed to fund any energy efficiency programs ordered or authorized by the Commission (such as those anticipated by Article IV of the Commission's Regulations for Integrated Resource Planning for the Puerto Rico Electric Power Authority approved on May 22, 2015). Such Rider shall be a blank form with spaces identified for categories of costs to be recovered, the frequency and timing of updates to those costs, the allocation of those costs among and within customer classes, and the formula used to compute the rate. If PREPA believes that certain components of the Rider should be determined following the determination of the scope and composition of the energy-efficiency portfolio, PREPA may designate those components as "to be determined" and provide an explanation of the factors that would affect its ultimate recommendation.
- E) Schedule J-5 shall contain a draft tariff for a decoupling mechanism. Such draft tariff shall include (i) a provision for a Commission-determined base revenue requirement; (ii) an annual reconciliation mechanism that makes positive or negative adjustments to rates as necessary to cause actual revenues to equal authorized revenues; (iii) a proposed allocation of costs among and within customer classes; and (iv) a maximum percentage rate adjustment (for example, 3%) to be allowed in any year's reconciliation, along with a mechanism for recovering or crediting in a future year amounts varying from such maximum.

**Section 2.13.- Content of Schedule K-1; Information on Affiliates.**

The formal application shall contain the following information, to be marked accordingly as Schedule K-1:

- A) Schedule K-1 shall include descriptions of affiliates and a listing of their officers, directors and board members (if different from the officers or board members of PREPA). This description shall include a description of the function of the companies operating within PREPA Holdings, including (but not limited to): PREPA Networks, LLC (also known as PREPA.Net), InterAmerican Energy Sources, LLC, and Consolidated Telecom of Puerto Rico, LLC. A list of the officers and directors/board members of each of these companies if different from the officers or board members of PREPA.

**Section 2.14.- Content of Schedules L-1 and L-2; Information on Fixed Charge to Pay Bondholders, Subsidies and Incentives.**

The formal application shall contain the following information, to be marked accordingly as Schedules L-1 and L-2:

- A) Schedule L-1 shall present calculations for a proposed fixed charge showing the amount customers shall pay on account of PREPA's obligations to bondholders, which would guarantee the annual payment of PREPA's obligations to bondholders, taking into consideration any reduction in PREPA's debt as a result of the issuance of Restructuring Bonds pursuant to the PREPA Revitalization Act. The prefiled testimony shall explain the derivation of the proposed fixed charge.
- B) Schedule L-2 shall present a detailed listing of all subsidies that are reflected in the proposed rates. The prefiled testimony shall describe their legal basis, purposes and beneficiaries; and evaluate them in terms of their cost (both the magnitude of the cost and who bears the cost) and their benefits.

**Section 2.15.- Content of Schedules M-1 through M-3; Base Rate Design.**

The formal application shall contain the following information, to be marked as Schedules M-1, M-2 and (optionally) M-3:

- A) Schedule M-1 shall present a rate-design proposal that includes, for each customer class or sub-class, (i) a fixed monthly charge equal to the incremental cost of serving an additional customer in that class or sub-class; (ii) where appropriate, a demand charge; and (iii) variable charges sufficient to collect all other costs necessary to serve that class or sub-class.

- B) Schedule M-2 shall present, for each rate design presented in Schedule M-1, the associated costs unbundled among the following four functions: customer costs (e.g. metering, billing and customer service), physical distribution, transmission and generation. For each of these four categories, Schedule M-2 shall also identify that portion of PREPA's book cost that, in the event of customer bypass (either economic or uneconomic), would need to be recovered from the bypassing customer to avoid the shifting of such cost to other customers.
- C) Schedule M-3 shall present any other rate design proposal PREPA wishes the Commission to consider. Should PREPA elect to present a Schedule M-3, its prefiled testimony shall describe the advantages and disadvantages of such approach, as compared to the approaches presented in Schedule M-1 and M-2, and shall show the effects of both approaches on the bills of residential consumers at different levels of consumption.

A bill impact analysis for each of the rate design approaches submitted by PREPA approaches shall be presented on Schedule H-4 and clearly labeled there.

**Section 2.16.- Content of Schedule N-1; Optional Proposal and Required Information if PREPA's Filing Includes such Proposal.**

At its option, PREPA may include with its rate case filing a proposal for a formula rate plan, subject to a requirement that these proposals be accompanied by the alternatives and additional information specified herein.

- A) If PREPA proposes a formula rate structure, it shall be presented on Schedule N-1. However, the formal application shall also include an alternative rate structure that is more typical of utility rate filings; specifically, one that does not envision either annual rate increases occurring outside of a base rate case, or "true-ups" for cost elements other than fuel and purchased power. The prefiled testimony shall describe the advantages and disadvantages of both approaches.
- B) The required alternative to the proposal or preferred solution presented on Schedule N-1 must reflect care and rigor comparable to that reflected in PREPA's preferred solution.

**Section 2.17.- Prefiled Written Direct Testimony.**

- A) The formal application shall include a list of each PREPA witness and must identify the portions of PREPA's rate filing schedules and exhibits that are being supported by the testimony of each of the listed witnesses.
- B) Concurrently with the filing of PREPA's formal application, each witness listed pursuant to paragraph (A) of this Section shall file written testimony



stating his or her qualifications, educational background, work experience, subject matter that is being addressed, conclusions and recommendations, and the basis for such conclusions and recommendations. Each witness' prefiled written testimony and report must include a statement and explanation concerning the witness's professional view on whether the costs the witness is addressing, are reasonable and prudently incurred. Each witness's prefiled testimony and report will also include a statement and explanation of whether such costs and recommendations represent existing (i.e. unavoidable) commitments or future (i.e. avoidable) commitments.

- C) Concurrently with its formal application and expert witness testimony, PREPA will present the testimony of its Chief Executive Officer or its Chief Restructuring Officer, or both, concerning whether PREPA's requested revenue requirement includes any costs (reflecting costs or commitments previously incurred as well as costs or commitments not yet incurred) that are not reasonable or prudently incurred.
- D) Each witness' prefiled written testimony must be accompanied by a signed, notarized statement that contains the following declaration: "Affiant, [(witness name)], being first duly sworn, states the following: The prepared Pre-Filed Direct Testimony and the Schedules attached thereto and the Schedules I am sponsoring constitute the direct testimony of Affiant in the above-styled case. Affiant states that he/she would give the answers set forth in the Pre-Filed Direct Testimony if asked the questions propounded therein at the time of the filing. Affiant further states that, to the best of his/her knowledge, his/her statements made are true and correct."
- E) Prefiled written testimony or accompanying work-papers must contain all analyses, facts and calculations necessary for the Commission to perform a comprehensive analysis and assign it the appropriate probative value.
- F) The formal application and prefiled written testimony shall avoid generalized or vague statements that would require time-consuming discovery to understand the supporting reasoning or to gather the supporting facts.

#### **Section 2.18.- Public Notice.**

PREPA shall include in its formal application a draft public notice. The purpose of this public notice is to (i) inform the public that PREPA has filed a formal application proposing new rates and (ii) describe how the public may participate in the rate review proceeding. The draft public notice shall contain, at minimum, the following information:

- A) The fact that PREPA has submitted a formal application proposing new rates, and the date of such application.

- B) The specific relief requested in the application, including the total dollars by which revenues will increase or decrease, and the average increase or decrease for customers of different classes.
- C) A statement indicating how a person may intervene, in the following form:  
"Any person desiring to intervene in this proceeding must submit to the Puerto Rico Energy Commission a petition to intervene, in accordance with Section 5.05 of Regulation No. 8543, known as the Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings, the provisions of Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act, and the interpretive case law. A petition to intervene shall be filed no later than [date to be inserted by the Commission], and must be served in accordance with the provisions in Regulation No. 8543."
- D) A statement about the procedures the Commission will follow in the proceeding, in the following form: "Upon receiving the formal application and the requests for intervention, the Commission will issue an order granting or denying the petitions to intervene, and determining who may intervene. Such order will also establish a schedule for (i) public technical hearings at which expert witnesses shall testify before the Commission and (ii) public citizen hearings at which members of the public may state their views to the Commission."
- E) A statement that more detailed information about PREPA may be found at [insert PREPA's web site] and more detail about the Commission may be found at [insert Commission's web site].

After inserting the appropriate information, the Commission will publish the public notice on its website and direct PREPA to publish the notice in newspapers of general circulation in Puerto Rico. PREPA shall also publish the notice on its website.

#### **Section 2.19.- Additional information.**

In addition to the information and content required in Sections 2.03 to 2.18 of this Regulation, the Commission may require by order that PREPA includes or submits supplementary information to that specifically required in this Regulation, either prior to or after the filing of PREPA's formal application.

#### **Section 2.20.- Waivers.**

In accordance to the provisions of this Section, PREPA may file a request for a waiver of any of the filing requirements upon a demonstration of good cause shown.

- A) Any waiver request shall provide a detailed explanation as to why the waiver is being requested along with an analysis of the advantages and possible disadvantages, to allow the Commission to thoroughly evaluate the waiver request.
- B) Any waiver request shall include the specific filing requirements requested to be waived, identifying the corresponding sections, subsections, schedules or provisions of this Article stating the filing requirements to be waived.
- C) Waiver requests are strictly limited to the following conditions which must be set forth in the request:
  - 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 (a) 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; and (b) provide, if available, a reasonable substitute for the required information.
- D) Any waiver request shall be filed no later than thirty (30) days prior to the filing date of the formal application.
- E) The Commission, after determining the existence of reasonable cause, may issue an order (i) to waive compliance with any of the requested sections, subsections, schedules or provisions of this Article and/or (ii) requiring PREPA to provide such alternative information that the Commission determines is appropriate.

### **ARTICLE III.- FILING INSTRUCTIONS**

#### **Section 3.01.- Instructions on form and substance.**

In order to be effective, the formal application shall be complete in accordance to the content and provisions stated in Article II of this Regulation. The formal application shall comply with the following instructions:

- A) All schedules shall be mathematically correct and properly cross-referenced. The applicant shall ascertain that adequate detail has been provided to explain and support all significant items and amounts.
- B) Amounts may be rounded, where appropriate, to the nearest thousand.
- C) All schedules shall be numbered as provided in the Appendix. Schedules shall

contain the preparation date, the date filed with the Commission, and, if amended or revised during the course of the proceeding, the date or each amendment or revision.

- D) Schedules shall be filed in searchable pdf format. Any schedules created with a spreadsheet program shall also be provided in native electronic spreadsheet format, unlocked. Testimony shall be filed in searchable pdf format.
- E) Headings on schedules shall clearly indicate the nature and intent of the schedule, pursuant to the corresponding Section of this Regulation, and the dates or time periods covered.
- F) At the date of filing, a minimum of ten (10) complete sets of the applicant's schedules and exhibits shall be provided to the Commission, in addition to an electronic copy of the complete set. The filing shall have an index, and Bates numbers.

**Section 3.02.- Submission of information prior to the filing of the formal application.**

In order to expedite the first rate review procedure by allowing the Commission to begin studying related materials prior to receiving the formal application, PREPA shall provide the following documents as they become available:

- A) Any and all reports made by PREPA's Chief Restructuring Officer to PREPA's Governing Board regarding its restructuring.
- B) Any and all agreements made between PREPA or its Governing Board members and any of the bondholders in addition to the Forbearance Agreement.
- C) The Business Plan referred to in the presentation titled "PREPA's Transformation: A Path to Sustainability" and dated June 1, 2015.
- D) A copy of the most recent Consulting Engineers' Report.
- E) Copy of the most recent audited financial statements and an independent auditor's opinion on such financial statements.

The formal application shall be a complete application; it shall contain the information, content and full set of exhibits required in Sections 2.03 to 2.18 and set forth in the Appendix, regardless of whether PREPA had previously provided any of those items under this Section or any other Commission's order or regulation.

### **Section 3.03.- Noncompliance.**

Failure to comply with any Section or portion of this Regulation may result in a determination by the Commission that PREPA's formal application is not complete or the disapproval by the Commission of part or all of PREPA's formal application, in addition to any other remedies, fines or penalties that the Commission sees fit.

## **CHAPTER III – TRANSPARENCY**

### **ARTICLE IV.- PUBLIC NATURE OF THE FILING**

#### **Section 4.01.- Access to the filing.**

When filing its complete formal application, PREPA shall simultaneously publish on its website a true and exact copy of the formal application submitted to the Commission, in order to provide complete access for those who want to examine the document. PREPA may only redact the content of the filing that is the object of a confidentiality claim presented and pending before the Commission in accordance with Section 4.02 of this Regulation.

#### **Section 4.02.- Confidentiality claims.**

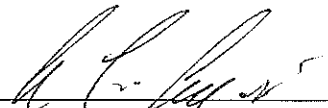
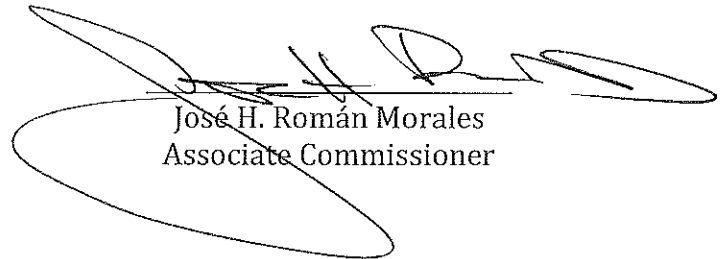
The confidential nature of a document or information is not a basis for or reason to violate or avoid compliance with the Filing Requirements established in Chapter II of this Regulation. If PREPA understands that any information contained, pursuant to this Regulation or a Commission's order, in its formal application or in any supplement is of confidential or privileged nature, the following procedure shall be observed:

- A) When submitting its formal application to the Commission in full compliance with the provisions in Chapter II of this Regulation, PREPA shall (i) mark or identify the information that it understands is "confidential" or "privileged"; (ii) identify the reason why the document or information should be classified as "confidential" or "privileged"; and (iii) state in writing the legal bases and sources to support its argument that such information or document should be classified as "confidential" or "privileged". PREPA must connect each confidentiality claim to a particular schedule or document.
- B) The Commission will decide each confidentiality claim expeditiously. In its decision, the Commission will state (i) which information and documents are confidential or privileged; and (ii) the rules that shall be observed to duly safeguard the information. If the Commission denies a confidentiality claim, the Commission will also state the time period after which the document or information will be available to the public. Such time period will give PREPA

sufficient time to seek reconsideration or any other legal recourse in order to prevent disclosure if PREPA disagrees with the Commission's decision.

- C) Every employee and contractor of the Commission having access to the information marked as "confidential" or "privileged" by PREPA, the Commission or by a competent court, shall sign a confidentiality agreement with the Commission and comply with the protocol for the proper handling of confidential documents in paper form, in accordance with the *Normas Internas para el Manejo de Información Confidencial en la Comisión de Energía*.

Agreed upon by the Puerto Rico Energy Commission, in San Juan, Puerto Rico, on this 16<sup>th</sup> day of March, 2016.

  
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Agustín F. Carbo Lugo  
President  
\_\_\_\_\_  
Ángel R. Rivera de la Cruz  
Associate Commissioner  
\_\_\_\_\_  
José H. Román Morales  
Associate Commissioner