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COMISIÓN DE ENERGÍA DE PUERTO RICO

CEPR
COMISIÓN DE ENERGÍA DE PUERTO RICO
2014

IN RE: PETICIÓN DE ORDEN DE REESTRUCTURACIÓN DE LA CORPORACIÓN PARA LA REVITALIZACIÓN DE LA AEE	**CASO NÚM.:** CEPR-AP-2016-0001 **ASUNTO**: TERCERA SOLICITUD DE CLARIFICACIÓN DE LA COMISIÓN DE ENERGÍA A LA CORPORACIÓN PARA LA REVITALIZACIÓN DE LA AEE

RESOLUCIÓN Y ORDEN

El 7 de abril de 2016, la Corporación para la Revitalización de la Autoridad de Energía Eléctrica ("Corporación") presentó ante la Comisión de Energía de Puerto Rico ("Comisión") una petición de Orden de Reestructuración ("Petición") de conformidad con el Artículo 6.25A de la Ley 57-2014.[1] El 12 de abril de 2016, la Comisión emitió una Resolución y Orden determinando que la Petición estaba completa para propósitos del inciso (c) del Artículo 6.25A de la Ley 57-2014, puesto que la Petición provee algún grado de información relacionada a cada uno de los requisitos dispuestos en el inciso (e) del referido Artículo 6.25A.

Desde la presentación de la Petición, la Comisión ha emprendido un minucioso proceso de evaluación, procurando establecer un fino balance entre los deberes y responsabilidades de la Comisión como entre regulador especializado y los parámetros de evaluación dispuestos por la Ley 4-2016.[2] A tono con lo anterior, la Comisión ha emitido dos (2) solicitudes de clarificación consistentes en preguntas y solicitudes de producción de documentos y hojas de trabajos dirigidas a permitir a la Comisión evaluar con mayor detalle las determinaciones y conclusiones, así como la metodología de cálculo del cargo de transición y mecanismo de ajuste, y propuestas en la Petición.[3]

Luego de evaluadas las clarificaciones y contestaciones provistas por la Corporación, y como parte del continuo esfuerzo por evaluar cabalmente el contenido de la Petición, la Comisión publica un tercer requerimiento de clarificaciones, que consiste de una serie de preguntas las cuales, luego de ser contestadas por la Corporación, permiten la posibilidad de brindar suficiente claridad a la Petición de forma que la Comisión pueda emitir una determinación final a tenor con el Artículo 6.25A de la Ley 57-2014.

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En cumplimiento con la responsabilidad de esta Comisión de revisar la Petición de la Corporación conforme a los parámetros dispuestos por la Ley 4-2016, y en atención a los amplios

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[1] Ley Núm. 57 de 27 de mayo de 2014, según enmendada, conocida como la Ley de Transformación y ALIVIO Energético de Puerto Rico.
[2] Ley Núm. 4 de 16 de abril de 2016, conocida como la Ley para la Revitalización de la Autoridad de Energía Eléctrica de Puerto Rico.
[3] *Véase*, Resolución y Orden de 14 de abril de 2016 y Resolución y Orden de 18 de abril de 2016. La Corporación presentó sus contestaciones a ambas solicitudes el 15 de abril de 2016 y el 28 de abril de 2016, respectivamente. La Comisión, además, ha celebrado dos (2) conferencias telefónicas con los representantes de la Corporación con el propósito de clarificar el contenido de la Petición. Las grabaciones y transcripciones de dichas conferencias estarán disponibles a través de la página de internet de la Comisión.

poderes investigativos que le fueron delegados mediante la Ley 57-2014[4], se ordena a la Corporación contestar las preguntas que forman parte de este requerimiento de clarificaciones, las cuales están incluidas en el Anejo A de esta Resolución y Orden. La Corporación deberá proveer, **no más tarde del 16 de mayo de 2016, a las 4:00 p.m.**, sus contestaciones a las preguntas que se incluyen en el referido Anejo A.

La información solicitada mediante este requerimiento de clarificaciones no constituye información adicional que no haya sido contemplada en el Artículo 6.25A de la Ley 57-2014. Las preguntas aquí dispuestas forman parte del listado de preguntas que la Comisión, de ordinario, realizaría durante una vista pública. La contestación de las preguntas por la Corporación permitirán agilizar el proceso de evaluación de la Comisión.

Las contestaciones aquí solicitadas deberán ser entregadas vía correo electrónico a las siguientes direcciones: legal@energia.pr.gov y afigueroa@energia.pr.gov.

Para beneficio de todas las partes involucradas, la Comisión publica la presente Resolución y Orden en el idioma español y el idioma inglés. De surgir cualquier discrepancia entre ambas versiones, prevalecerá lo dispuesto en la versión en español. Por la naturaleza técnica de las preguntas contenidas en el Anejo A, las mismas se incluyen solamente en el idioma inglés.

Notifíquese y publíquese.

Agustín F. Carbó Lugo
Presidente

José H. Román Morales
Comisionado Asociado

Certifico que la Comisión de Energía de Puerto Rico así lo acordó el 9 de mayo de 2016. El Comisionado Asociado, Lcdo. Ángel R. Rivera de la Cruz, no intervino. Certifico, además, que en esta fecha copia de esta Resolución y Orden fue notificada mediante correo electrónico a: guillermo.m.riera@gmail.com, mgrpcorp@gmail.com, agraitfe@agraitlawpr.com, edwin.quinones@aae.pr.gov, codiot@oipc.pr.gov, equinones@qalawpr.com, glenn.rippie@r3law.com.

Brenda Liz Mulero Montes

Brenda Liz Mulero Montes
Secretaria Interina

[4] *Véase*, en general, Artículo 6.3 de la Ley 57-2014.

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CERTIFICACIÓN

Certifico que la presente es copia fiel y exacta de la Resolución y Orden emitida por la Comisión de Energía de Puerto Rico. Certifico, además, que en el día de hoy 10 de mayo de 2016 he procedido con el archivo de la presente Resolución y Orden y he enviado copia de la misma a:

Corporación para la Revitalización de la Autoridad de Energía Eléctrica
Quiñones & Arbona, PSC
Edwin Quiñones
Víctor D. Candelario-Vega
Giselle M. Martínes-Velázquez
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PR Box 10906
San Juan, PR 00902

Dr. Guillermo M. Riera, P.E.
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Rooney Rippie & Ratnaswamy, LLP
E. Glenn Rippie
Michael Guerra
Mario E. Domíngez
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350 West Hubbard Street
Chicago, Ilinois 60654

Instituto de Competitividad y Sostenibilidad Económica de Puerto Rico
p/c Lcdo. Fernando A. Agrait
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Oficina Estatal de Política Pública Energética
Lcdo. Edwin J. Quiñones Porrata
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Oficina Independiente de Protección al Consumidor
Lcda. Coral M. Odiot Rivera
268 Hato Rey Center, Suite 504
San Juan, PR 00918

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Grupo WindMar
Roumain & Associates, PSC
Lcdo. Marc G. Roumain Prieto
1702 Ave. Ponce de León, 2do Piso
San Juan, PR 00909

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Para que así conste firmo la presente en San Juan, Puerto Rico, hoy, 10 de mayo de 2016.

Rafael O. García Santiago
Secretario de la Junta Reglamentadora de Telecomunicaciones de Puerto Rico

JUNTA REGLAMENTADORA DE TELECOMUNICACIONES DE PUERTO RICO 1996

I. Please clarify and/or provide a direct and detailed answer the following questions from the April 18, 2016 Resolution and Order:

a. III.B.13(b).
b. III.J.1.
c. III.M

II. Regarding the draft order attached to the Resolution:

a. Provide a version of that same draft order which highlights only those passages that the Corporation deems essential to creating the legal certainty necessary to enable the Corporation to carry out its functions.

b. For each highlighted item, identify and explain any difference from statutory language.

III. Provide language committing that the Corporation will submit the final resolution (including final Servicing Agreement) with redlining of all changes made to the one submitted with the Petition, no later than ten (10) days prior to executing it.

IV. Regarding Commission question VI.E.3 of the April 18, 2016 Order, relating to advances from PREPA to the Corporation, the Corporation's response stated: "... PREPA might underestimate the delinquency rate for Customers, causing a cash flow shortfall to the Corporation. Under those circumstances, the Corporation and PREPA might be incentivized to provide cash flow relief to avoid a default on the Bonds, pending a true-up of the Transition Charge." Provide language by which the Corporation and PREPA commit to notifying the Commission prior to such advances, such notice to specify the amounts, the terms, the accounting treatment and the reasons for the advance.

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V. Regarding the Draft Order, ordering paragraph 14 ("14. By its terms, the Calculation Methodology will ensure that Transition Charge Revenues are sufficient to provide for the timely payment of Ongoing Financing Costs.")

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a. Is this statement true for all 25 years in which the Transition Charge is in place?

b. The above-quoted item merely restates the statutory language, with no analysis. Provide a rewritten version that reflects whatever uncertainty you deem appropriate to acknowledge.

VI. Please provide copies of the contracts identified in response to III.B.2: Public Finance Management (PFM), Navigant, Rooney Rippie & Ratnaswamy LLP, Sidley Austin LLP, Quiñones & Arbona, PSC, Millstein & Co., Pietrantoni Méndez & Alvarez LLC. If there is also a contract with Cleary Gottleib, please provide.

VII. In your response to II.A.2 you stated: "...To the Corporation's knowledge, PREPA's financial plans do not currently include a plan for issuance of additional Restructuring

Bonds issued beyond those identified in the Petition and the proposed Restructuring Resolution (Attachment 1.00). However, PREPA's plans do include investments (e.g., Aguirre Off-Shore Gas Port) that could be financed, in whole or part, via the issuance of such additional Bonds."

a. What costs, if any, does PREPA envision securitizing through the issuance of additional Restructuring Bonds beyond those identified in the Petition and the proposed Restructuring Resolution?

b. Are any costs associated with the Aguirre Off-Shore Gas Port (AOGP) included in the bonds identified in the Petition and the proposed Restructuring Resolution?

c. Are any costs associated with AOGP included in bonds that have already been issued and are scheduled to be exchanged or defeased pursuant to the Restructuring Resolution?

VIII. During the clarification conference on May 4, 2016, it became apparent that the Transition Charge calculations provided in the Petition in Corporation Exhibit 6.03 did not closely follow the twelve calculation steps enumerated in Act 6.25A and the Corporations Petition (Attachment 1.00, Appendix 2). An offer was made to "re-engineer" the Transition Charge Calculation in order that: (i) it more closely follows the twelve steps enumerated; and (ii) the logic of the calculations be made easier to follow for future generations of analysts that will be required to affirm the accuracy of the calculation. For the avoidance of doubt, the issue here is not the accuracy of the calculation but the transparency of it. Please provide a "re-engineered" version of the Transition Charge calculation provided as Exhibit 6.03. In so doing, please provide a spreadsheet with 12 tabs, each one corresponding with each step of the required calculation. If a complex calculation (e.g. Collections/Gross Up) requires more than one tab, please number them accordingly (e.g., 4.1, 4.2, 4.3, etc.). Also please provide the source data as provided in Corporation Exhibit 6.03. Finally, provide a narrative description of the calculation presented on each tab of the spreadsheet (this requirement is especially important in determining the Collections and Gross Up calculations).

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IX. Refer to Exhibit 6.00. Please replace the table at page 10 to conform to the information presented in Attachment 6.03.

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X. Refer to Attachment 1.00, Appendix 2, Calculation Methodology and Adjustment Mechanism. Identify and provide the "collection curve" which is "the most recent 12-month history of collections for which data are available."

XI. Identify and provide PREPA's actual customer billing information for the most recent 12-month period including: (1) identification of each billing cycle, (2) the number of bills issued by rate in each billing cycle, (3) the number of kWh billed in each billing cycle by rate, (4) the number of kWh attributed to each rate that is billed on a monthly charge basis.

XII. Refer to Attachment 1.00, Appendix 2, Calculation Methodology and Adjustment Mechanism. Is the "Composite Collection Curve" contained anywhere in the Corporation Exhibit 6.03 Excel file?

a. If not, explain fully why not, and provide the Composite Collection Curve?

b. If so, identify exactly where in the Corporation Exhibit 6.03 Excel file the Composite Collection Curve is contained.

XIII. Will the funds that are being held by the Corporation be invested in interest bearing accounts?

a. If not, explain fully why not.

b. If so, explain how the interest will be accounted for and applied to offset the costs of the Corporation.

XIV. When Corporation Exhibit 6.03 was prepared did PREPARC have knowledge of PREPA's billings and billing cycles for an actual 12-month period?

a. If not, explain fully why not.

b. If so, explain why PREPA's actual billing information and billing cycles were not used.

XV. Refer to the Corporation Exhibit 6.03 Excel file. Refer to the tabs containing calculations of the residential and non-residential payment lags.

a. Has the calculated payment lag in the model been impacted by the assumption made that 1/365th of the 1,327,733.25 residential "Historical Period Service Agreements" were billed on every calendar day of the year? Identify, quantify and explain fully.

b. How were the 1,327,733.25 residential "Historical Period Service Agreements" actually billed by PREPA during the historical period?

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c. During the historical period, what billings for the 1,327,733.25 residential "Historical Period Service Agreements" were actually issued by PREPA on weekends and holidays?

d. Has the calculated payment lag in the model been impacted by the assumption made that 1/365th of the 901,304,874 non-residential "Historical Period kWh" were billed on every calendar day of the year? Identify, quantify and explain fully.

e. How were the 901,304,874 non-residential "Historical Period kWh" actually billed by PREPA during the historical period?

f. During the historical period, what billings for the 901,304,874 non-residential "Historical Period kWh" were actually issued by PREPA on weekends and holidays?

g. Was it arbitrary to assume that in the Corporation Exhibit 6.03 Excel file calculations that residential billings would be issued on weekends and holidays? If not, explain fully why not.

h. Was it capricious to assume that in the Corporation Exhibit 6.03 Excel file calculations that residential billings would be issued on weekends and holidays? If not, explain fully why not.

i. Was it arbitrary to assume that in the Corporation Exhibit 6.03 Excel file calculations that non-residential billings would be issued on weekends and holidays? If not, explain fully why not.

j. Was it capricious to assume that in the Corporation Exhibit 6.03 Excel file calculations that non-residential billings would be issued on weekends and holidays? If not, explain fully why not.

k. If the calculations of the payment stream in Corporation Exhibit 6.03 Excel file had reflected PREPA's actual billing cycles rather than assumptions that billings would be issued on holidays and weekends, what impact would that have on the estimated collections? Identify, quantify and explain.

l. If the calculations of the payment stream in Corporation Exhibit 6.03 Excel file had reflected PREPA's actual billing cycles rather than assumptions that billings would be issued on holidays and weekends, what impact would that have on the methodology that is reflected by the model? Identify, quantify and explain.

XVI. Refer to the Corporation Exhibit 6.03 Excel file. Refer to the tab entitled "KWH,Cust,$" which indicates that the following at the top of the tab: SOURCE: "Consumption and Revnues (total y gov) Fiscal 2014-15-Certified by Planning" Excel file. Please provide the PREPA Excel file that was the source for such information.

XVII. Refer to Corporation Exhibit 6.03 Excel file. Refer to the tab entitled "kWh Sales FY2015-All Cust" which indicates that the following at the top of the tab: SOURCE: "kWh Sales - FYs 2010-2016 - Certified by Planning.xlsx" Excel file. Please provide the referenced PREPA Excel file.

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XVIII. Refer to the Corporation Exhibit 6.03 Excel file. Refer to the tabs entitled "Coll Curve Sheet 1" and "Coll Curve Sheet 2". Do those sheets constitute the complete "collection curve" information specified in Attachment 1.00, Appendix 2 that was used to develop the Calculation Methodology?

XIX. In developing the "collection curve" in the Calculation Methodology was the following definition applied: "A collection curve is data reflecting the timing of payments of outstanding billings during a 12-month period, adjusted to assume that any Transition Charges which are not collected within 120 days of billing are written off"? If not, explain fully why not.

XX. In applying the definition of "collection curve" as "A collection curve is data reflecting the timing of payments of outstanding billings during a 12-month period, adjusted to assume that any Transition Charges which are not collected within 120 days of billing are written off" is having accurate information about the billing dates and quantities billed on each billing date important? If not, explain fully why not.

XXI. Refer to step 6 on Attachment 1.00, Appendix 2, Calculation Methodology and Adjustment Mechanism.

a. What does "the number of billing cycles" mean in that provision?

b. How many billing cycles does PREPA have each month?

c. What rates are billed by PREPA in each billing cycle?

d. Show and explain specifically how "the number of billing cycles" was given effect in the Calculation Methodology depicted in the Corporation Exhibit 6.03 Excel file.

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