

September 25, 2015

VIA ELECTRONIC AND REGULAR MAIL:

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Ms. Nérida Ayala Jiménez  
General Counsel  
Puerto Rico Electric Power Authority (PREPA)  
PO Box 363928  
San Juan, PR 00936-3928

**Re: *In re*: Review of Rates of the Puerto Rico Electric Power Authority, No. CEPR-AP-2015-0001; First Requirement of Information; Responses due on October 15, 2015**

Dear Ms. Ayala,

Pursuant to the provisions in Article VIII of Regulation No. 8543, known as the Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings (Regulation 8543), the staff of the Puerto Energy Commission (Commission Staff) is conducting discovery in the matter *In re*: Review of Rates of the Puerto Rico Electric Power Authority, No. CEPR-AP-2015-0001.

Through this letter, the Commission Staff issues a first round of requirements of information. With regard to this first round of requirements of information, PREPA shall submit, *on or before October 15, 2015*, the information, data or documents, as appropriate, in digital format, required in Part II below. PREPA shall submit such information, data or documents in accordance with the following instructions:

## **I. Instructions**

### **A. In General**

1. Unless the context requires otherwise, all words used in the singular shall be deemed to also include the plural.
2. Responses to questions must be made in writing, separately and under oath. Questions should be answered by supplying any information which PREPA has knowledge of or information obtained by their representatives, employees, contractors, agents or representatives, or

as a result of any investigation conducted. Each response shall state the person responsible for that response.

3. When production of a document is required, the response should identify the document produced, the format or formats in which the document was produced, and the method and date it was delivered to the Commission Staff. The identification of the document shall include: the name or title of the document, the document date, and the name of its author.
4. If information, data or documents required for any requirement do not exist, the person to whom this request for information is directed shall so specify in his or her reply to that request.
5. Except where the context indicates otherwise, the term "any" includes "all," and vice versa.
6. PREPA shall have a continuing duty to update, correct or amend its answers and notify the Commission Staff of any additional information obtained after said request and which is the subject of this first round of requirements of information.
7. For purposes of this first round of requirements of information, the term "document" means any material, no matter the form, type, nature or description, whether electronic, handwritten or typed, printed, engraved, photographed or copied, and no matter by whom it was originated, prepared, produced, reproduced, published or disseminated. The term "document" includes all types of publications, reports, magazines, books, pamphlets, brochures, folders, records, and/or volume set of attached or unattached papers.
8. For purposes of this first round of requirements of information, the term "information" includes data and documents.
9. Digital Format: All documents must be submitted in the word processor or text editor format in which they originally developed. Analyses prepared using an electronic spreadsheet program such as Excel will be provided in native format with formulas and cross-references intact. Under no circumstances may a printed document, scanned and converted to an image in Personal Document Format (PDF), be presented if there is already a version in digital text. In view of this, the presentation of PDF images of documents that were originally produced in digital text will not be allowed. The presentation of PDF images will only be allowed for those documents that do not exist in a digital version, or for which PREPA does not have a digital version.

10. Responses to the requirements of information shall be submitted electronically by electronic mail to the following addresses: csanchez@energia.pr.gov and mhernandez@energia.pr.gov. If responses are too voluminous to be sent by electronic mail, the responses shall be saved in a USB device and sent by mail with return receipt to: Mariana I. Hernández Gutiérrez, 268 Muñoz Rivera Ave., World Plaza Suite 703, San Juan, PR 00918.
11. A copy of the responses submitted to the Commission Staff shall be sent to the intervenors currently participating in the proceeding, excepting information that PREPA claims is confidential or privileged, if any. If PREPA has any confidentiality claim, it shall comply with the instructions stated in Part I(B) below.
12. If PREPA finds it necessary to request an extension of time for the production of part of the required information, it shall do so in writing and submit its request to the Commission's General Counsel on or before *October 15, 2015*. In its request, PREPA shall state the efforts undertaken thus far in order to produce the required information, and the reasons pursuant to which it will not be able to produce it within the original period, and which, according to PREPA, justify the granting of the requested extension, along with the specific date by which PREPA commits to provide a full response. However, on or before *October 15, 2015* PREPA shall produce all the required information that, up until that date, it has been diligently able to obtain, organize, and process in accordance with the instructions established in this letter.

#### **B. Allegedly Confidential or Privileged Information and Documents**

The Commission Staff recognizes that PREPA may assert that some of the documents responsive to these questions warrant confidential treatment. Section 1.15 of Regulation No. 8543, together with the provisions of Articles 1.4 and 6.15 of Act 57-2014, as amended, govern the information that may be unavailable for public access because it is privileged or confidential, as well as the general guidelines for the Commission to determine what information is privileged and confidential and the treatment to be given to protect such information.

Specifically, Section 1.15 of Regulation 8543 provides that when a person has the duty to submit to the Commission information that, in his or her view is privileged or confidential, that person shall (i) identify the information which he or she considers to be privileged or confidential, (ii) request the Commission to protect this information, and (iii) state in writing the arguments in support of his or her request for protection. Once the matter is submitted to the Commission, it shall proceed as provided in

Article 6.15 of Act 57-2014 if the Commission determines that the information produced and identified deserves protection.

With this background, if any of the requirements of information require PREPA to submit information it understands is confidential or privileged, the following instructions shall be observed:

1. When submitting the information, PREPA shall (i) mark or identify the information as “confidential” or “privileged”; and “(ii) identify the reason why the document or information should be classified as “confidential” or “privileged”.
2. No later than 10 days after submitting the information, PREPA shall submit a memorandum of law stating in writing the legal basis and sources to support its argument that the information or documents identified should be classified as “confidential” or “privileged”. In its memorandum, PREPA must connect each claim to a particular document or piece of information.<sup>1</sup> PREPA shall serve a copy of its memorandum of law to the intervenors currently participating in the proceeding.
3. Except for communications covered by attorney-client privilege, PREPA cannot fail to submit any information or document to the Commission on the grounds that it believes it is a confidential or privileged document or information. If PREPA claims that the information is attorney-client privileged, it must state the basis for this claim and affirmatively state that there is no other alternative way for PREPA to provide the information that would not be attorney-client privileged.
4. The Commission Staff will protect and maintain secure any and all information marked by PREPA as “confidential” or “privileged” unless the Commission rules otherwise.

### **C. Questions about the Requirements**

If PREPA has any question about any of the requirements of information made in this letter, it shall state its question or need for clarification in writing and submit it by electronic mail to the Commission’s General Counsel. While PREPA and the Commission Staff may have verbal discussions about PREPA’s questions for efficiency purposes, all final questions and answers must be stated in writing. Verbal

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<sup>1</sup> When handling “confidential” or “privileged” information, the Commission Staff will observe all the applicable rules from the *Normas Internas para el Manejo de Información Confidencial en la Comisión de Energía de Puerto Rico*. See, <http://energia.pr.gov/wp-content/uploads/2015/05/20150512141506478.pdf>

expressions and discussions about PREPA's questions will have no evidentiary value or effect.

## **II. Requirements of Information**

- (1) Provide a detailed description of the agreement reached in September 2015 between the Ad Hoc Group of Forbearing Bondholders and PREPA, including, but not limited to, information regarding:
  - a) The terms of each type of the new debt securities offered in the deal (duration, interest rates, interest and principal payment requirements);
  - b) The total amount of securities involved in the negotiation (in aggregate and as a percentage of PREPA total bond debt);
  - c) How, when, and through what entity the new bonds will be offered;
  - d) How the bonds will be securitized;
  - e) How the new debt will impact or be affected by PREPA's 1974 Trust Agreement.
  - f) PREPA's best estimates of the annual debt service requirements for the new debt securities.
  - g) PREPA's best estimates of the annual revenue requirements for the debt service and debt service coverage of the new debt securities.
  - h) PREPA's best estimates of the amount of proceeds from the new debt securities, and the use of that cash, and PREPA's projections of related cash flow requirements related to the retirement of existing debt securities and servicing the new debt securities.
- (2) Are there any written documents in PREPA's possession concerning the recent bondholder agreement that summarize or state the terms of that agreement? If not, explain fully why not. If so, provide a complete copy of such documents.
- (3) Explain how the new bonds will receive an investment grade bond rating and which rating agency will be involved in that process. Has there been correspondence with any rating agency or rating agencies regarding the rating on the new bonds? If not, explain fully why not. If so, provide a complete copy of any and all such correspondence.

- (4) Was the Ad Hoc Group of Forbearing Bondholders informed by PREPA that the Commission (CEPR) has final authority over the rates that PREPA may charge? If not, explain why not.
- (5) Does PREPA intend for the monies not paid out to the Ad Hoc Group of Forbearing Bondholders to be used to finance PREPA's construction budget over the next five years? If not, explain why not.
- a) If there has been a sources and uses of funds analysis in that regard, provide a copy of that analysis.
- (6) Provide a listing of the PREPA bonds that are affected by the Ad Hoc Group agreement. Provide the following information with respect to such bonds: (1) date issued, (2) principal, (3) issuance discount or premium (if any), (4) interest rate, (5) duration, (6) annual principal and interest requirements, including amounts and payment due dates, (7) an explanation of whether the annual principal and interest requirements have been paid and a listing of all principal and interest payments that were due by September 30, 2015 but which have not been paid by September 30, 2015.
- (7) What is the status of the bondholders that have not, thus far, agreed to renegotiated terms? Will they be able to participate in similar bond swaps? Will PREPA continue to pay interest and principal on those other (non-renegotiated) bonds, or will those payments be suspended?
- (8) Provide a listing of PREPA's outstanding bonds that are not affected by the Ad Hoc Group agreement. Provide the following information with respect to such bonds: (1) date issued, (2) principal, (3) issuance discount or premium (if any), (4) interest rate, (5) duration, (6) annual principal and interest requirements, including amounts and payment due dates, (7) whether the bonds are insured and if so by which bond insurance company and (8) an explanation of whether the annual principal and interest requirements have been paid and a listing of all principal and interest payments that were due by September 30, 2015 but which have not been paid by September 30, 2015.
- (9) Provide a comprehensive listing of PREPA's outstanding bonds at September 30, 2015. For each outstanding bond (or group of similar outstanding bonds) identify (1) whether it has been the subject of a restructuring agreement that PREPA has reached in principle by September 30, 2015, (2) whether it is expected to be the subject of a restructuring agreement after September 30, 2015, (3) the amount outstanding at September 30, 2015, (4) the scheduled amounts and dates of all remaining interest and principal payments, and (5) whether the bond is insured and the name of the insurer.

- (10) Provide a listing of PREPA's fuel line borrowings for each month of 2014 and 2015. Include the following information: (1) amount borrowed from each bank or fuel line lender, (2) interest rate, (3) amount of any fees related to the borrowing, (4) interest expense, (5) principal payments, (6) description of the security or collateral for the fuel line borrowing, and (7) if different from the amount borrowed, the total amount of fuel line debt outstanding at the end of each month.
- (11) Identify and provide a copy of the agreements and contracts related to PREPA's fuel line borrowings in 2014 and 2015.
- (12) Are there any written documents in PREPA's possession concerning the recent fuel-line lender agreement(s) that summarize or state the terms of that agreement? If not, explain fully why not. If so, provide a complete copy of such documents.
- (13) Identify and provide PREPA's most current analysis of estimated cash inflows and outflows (sources and uses of cash) for fiscal year 2016 and through as far into the future as PREPA has made such projections.

If you have any question about any of these requirements of information, please do not hesitate to contact me by phone or by electronic mail at [mhernandez@energia.pr.gov](mailto:mhernandez@energia.pr.gov).

Sincerely,



Mariana I. Hernández Gutiérrez  
General Counsel