

ATTACHMENT H

Section VII.B.1.i Existing renewable energy contracts for projects which are not operational.

This section requires PREPA to conduct an independent audit of its existing renewable energy contracts pertaining to projects that have not currently operational, and to pursue renegotiation or cancellation of those that are not cost-effective or are not likely to reach completion. By June 30, 2017, PREPA must submit to the Commission the assessment of each contract, and its plans to renegotiate or exit such contracts. PREPA currently has 60 power purchase and operating agreements (PPOAs) for renewable energy projects, totaling 1560.8 MW. Of these, 5 have achieved commercial operation (163.1 MW), 3 are in pre-operation (under testing, synchronized with and exporting energy to the grid, and selling such energy to PREPA, totaling 57.4 MW), and 3 are in an advanced state of construction (52.4 MW).

In 2013 PREPA commissioned Siemens to perform a renewable energy integration study. This study, completed in February of 2014, determined that up to 580 MW of utility-scale renewable energy projects could interconnect without compromising the integrity and security of Puerto Rico's electric grid. These results considered an assumed peak demand of 3,300 MW and 64 MW of distributed generation projects. As of October of 2016, the electric system peak demand has not reached this value, and distributed generation projects total over 120 MW.

In 2014 PREPA carried out a renegotiation of the PPOAs that were advanced in the permitting process, as per the information provided by the permitting agencies. This resulted in the successful renegotiation of 18 PPOAs, whose aggregate capacity, together with the capacity of those projects already under construction or operation, reached approximately 600 MW, in line with the Siemens study. As of today, two of the projects with renegotiated PPOAs have interconnected and are in pre-operation, while another two are in an advanced stage of development. PREPA is considering an extension to certain milestones of 12 of the remaining 14 renegotiated PPOAs (those who have shown significant progress in their development, and could start construction by 2017), conditioned to an amendment of certain terms of their respective PPOAs, seeking more favorable conditions for PREPA. This renegotiation responds to the companies requests for extensions due to their alleged inability to obtain financing due to the fiscal situation of Puerto Rico.

Any evaluation of the PPOAs that are not operational, with the goal of renegotiating or exiting from contracts, must take into consideration several important aspects:

1. The renewable energy capacity that can be safely and reliably interconnected to Puerto Rico's electric system and how much capacity is already interconnected or under construction.
2. The renegotiation process carried out with 18 of the PPOAs during 2014.
3. Specific aspects of the PPOAs, such as milestones required, pending issues, etc. The PPOAs require that the companies reach certain milestones, and failure to do so can be a cause for termination of the contracts. However, these milestones can be extended due to force majeure events, pending permits, legal challenges, or acts or omissions by PREPA.
4. The PPOAs establish a dispute resolution process that leads to an arbitration process if the parties cannot reach an agreement. The arbitration process is costly and time consuming.

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This section requires PREPA to start a competitive bidding process for new renewable energy projects by June 30, 2017. This is the same target set for the evaluation of the existing PPOAs that are not operational. As mentioned previously, PREPA has 60 PPOAs totaling 1560.8 MW of renewable energy capacity, which is more that can be safely and reliably integrated to its grid (580 MW as per the 2014 Siemens renewable energy integration study). A competitive bidding process cannot be started until PREPA has completed the evaluation of the contracts required in the previous section. PREPA must have a clear understanding on how much capacity will interconnect to the grid under the existing contracts, and if the electric system has enough capacity to integrate further contracts, before beginning a competitive bidding process for new renewable energy projects. If PREPA were to begin a bidding process for new renewable energy projects, it would be subject to lawsuits and arbitrations from those companies that already have PPOAs for projects that cannot be interconnected to the grid in the short term due to the constraints of the electric system. Also, if it were to enter into new contracts without having enough capacity to integrate them, it would be exposed to additional claims from the companies with new contracts. PREPA recommends that any competitive bidding process for new renewable energy projects be carried out when it has capacity to enter into new renewable energy contracts.