



**GOVERNMENT OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION**

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY'S FISCAL PLAN

CASE NO.: CEPR-IN-2018-0001

SUBJECT: Resolution and Order initiating
investigation into PREPA's Fiscal Plan

RESOLUTION AND ORDER

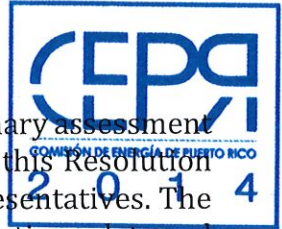
Through this Resolution and Order, the Puerto Rico Energy Commission ("Commission") initiates an investigation into the Amended & Restated Fiscal Plan ("PREPA Fiscal Plan") filed before the Financial Oversight and Management Board for Puerto Rico ("FOMB") by the Puerto Rico Electric Power Authority ("PREPA") on January 24, 2018. This investigation is made pursuant to Article 6.3, 6.4 and 6.24 of Act 57-2014¹ and Article XV of Regulation 8543.²

Pursuant to its authority as the Puerto Rico electricity market regulator, the Commission initiates this investigation to assess whether the initiatives identified by PREPA related to operational enhancements, performance, rate structure and resource planning are consistent with applicable Commonwealth law, as interpreted and applied by the Commission. Commission review and, where necessary, modification of these initiatives will produce a fiscal plan that will be fully enforceable and will ensure that its implementation is done efficiently and effectively.

The main body of the draft Fiscal Plan addresses PREPA's *status quo* situation—the current monopoly market structure and the current assets owned by PREPA, independent power producers and customers. The Appendix, entitled Transformation Plan, proposes significant changes to the *status quo*, including sale of PREPA's generation assets to, and the ownership of new generation assets by, third party private market participants; along with the granting by the Commonwealth of a concession to operate a transmission and distribution system owned by the Commonwealth. While the immediate concern of the Commission, and of this Resolution, is to provide FOMB with a timely assessment of initiatives addressing PREPA's *status quo*, after completing its review of such initiatives, the Commission will leverage its expertise and knowledge to provide the Governor, Legislative Assembly, FOMB and stakeholders with an objective and professional assessment of the proposed Transformation Plan, including the appropriate steps for its successful implementation.

¹ The Puerto Rico Energy Transformation and RELIEF Act, as amended.

² Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings.



The Commission and its expert consultants have conducted a preliminary assessment of the items in Parts I through VIII of the PREPA Fiscal Plan. Appendix I of this Resolution and Order contains a set of questions to be answered by PREPA, or its representatives. The purpose of these questions is to gain an in-depth understanding of the assumptions, data and information relied upon by PREPA in elaborating its Fiscal Plan. **PREPA is hereby ORDERED to provide its response to these questions no later than February 13, 2018.** The Commission also welcomes responses from stakeholders to any of the questions identified in Appendix I.

The Commission will hold a public hearing on February 16, 2018 at 10:00 a.m. at the Commission's hearing room located in the 8th floor of 268 Ave. Muñoz Rivera, Seaborne Plaza Bldg. During the first part of the public hearing, PREPA, or its representatives, shall have the opportunity to further clarify the information provided in support of its Fiscal Plan and answer any questions made by the Commission Staff or its consultants. Afterwards, stakeholders will have an opportunity to comment on PREPA's proposed Fiscal Plan and its compliance with applicable law. The Commission will issue its final report on or before February 22, 2018.

Through this investigation, the Commission does not seek to encroach on the Governor's and the Legislative Assembly's authority to establish the Commonwealth's energy public policy. Rather, as the entity tasked by the Legislative Assembly to execute the Commonwealth's electricity public policy, the Commission's sole purpose is to set in place the foundation for the proper and successful implementation of that public policy. The Commission shares the Governor's and Legislative Assembly's aspiration of redefining Puerto Rico's energy market into a modern and resilient industry, capable of providing reliable service at competitive costs while furthering the overall economic development of the Island.

Be it notified and published.

Ángel R. Rivera de la Cruz
Associate Commissioner

José H. Román Morales
Associate Commissioner
Interim Chairman

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Commission has so agreed on January 31, 2018 and on this date a copy of this Resolution and Order regarding the Case No. CEPR-IN-2018-0001 was notified by electronic mail to the following: c-aquino@aepr.com, n-vazquez@aepr.com and n-ayala@aepr.com. I also certify that today, January __, 2018, I have proceeded with the filing of this Resolution and Order issued by the Puerto Rico Energy Commission and I have sent a true and exact copy to the following:

Autoridad de Energía Eléctrica de Puerto Rico

Attn.: Nélide Ayala Jiménez; Carlos M. Aquino Ramos; Nitza Vázquez Rodríguez
P.O. Box 363928
Correo General
San Juan, PR 00936-3928



For the record, I sign this in San Juan, Puerto Rico, today, January 31, 2018.

María del Mar Cintrón Alvarado
Clerk

APPENDIX I – Questions Regarding Parts I through VIII of PREPA’s Fiscal Plan

PREPA shall, and stakeholders may, respond to and comment on these questions.

A. Generation

1. For which new generation, replacement, or repowering activities has PREPA or other parties begun the development or permitting processes? What is the status of each such process? Explain how such plans for new generation are consistent with or vary from the Modified IRP.³
2. Has damage to generating units led to any retirement plans other than those set forth in the Modified IRP? Describe the plans and the quantity of capacity represented.
3. Which units are still not operational and what is the time frame for restoring them to service?
4. How is distributed generation being integrated into PREPA's system?

B. Transmission and Distribution (includes resiliency)

1. Does PREPA currently have a process to identify major load centers? If so, how has PREPA used the information during the restoration process?
2. Describe the process used by PREPA and the U.S. Army Corps of Engineers (USACE) to coordinate the deployment and use of mutual aid crews and contractors.
3. What analysis has PREPA undertaken about blue-sky reliability trends across each of its seven regions? What opportunities has PREPA identified to improve blue-sky reliability?
4. Which segments of PREPA's service territory are still without reliable electric service? What are PREPA's plans to restore service to those segments and over what timeline?
5. Identify best practices for storm hardening and describe how PREPA's reconstruction of its T&D system compares to those practices.

³ See, CEPR-AP-2015-0002 Final Resolution and Order from September 26, 2016 at 82.

C. Collections and Customer Service

1. How would PREPA, its successors and/or regulatory entities enforce a stranded cost fee, of the sort contemplated on page 38 of the Fiscal Plan, against residential customers who self-serve, or take service from non-PREPA suppliers or depart Puerto Rico?
2. Describe in detail PREPA's processes for billing the primary accounts and secondary accounts in the absence of restored AMR.

D. Organizational Issues

1. In the restoration period, what process does PREPA use to prioritize critical loads?
2. What features of PREPA's organizational structure requires improvement to accelerate the restoration of electric service? What improvements has PREPA implemented?

E. Environmental and Safety Compliance

1. On what timeline is MATS and NAAQS compliance possible for all generation in Puerto Rico?

F. Post-Irma and Maria Challenges (includes restoration)

1. What mutual aid agreements did PREPA have in place prior to the hurricane restoration process? What mutual aid agreements does PREPA have in place now?
2. What contract procedures does PREPA have in place for retaining and compensating contractors (local and stateside) and the Army Corp of Engineers?
3. What has PREPA spent or incurred to date on the restoration process? Provide monthly data on these costs beginning with when the storm occurred.
4. How does PREPA intend to recover those restoration costs? How does PREPA suggest the Commission address PREPA's spending to prevent imprudent costs before they are incurred?

G. Fiscal Plan Implementation

1. What is the current and projected status of PREPA's outstanding debt?
 - a. Is PREPA making any interest or principal payments on any of its outstanding debt? If so which debts are being paid, to what extent, and why?
 - b. What are PREPA's expectations on the extent to which its current debts will be extinguished through the bankruptcy process?
 - c. For the portion of current debt not so extinguished, what does PREPA expect to be the ultimate disposition? How will that disposition affect PREPA's financial condition and its fiscal planning?
2. What amount of funding from the Federal Emergency Management Agency (FEMA) has PREPA received thus far in the post-hurricane recovery effort?
3. What amount of funding from FEMA is PREPA budgeting through 2020?
4. Regarding FEMA funding, has PREPA successfully completed the Project Worksheets (PWs) required to get FEMA reimbursement for emergency spending? Please provide copies of all PWs thus far submitted to FEMA and as they are submitted.
5. What are PREPA's average post-hurricane monthly cash requirements? What percentage of those requirements are being met by (a) customer bill payments and (b) other sources (FEMA, other contributions)?
 - a. How is PREPA funding the shortfall between cash needs and cash available?
 - b. By what point in time does PREPA expect to balance its monthly cash needs and its cash requirements?
6. Please describe, in as much detail as possible, the current status of PREPA's application for Community Disaster Loans (CDL) from the U.S. Treasury.
 - a. Is application for CDL underway? If so, please describe what has been done thus far and what is left for PREPA to do to secure these loans. If not, please explain why not.
 - b. What is the amount of CDL expected to be included in PREPA's 2018/2019 fiscal budget?

- c. Which “material costs for which PREPA will be liable” are excluded from consideration for CDL? Please describe and state amount and percent of total PREPA operating costs.
 - d. Please explain how it will be determined whether or not the CDL loans will be required to be repaid.
 - e. What is the expected cost rate of the CDL loans?
 - f. Will the CDL loans have first priority in PREPA’s debt payment hierarchy? If not, please explain why not and indicate which debt would be PREPA’s first priority, according to its Amended and Restated Fiscal Plan.
7. Please provide a copy of PREPA's most current audited financial statements.
 8. Provide PREPA's most current operating and capital budgets.
 9. Does PREPA have access to any type of outside financing? If so, please describe.
 10. How has PREPA financed its operations for fiscal year 2018 (July 1, 2018 through June 30, 2018)? How does PREPA plan to finance its operations for fiscal years, 2019 through 2022?
 11. To the extent not already provided: How much money does PREPA owe to bondholders? How much of that is to holders of insured PREPA bonds?
 12. To the extent not already provided: Has PREPA been paying debt service on its bonds?
 13. Does PREPA have an extended forbearance agreement with bondholders?
 14. To the extent not already answered: How is PREPA addressing its obligations to bondholders?

H. Rate and Regulatory Structure

1. Explain whether, and why, the PREPA Embedded Cost of Service Study referred to on page 37, created prior to the hurricanes and subject to serious criticism in the Commission’s Rate Order of January 10, 2017, is sufficient to use for rate setting in a post-hurricane environment.
2. How should rates be adjusted in a post-hurricanes environment to account for the impact of the storms and the resulting recovery revenues?

3. Should rates take the Commonwealth's economic development objectives into account?

I. Rate Design and Cost Allocation

1. Specify the "identified categories of stranded costs" that PREPA has identified as being appropriate for recovery through "non-bypassable charges." (FP at 38).
2. Provide PREPA's estimate of the stranded costs of each of its power plants and purchased-power agreements, and computations supporting those estimates.
3. Identify and estimate the potential stranded costs of the transmission and distribution system.
4. Explain how PREPA proposes to structure the "non-bypassable charges" it proposes to impose on customers. To the extent that PREPA's proposal varies among classes or tariffs, please describe the form of the "non-bypassable charges" for each class or tariff.
5. Does the fact that so much equipment was destroyed mean that capacity of various parts of the system are not much higher than load, so marginal costs are higher than pre-Maria?
6. Or will the rebuilt system by the end of 2018 have excess capacity in nearly all T&D components, meaning that marginal costs are lower than estimated in the General Rate Application (GRA)?
7. Will retirement of large amounts of T&D equipment and replacement with new equipment change the mix of accounts used in cost allocation? And if so, how will that mix change?

J. Integrated Resource Planning

1. On what timeline is Renewable Portfolio Standard compliance possible for Puerto Rico as a whole?
2. How do the post-hurricane conditions affect the availability, feasibility and cost-effectiveness of the Aguirre Offshore Gas Port (AOGP) today as an available, feasible option for Puerto Rico generation planning? Based on what

assumptions? On what timeline can reasonably begin to operate? What are the steps on the critical path to AOGP construction and operation?

3. What are the appropriate parameters and tools to use in developing and defining portfolios of generation (and transmission) resources in light of “the impacts of Hurricanes Irma and Maria, lower demand forecasts, increased estimates for distributed generation, and rapidly declining costs for renewables” (page 40), as well as microgrids and energy storage?
4. What is the most reasonable forecast of total energy demand and of peak load for the next five years? How should high-load and low-load sensitivities be constructed?
5. What is the relationship between the “repowering and replacement of generation assets through privatization” and the “Public Private Partnership (P3) Conventional Generation” cost in the \$6.1 billion capital plan? Explain whether and why PREPA’s Fiscal Plan should consider, and account for, capital costs for privatized generators.
6. What are the appropriate roles for energy efficiency and demand response programs in the next five years? What are the necessary steps to develop avoided costs to understand when such programs would be cost-effective? To what extent has PREPA considered the negative effect on avoided costs—and thus on energy efficiency investments—of introducing new physical capacity prior to fully studying energy efficiency and demand response options?
7. Why is PREPA intending to use a production cost model rather than a capacity expansion model when the Commission’s IRP order (September 2016) requires the latter?