GOVERNMENT OF PUERTO RICO
PUERTO RICO ENERGY COMMISSION

IN RE: REGULATION ON RETAIL WHEELING	CASE NO.: CEPR-MI-2018-0010 SUBJECT: Request for Public Comments

MOTION SUBMITTING ANSWERS TO PREB QUESTIONS ON WHEELING

TO THE ENERGY BUREAU:

COMES NOW INSTITUTO DE COMPETITIVIDAD Y SOSTENIBILIDAD ECONÓMICA DE PUERTO RICO (ICSE), through its counsel and respectfully alleges and prays:

The Puerto Rico Energy Bureau ("PREB") is interested in receiving input from entities with direct interest over the electric sector, regarding the rules that the PREB should adopt in order to regulate retail wheeling in Puerto Rico. The PREB will consider the received comments in drafting the proposed regulations. Comments were requested to be filed on or before August 27, 2018.

In response to the PREB's request the Instituto de Competitividad y Sostenibilidad Económica (ICSE) respectfully submits the following:

1. **General Questions Regarding the Regulations**

1.1. Should PREPA continue to own generation, or should PREPA divest all of its generation assets?

PREPA should continue to own some generation; particularly, peak high-efficiency gas-fired generation, and utility-scale renewable generation. Also it needs to continue own generation considering its role as Provider of Last Resort (POLR). Such generation will improve system reliability and reduce cost, and PREPA ownership will avoid any possible concerns about eligibility for federal assistance. Moreover, to the extent the market is opened to third party suppliers, utility ownership will provide PREPA or its successor with resources needed to supply residential and small business customers not served by the market.

1.2. How should supply be procured? Should it be procured through bilateral contracts, or through a centrally dispatched wholesale market?

To the extent power supply is procured from market-based suppliers, it should be procured through bilateral contracts. However, with consideration to the amount of capacity purchased and contracts length to allow for market creation. This will avoid, in an early transition stage, the complexity and cost of a full centrally dispatched wholesale market, which is of limited feasibility and benefit in an island system. However, allowing for market creation by not securing all the energy supply under bilateral contracts, with a portion of the energy supply to be market purchased.

A centrally dispatched electric market needs scale to be cost-effective. For example, PJM Interconnection dispatches resources to serve about 61 million consumers with a peak load of about 119,800 MW in all or parts of 13 states and the District of Columbia. By comparison, PREPA serves about 1.5 million customers with a peak load of about 3,000 MW. Because of that, market creation should be incremental suited to local conditions.

1.3. Given that wheeling would allow more buyers of electricity than PREPA, should there be an independent system operator to ensure reliability and administer financial transactions?

Consistent with our answer to question 1.2, the introduction of an independent system operator (ISO) should be deferred for future consideration, depending on customer satisfaction with the provision of wheeling services and other factors. However, as indicated above, the base structure for market creation (by not contracting or committing all energy demand through power purchase contracts) should be considered from early stages on the process. Experience on the mainland has been that transmission-level ISOs add complexity and cost, and create new challenges for the regulator in monitoring the performance of the market. In our knowledge, no ISOs have been implemented at the distribution level.

1.4. How would you recommend that the PREB ensure non-discriminatory open access to the grid?

The Commission should base its regulation on FERC Order No. 888 (1996), which laid the foundation for competitive wholesale electricity markets on the mainland. Accordingly, the PREC should consider the applicability of policies (1) requiring PREPA to offer network and point to point service and ancillary services to all eligible buyers and sellers, (2) requiring PREPA to take transmission for its own (PREPA) units under the same terms and conditions that it offers to third parties, (3) requiring PREPA to functionally separate transmission from power marketing, (4) requiring PREPA to deploy an open access same time information system containing info on transmission availability, and (5) requiring PREPA to maintain an open access transmission tariff on file at PREC. (Note: Because of its nature of an standalone system, PREPA is not subject to FERC's jurisdiction.)

1.5. Should the wheeling mechanism include PREPA (or any successor entity) as a default supplier for retail services? Or should all customers be required to choose a supplier?

Yes, any wheeling policy must impose a Provider of Last Resort (POLR)-type service obligation on PREPA or its successor. This is because market-based suppliers, operating with no service obligation and responding only to market incentives, are likely to focus on the most profitable customer segments (e.g., commercial and industrial customers). This has been the experience on the mainland. As a result, every state that has implemented retail choice has imposed a POLR-type service obligation on the incumbent utility. Moreover, state regulation has evolved to limit customer switching (e.g., from market-based suppliers back to regulated POLR service) to limit behaviors that shift uncompensated risk to the utility.

1.6. Should there be reporting requirements to enable customers to have accurate comparisons between other suppliers and PREPA?

Although desirable to inform customer choice, this needs to be evaluated by the PREB, based on its current powers to require suppliers to report rates conditions in formats that will facilitate comparisons by consumers. ICSE understand that under Law 57 the PREB has the necessary authority. Experience on the mainland has been that consumers find it difficult to compare diverse supplier offers.

1.7. Should the same consumer protection requirements for PREPA apply to suppliers/Energy Service Companies? What new consumer protections should be implemented for Energy Service Companies?

The same consumer protections required of PREPA cannot apply to market-based suppliers, because its role as last Service Provider and Cost of Service Regulation requirements. However, the PREB should revisit consumer protections once (Wheeling) market is established and operating, to the extent the receive complaints from consumers.

1.8. Should there be collars on contract lengths?

Although there are no limits (collars) on the length of permissible contracts and market-based supply are normally unregulated, due to Puerto Rico current juncture the PREB should evaluate limits on contracts in a case by case basis. Consumers have recourse to regulated PREPA supply.

1.9. Should suppliers have a limit on market share?

Normally, there are no limits on supplier market share. However, as stated above, due to Puerto Rico current juncture the PREB should evaluate limits on contracts in a case by case basis.

1.10. Should community choice aggregation be permitted?

Community choice aggregation should be allowed, as one way of facilitating Wheeling in conjunction with standard business agreements. Such a policy respects the consensus among Puerto Rican leaders that policy makers should democratize the process of energy generation by enabling non-traditional companies (as for example energy co-ops).

1.11. Does integrated resource planning (IRP) continue to occur after wheeling is implemented? If *so,* what is the best way to ensure a meaningful IRP in the context of retail competition? What parties, if *any,* should have responsibility for "procuring" resources identified in the IRP? What happens if the resources identified in the IRP are not being procured? What parties should

be responsible for procuring energy efficiency resources and demand response resources?

IRP can and should continue, even in an open access environment. The PREB, working through PREPA or its regulated successor, can continue to influence the kinds of generating technologies developed in Puerto Rico. For example, procurement contracts involving PREPA should be shown to be consistent with the IRP as a condition for PREB approval.

1.12. What are the best ways to level the playing field for distributed energy resources to compete with traditional generation resources?

Timely interconnection processes, and planning methods that estimate the costs and benefits of distributed energy resources based on their location on the T & D system and offer compensation to distributed energy customers for grid support services they provide, could go a long way toward leveling the playing field. This should be considered by the PREB.

We should also recognize that within the current juncture and because the importance of distributed generation in Puerto Rico due to resiliency considerations, locational valuation requires new tools and staff which neither PREPA nor the PREB may presently have.

1.13. Who should be responsible of stranded assets, if any?

Normally, consumers ultimately are responsible for stranded costs associated with assets in rate base; and investors are responsible for such costs when assets are market-based. However, due to PREPA high debt level in comparison with its operational and financial parameters, the PREB and policymakers should evaluate alternate ways to manage PREPA stranded costs, beyond normal debt and securitization agreements, including direct appropriations, through the legislative process, from the Central Government.

1.14. Are there any particular considerations regarding micro-grids that should be considered in the development of wheeling regulations?

The PREB should evaluate how Microgrids (MG) contribute to the main grid T&D and its maintenance. Also, the PREB needs to ensure that MG design

and operation is adequately coordinated with the operator of the main grid (i.e., PREPA or its successor). The PREB can do this by requiring evidence (1) that needed control infrastructure (sensors, controls, communications) is in place, and (2) that an operating strategy has been defined and agreed to by both the MG owner and the operator of the main grid.

1.15. How will the implementation of wheeling impact the plans to privatize PREPA? What are some of the factors the Commission should take into consideration in drafting wheeling regulations?

Retail Wheeling access could reduce PREPA's expected demand and revenues. However, retail Wheeling could also lower the cost of the utility by providing for new energy supply without generation costs for the utility. The Commission should consider the need for Rate Case to evaluate this new scenario and new paradigm in Puerto Rico.

1.16. How should the Commission address the issue of a supplier default? Who should be responsible to serve the customers of a defaulting supplier? Should customers be allocated to remaining suppliers or should PREPA or its successor entity be responsible?

The Commission should consider financial criteria for supplier eligibility to do business, along with performance bonds. NARUC can help the PREB survey related policies and practices on the mainland.

PREPA must be a Provider of Last Resort to cover defaults.

1.17. How should the Commission address firm point-to-point wheeling in the event that the transmission system cannot accommodate this without further upgrades? Will the reconstruction of new transmission post-Hurricane Maria allow for firm service?

On the overall, T&D needs to be able for retail Wheeling. Also, Wheeling service should be provided when it can be done reliably. Where transmission repairs and upgrades are needed, they should be identified, provided, and paid for as part of the interconnection process, or through FEMA funds as applicable.

1.18. What financial or credit requirements should be in place for suppliers/Energy Service Companies.

Similar requirements imposed by jurisdictions on the mainland should be followed.

2. Cost Recovery and Allocation

2.1 What regulations and mechanisms need to be in place to ensure viable revenue and business models for the owner/ operator of the transmission and distribution network?

The administration of cost of service regulation, which identifies the costs incurred to provide transmission and distribution services, and allocates such costs to customers who take T&D services, will ensure cost recovery and financial viability for the owner/operator of the T&D system. So the question is whether PREPA's accounting systems, and the tools it uses for cost allocation and rate design, are adequate. Also, considering the application of the same rules and processes to PREPA's own energy transmissions and distribution; same rules as the Wheeling of private produced energy.

2.2 Should debt service (e.g. collected through a specific charge) for outstanding PREPA debt be a non-by passable charge, paid by all customers who engage in wheeling? If so, do you have a recommendation as to how such charge should be structured?

Legacy debt is normally collected through a specific charge applicable to all customers. However, as stated above, due to PREPA high debt level in comparison with its operational and financial parameters, the PREB and policymakers should evaluate alternate ways to manage PREPA stranded costs, beyond normal debt and securitization agreements, including direct appropriations from the Central Government.

2.3 Should there be an "exit fee" to enable PREPA or its successor to recover any potential stranded generation costs resulting from the loss of customers to competition? If so, do you have a recommendation as to how it should be structured? What other mechanisms should be implemented to prevent shifting of costs to customers who do not choose a competitive supplier?

As stated above, Cost of Service is the normal way of ensure revenues to the utility. Those revenues are collected through charges to customers.

However, in regards "exit fees" or "solar tax" (for recurring charges) in terms of stranded costs for surcharges to customers that generate their own energy, those should be carefully evaluated by the PREB for its impact in consumers that depend in Puerto Rico's only endogenous energy source to provide their energy needs. **In our view, those should not be imposed or consider in Puerto Rico,** especially on the preset juncture of electric system transformation and economic restrains. The public policy in Puerto Rico is to significantly increase renewable and distributed energy. Imposing additional costs is inconsistent with the public policy.

2.4 How is the revenue requirement for the owner/operator of the transmission and distribution network best determined? Should there be a supply and delivery component to the rates?

See answer 2.1. This requires accurate accounting cost data. The process of cost unbundling (functionalization and allocation) will result in separate charges for T & D.

2.5 How should the transmission costs to connect new generation to the grid be treated? Should the cost be socialized among all customers and included in the transmission rate or should it be allocated to the generator? What should be done with respect to network investments/upgrades that cannot be attributed to one particular generator or end-user, and should these be allocated

In our view, interconnection costs should be allocated to the generator. For units that are in rate base, these costs should allocated via coincident peak. For units not in rate base interconnection, costs must be covered by the revenues realized pursuant to bilateral contracts.

WHEREFORE, ICSE respectfully requests that this Energy Bureau receive the submittal of ISCSE's answers.

CERTIFICATION

I also certify that on this date a copy of this motion regarding the Case No. CEPR-AP-2018-0001 was notified by electronic mail to the following: n-vazquez@aeepr.com, jorge.ruiz@prepa.com and astrid.rodriguez@prepa.com. I certify that today, August ___, 2018, I have proceeded with the filing of the motion by the Puerto Rico Energy Commission and I have sent a true and exact copy to the following:

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RESPECTFULLY SUBMITTED this 27th day of August, 2018, in San Juan, Puerto Rico.

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