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President

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Honorable Ángel R. Rivera de la Cruz, PE, Esq.
Associate Commissioner

Government of Puerto Rico
Puerto Rico Energy Commission
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Transmitted via email at: prec@energia.pr.gov

***Re: Request for Public Comment Period During Pre-Filing Process, In Re: REVIEW OF THE
PUERTO RICO ELECTRIC POWER AUTHORITY INTEGRATED RESOURCE PLAN, Case No. CEPR-AP-
2018-0001***

Honorable Commissioner Aviles and Commissioner Rivera:

We are writing to memorialize our request to the Puerto Rico Energy Commission ("CEPR" or "the Commission") to provide meaningful citizen participation in the development of Puerto Rico Electric Power Authority's ("PREPA") Integrated Resource Plan ("IRP"). On August 14, 2018, the Commission held a Technical Conference to ensure that PREPA's forthcoming IRP is compliant with the requirements of the Commission's recently enacted Regulation 9021 on the Integrated Resource Plan for the Puerto Rico Electric Power Authority.¹ This Technical Conference was the first meeting on the 2018 IRP organized by the Commission.

In a July 2, 2018 notice announcing the conference, the Commission invited interested parties to participate in this pre-filing process by "submitting questions and requests to the Commission in establishing the agenda for the Technical Conference" by August 7th, 2018. In that notice, the Commission issued forty-five questions to PREPA, largely based on requirements in Regulation 9021. On August 1, 2018 PREPA submitted a Compliance Filing, answering those questions in various degrees of detail. On August 14th, PREPA provided a presentation on Phase 1, which had information both beyond and inconsistent with that included in the Compliance Filing. During the presentation, stakeholders and public participants were restricted from providing comment, asking questions, or even seeking clarification. The Commission cited Regulation 9021 as not requiring public participation, and instead informed stakeholders that they would have to wait until a formal intervention period after the IRP is determined to be complete.

¹ Government of Puerto Rico, Puerto Rico Energy Commission, In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, IRP Prefiling Process (Phase 1) Procedure Before the Commission.

At the conclusion of the meeting, the Commission agreed to consider scheduling a second Technical Conference to provide members of the public the opportunity to ask questions about PREPA's methodology and analysis to date, either directly or through the Hearing Examiner. The undersigned hereby request the Commission to also consider providing a public comment period to give interested stakeholders the opportunity to submit into the docket written comments on PREPA's Phase 1 assumptions and proposed scenarios.

The Commission explicitly designed a two-phase process for the development and review of the IRP as a reaction to the 2015 IRP, in which the Commission was compelled to issue a Modified IRP. In 2016, the Commission disapproved the 2015 IRP submitted by PREPA,² and stated that "asking PREPA to fix its proposed IRP will only delay this process without guaranteeing success." The Commission clearly recognizes that input into the development of the IRP prior to its formal submission is critical to an effective resource plan. However, blocking public participation during that development runs counter to the public interest mandates of both PREPA and CEPR.

Providing a mechanism for the public to comment during Phase 1 of PREPA's IRP is particularly critical in light of PREPA's presentation on these issues during the Technical Conference. As the Commission noted during the Conference, the presentation differed substantially from the responses submitted by PREPA in its August 1st Compliance Filing.³ This presentation was made available to the Commission by August 10, 2018,⁴ but was not incorporated into the record until August 14th following attendees' query on whether this document would be made publicly available.

The 2018 IRP is of particular import to the future of Puerto Rico. There are numerous processes contingent on the development of an effective IRP, including the Federal Oversight Management Board ("FOMB") fiscal plan for PREPA, authorization of Critical Projects under the PROMSA Act, elements of the Law to Transform the Puerto Rico Electric System (Act 120), and rate regulation of PREPA. Many of these processes are already underway, and explicitly require the development of the IRP. For example, the most recent Fiscal Plan prepared for PREPA states that "once the IRP is done... PREPA will be able to determine the fiscal impacts of aligning to the selected IRP preferred option and whether it has the balance sheet strength to do so (whether privatized or not), or whether other partnerships with third party capital will be required."⁵ Therefore, it is critically important that the initial IRP filing be as robust as feasible prior to submission.

PREPA's IRP team has expressed numerous times that assumptions to the IRP must be finalized as quickly as feasible to ensure the completion of the IRP in a timely fashion. In its August 1st Compliance Filing, PREPA states that "if the Commission "down the road" were to require PREPA

² Government of Puerto Rico, Puerto Rico Energy Commission, In Re: Integrated Resource Plan for the Puerto Rico Electric Power Authority, Case No. CEPR-AP-2015-0002, Final Resolution and Order on the First Integrated Resource Plan of the Puerto Rico Electric Power Authority. September 26, 2016. Section VII.A.280. Page 82.

³ In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, PREPA's Compliance Filing for Items Due August 1, 2018. August 1, 2018.

⁴ In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, Appointment of Hearing Examiner; Technical Conference Format. August 2, 2018.

⁵ Puerto Rico Electric Power Authority Fiscal Plan. August 1, 2018. Page 71

and Siemens to consider different scenarios than those agreed at this time including the ones developed by PREPA and Siemens based on lessons learned in an since the 2015 IRP case, Regulation 9021, and stakeholder inputs or a modification thereof, it is likely to add one or more months to the IRP process. Such a delay would jeopardize or diminish the value of the IRP to the Government of Puerto Rico in working on the transformation of PREPA and the electric sector provided for by the Government's policies and the certified Fiscal Plans for the Commonwealth and PREPA."⁶ Stakeholders are justifiably concerned that any comments submitted after the finalization of the IRP will not be meaningful or timely.

Puerto Rico's Act 57 of 2014 expressly requires PREPA to prepare and submit an IRP for the Commission's approval. In the definition of IRP, Act 57 expressly states that "*every plan shall be devised with broad participation from citizens and other interested groups.*" 2014 Puerto Rico Laws Act 57, § 1.3(ee). The IRP is being devised now. Once it is submitted, the IRP is subject to review, modification or possible requirements for re-formulation, but its development is the pre-filing process, not the post-hoc review.

In an Order dated August 8, 2018, the Commission stated that "the purpose of the Prefiling Process, as well as the August 14 Technical Conference, is to be able to make corrections to the direction the IRP is taking."⁷ Comments from engaged parties on the methodological issues during Phase 1 of the process will both help make those corrections and further the efficiency in the development of the IRP, fostering the administrative economy of the process. Providing comment prior the submission of the IRP is a collaborative process; providing comment or testimony in an adjudicated proceeding after the submission is a contested process.

While we appreciate the robust questioning from the Commission's examiner, parties to the meeting had numerous questions and requests for clarification that we were unable to issue and numerous issues that received only glancing attention. As three case examples:

- PREPA's IRP team introduced two new proposed gas import facilities at Yabucoa and Mayaguez, and discussed a proposal to pipe gas from EcoElectrica to San Juan – major proposals that have never been vetted publicly in the past. CEPR's examiner did not ask about the genesis of these proposals, any potential permitting challenges, the type of generation that would be supported by these facilities, or the cost assumptions of the import facilities.
- PREPA's IRP team indicated that its imported gas price adder made substantial assumptions about the Jones Act, and had failed to include inflation in a gas import price adder, yet PREPA's IRP team did not actually indicate that this fundamental problem would be fixed.

⁶ In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, PREPA's Compliance Filing for Items Due August 1, 2018. August 1, 2018.

⁷ In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, IRP 2018 Prefiling Process, Determination of Completeness of August 1, 2018 Compliance Filing with Commission's July 2, 2018 Order.

- PREPA's IRP team discussed how they had filtered energy efficiency program options, but failed to assess critical programs such as weather sealing (to improve air conditioning performance), streetlight conversions, and thermal storage to reduce evening peak requirements.

Overall, there were numerous items presented where views from other stakeholders aside from the Commission's examiner, would have rendered value to the workshop process.

While the undersigned will provide detailed comments on PREPA's IRP once it is filed, there was substantial new information on assumptions presented on August 14th that is fundamental to PREPA's IRP and yet was not addressed because stakeholders were unable to question the basis of assumptions or seek clarification.

Providing the public with the ability to file comments on PREPA's presentation will help ensure that the Commission can properly implement its duty to regulate, oversee, and ensure compliance with the public policy on energy of the Commonwealth of Puerto Rico. Act 57 requires guaranteeing energy supply at affordable prices for consumers, a safe and reliable electricity infrastructure, and a diversified energy mix that includes renewables. *Id.*, § 1.2. In addition, Regulation 9021 provides that the purpose of technical conferences is to provide an opportunity for the Commission to ensure that PREPA's IRP filing will be compliant with these regulations as well as public policy goals. Regulation 9021, § 3.01(2). PREPA's lack of transparency does not further compliance with these policy goals.

We request the Commission to offer a meaningful opportunity to participate in the development of PREPA's IRP through the submission of formal comment as soon as feasible, and that such comment inform the final development of PREPA's IRP, due in October, 2018.

Sincerely,

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