

GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU



IN RE: REGULATION ON THE
INTERCONNECTION OF MICROGRIDS

CASE NO.: CEPR-MI-2018-0008

SUBJECT: PREPA's Motion to Stay or Extend
Due Date for Proposed Interconnection
Regulation

RESOLUTION AND ORDER

On May 16, 2018, the Puerto Rico Energy Bureau ("Energy Bureau") approved the Regulation of Microgrid Development ("Microgrid Regulation").¹ The Microgrid Regulation sets forth the regulatory framework required to, in accordance with the public policy, promote and encourage the development of microgrid systems in Puerto Rico, enable customer choice and control over their electric service, increase system resiliency, foster energy efficiency and environmentally sustainable initiatives and spur economic growth by creating a new and emerging market for microgrid services.

Since the ability of these systems to interconnect to Puerto Rico's electric grid, currently administered by the Puerto Rico Electric Power Authority ("PREPA"), is an essential component for the successful implementation of microgrid systems as a solution to Puerto Rico's energy needs, on that same date, the Energy Bureau ordered PREPA to develop a regulation which shall govern the interconnection of microgrid systems to Puerto Rico's electric grid.² The foregoing order required PREPA to file with the Bureau a draft version of the proposed regulation no later than one hundred and twenty (120) days from notification date of the same (*i.e.*, May 16, 2018).³ Note that existing PREPA interconnection regulations

¹ See In Re: Regulation on Microgrid Development, Case No. CEPR-MI-2018-0001.

² See In Re: Regulation on the Interconnection of Microgrids, Case No. CEPR-MI-2018-0008, Order dated May 16, 2018 ("Order"). The Order also stated that prior to filing the draft regulation with the Bureau, PREPA had to ensure compliance with Section 2.2 of Act 38-2017, known as the "Uniform Administrative Procedure Act of the Government of Puerto Rico" ("Act 38-2017") and that the draft regulation must incorporate any amendments made to the proposed regulation as a result of the public comments received during the 30-day period established in Section 2.2 of Act 38-2017.

³ *Id.* Also on May 16, 2018, the Bureau issued a Resolution establishing the specific Codes and Standards with which microgrids must be compliant in order to ensure the safe, reliable and resilient operation of the electric infrastructure. See In Re: Codes and Standards for Microgrids Compliance, Case No. CEPR-MI-2018-0007.

(i.e., Regulation No. 8915⁴ and Regulation No. 8916⁵) specifically exclude microgrid systems, although Act 133-2016, was already in effect, thus the need for the development of microgrid specific interconnection regulations.



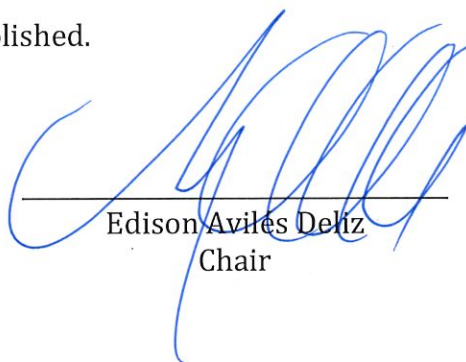
On September 17, 2018, PREPA filed a motion titled "The Puerto Rico Electric Power Authority's Motion to Stay or Extend Due Date for Proposed Interconnection Regulation" ("Motion"). In the Motion, after alleging a series of arguments in support of its request, PREPA requested that the Order be stayed indefinitely or, alternatively that the due date be extended to February 2019.

The draft interconnection regulation that PREPA was ordered to prepare and file with the Bureau is a technical document establishing the technical requirements with which any microgrid (i.e., not only private ones) has to comply in order to interconnect to Puerto Rico's electric grid. In that sense, the proposed regulations should not be a significant departure from Regulations 8915 and 8916.

Regarding the rate or tariff with which the microgrids will have to comply in order to use PREPA infrastructure (e.g., transformers, poles and lines, and rights of ways) and the compensation that the microgrids will receive for excess energy they generate and deliver to the electric grid, PREPA should not make any assumptions as both matters will be addressed by the Energy Bureau in separate proceedings pursuant to applicable laws and regulations.


Therefore, upon review of the Motion, the Energy Bureau **DENIES** PREPA's request that the Order be stayed indefinitely or, alternatively that the due date be extended to February 2019 and **ORDERS** PREPA to file with the Energy Bureau the proposed interconnection regulation on or before October 31, 2018. Should PREPA fail to comply with the October 31, 2018 deadline, the Bureau will initiate a rulemaking procedure to develop the regulation, pursuant to Act 57-2014 and any other applicable legal provisions.

Be it notified and published.


Edison Aviles Deliz
Chair

⁴ Regulation for the Interconnection of Generators with the Electric Distribution System of the Puerto Rico Electric Power Authority and Participation in the Net Metering Programs, February 6, 2017.

⁵ Regulation for the Interconnection of Generators with the Electric Transmission and Sub-Transmission System of the Puerto Rico Electric Power Authority and Participation in the Net Metering Programs, February 6, 2017.


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner


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CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 24, 2018. Associate Commissioner Ángel R. Rivera de la Cruz issued a particular vote concurring in part and dissenting in part. I also certify that on this date a copy of this Resolution and Order was notified by electronic mail to the following: n-vazquez@aeep.com, astrid.rodriguez@prepa.com, and jorge.ruiz@prepa.com. I also certify that today, September 24, 2018, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and I have sent a true and exact copy to the following:

Puerto Rico Electric Power Authority

Attn.: Nitza D. Vázquez Rodríguez
Astrid I. Rodríguez Cruz
Jorge R. Ruíz Pabón
PO Box 364267
Correo General
San Juan, PR 00936-4267

For the record, I sign this in San Juan, Puerto Rico, today September 24, 2018.


María del Mar Cintrón Alvarado
Clerk

GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
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IN RE: REGULATION ON THE
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CASE NO.: CEPR-MI-2018-0001

SUBJECT: PREPA's Motion to Stay or Extend
Due Date for Proposed Interconnection
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Associate Commissioner Ángel R. Rivera de la Cruz, concurring in part and dissenting in part

Today, the majority of the Puerto Rico Energy Bureau ("Energy Bureau") determined to extend, to October 31, 2018, the deadline for the Puerto Rico Electric Power Authority's ("PREPA") submission of a proposed Microgrid Interconnection Regulation. For the reasons expressed herein, I concur in part and dissent in part with such determination.

* * *

On May 16, 2018, the Energy Bureau issued a Resolution in Case No. CEPR-MI-2018-0001 to adopt and publish the "Regulation on Microgrid Development" ("Microgrids Regulation").¹ On the same day, the Energy Bureau issued an Order in the instant case instructing PREPA to "develop a regulation which shall govern the interconnection of microgrid systems to Puerto Rico's electric grid."² PREPA was required to file with the Energy Bureau a draft version of the proposed regulation no later than one hundred and twenty (120) days from the notification of the referenced Order.³ The deadline for such submission was September 13, 2018.

On September 17, 2018, PREPA filed a motion titled "The Puerto Rico Electric Power Authority's Motion to Stay or Extend Due Date for Proposed Interconnection Regulation" ("Motion to Stay"). PREPA requested an indefinite stay for the required submission or, in the alternative, for the Energy Bureau to extend the due date to February 2019.⁴ In support of its petition, PREPA raised the everlasting argument that it is understaffed and that it has allocated its resources in the restoration of service, as well as other procedures before the Fiscal Oversight Management Board and the Government of Puerto Rico.⁵

¹ See Resolution, In Re: Regulation on Microgrid Development, Case No. CEPR-MI-2018-0008, May 16, 2018.

² Order, Case No. CEPR-MI-2018-0008, May 16, 2018.

³ *Id.*

⁴ Motion to Stay, p. 6.

⁵ *Id.*, p. 3, ¶ 9.

PREPA also argued that the Microgrids Regulation “is very problematic not only because of the limited opportunity for input, but even more so because of the substance of its provisions.”⁶ According to PREPA, the Microgrids Regulation “create concerns about legality, consumer benefits and risks, consumer rights, cost shifting between customers, safety, other operational aspects, **excessive optionality** in moving onto and off of PREPA service and dates, etc.”⁷ Moreover, PREPA argued that the Order of May 16, 2018 “did not provide for rehearing or judicial review.”⁸

It is important to point out that the Energy Bureau published the draft of the Microgrids Regulation on January 3, 2018. According to Sections 2.1 and 2.2 of Act 38-2017⁹, the Energy Bureau initiated a period for public comments that was extended until April 2018. During this period, the Energy Bureau received thirty-nine (39) comments from various institutions and persons, including PREPA. In addition, the Energy Bureau held a Public Hearing on February 6, 2018; PREPA did not attend. However, seven additional (7) institutions provided oral comments during the Public Hearing.

Contrary to PREPA’s arguments, PREPA and the general public had ample opportunity to provide input to the Microgrids Regulation during the extended period to submit written comments and during the public hearing. Moreover, the Energy Bureau received over than forty-five (45) written and oral comments regarding the draft regulation.

In adopting the Microgrids Regulation, the Energy Bureau considered all received comments and issued a detailed Resolution explaining the changes to the original draft and the reasons for adopting such changes. Since the approval of the Microgrids Regulation followed the rulemaking procedure established in Act 38-2018, contrary to PREPA’s argument, providing for a rehearing or judicial review was not required. As such, PREPA had available the procedure established in Section 2.7 of Act 38-2017 to challenge the validity of the Microgrids Regulation at the Puerto Rico Appellate Court. PREPA did not file such challenge.

The Motion to Stay is another link in a long chain of PREPA’s non-compliance with the Energy Bureau’s orders and regulations. It also adds to PREPA’s long history of refusal to change and to modernize, in order to provide a high-quality service to its customers, using all available technologies, while empowering them to select the option that can better serve them. PREPA argues that the Microgrid Regulation provides too much optionality to its clients. However, Act 133-2016 specifically recognized microgrids and community solar projects as options to modernize the electric distribution system and to guarantee the

⁶ *Id.*, p. 1, ¶ 3.

⁷ *Id.*

⁸ *Id.*, p. 2. Emphasis supplied.

⁹ The Uniform Administrative Procedure of the Government of Puerto Rico Act, as amended.

maximization of the use of local resources.¹⁰ Limiting the development of microgrids will violate the expressed mandate of Act 133-2016.



As stated by the majority of the Energy Bureau in today's Resolution and Order, the ability of these systems to interconnect to Puerto Rico's electric grid, currently administered by PREPA, is an essential component for the successful implementation of microgrid systems as a solution to Puerto Rico's energy needs. Without an interconnection regulation, microgrids systems will not have the ability to provide energy and grid services to the transmission and distribution system, both of which represent a valuable asset for grid management and stability. Moreover, the lack of an interconnection regulation will provoke microgrid developers to stay disconnected from the grid, resulting in more clients exiting the system, which could be detrimental to PREPA due to loss of revenue. It will also be detrimental to the clients that remain connected to the grid, since there will be fewer customers bearing the cost of maintaining the system.

I concur with the majority of the Energy Bureau that if PREPA is unable, or, in my opinion, unwilling to develop the regulation for the interconnection of microgrids to the Puerto Rico's electric grid, then the Energy Bureau should develop such regulation. However, based on PREPA's arguments, it is very unlikely that it will meet the October 31, 2018 deadline for the submission of the draft regulation. Therefore, instead of extending the deadline, I would have initiated the rulemaking procedure. For this reason, I dissent with the majority regarding extending the deadline to October 31, 2018.

Ángel R. Rivera de la Cruz
Associate Commissioner

In San Juan, Puerto Rico, on September 24, 2018.

¹⁰ Act 133-2016, Statement of Motives, ¶¶ 12 – 13.