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

IN RE: REGULATION ON RETAIL WHEELING	CASE NO.: CEPR-MI-2018-0010 SUBJECT: PREPA's General Comments, Responses to Specific Questions, and Specific Comments

PREPA'S GENERAL COMMENTS, RESPONSES TO SPECIFIC QUESTIONS, AND SPECIFIC COMMENTS

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") and respectfully submits to the Puerto Rico Energy Bureau ("Energy Bureau") "PREPA's General Comments, Responses to Specific Questions, and Specific Comments" in accordance with the Energy Bureau's Resolution and Order issued March 1, 2019 (the "Order"). The Order calls for Comments from PREPA and interested parties and also directs PREPA to respond to the questions in the Order's Exhibit A.

I. INTRODUCTION

This docket involves the establishment of a Regulation for "wheeling". In brief, Puerto Rico law, including the applicable provisions of Acts 73-2008 and 57-2014, as amended, allows *eligible* generators (generators that use qualifying renewable energy resources and qualify for certain tax treatment) to "wheel" (or "transship") power over PREPA's electric grid to other persons and entities. In other words, *eligible* generators can sell electricity to customers and use PREPA's wires to deliver that electricity,

provided that the generators pay PREPA for use of the wires and comply with all other applicable requirements.[1]

Under Section 6.30 of Act 57-2014, in order for the implementation of wheeling to proceed, among other requirements, the Energy Bureau must establish a wheeling Regulation. The Regulation must provide for wheeling consistent with the statute. The Regulation must "ensure that wheeling does not affect in any way whatsoever (including technical problems and rate increases) nonsubscribers of wheeling services...." *Id.* The Energy Bureau must consider a list of factors in developing the Regulation. *Id.*

In addition, the Energy Bureau, in establishing the wheeling Regulation, should take into account that wheeling implementation takes place in a larger law and policy context. More specifically, the Government of Puerto Rico is in the midst of ongoing efforts to restructure and transform PREPA and the Puerto Rico electric sector to better serve the public interest. The Government's efforts include, among other things, initiatives under Act 120-2018 to "privatize" PREPA generation assets through public-private partnership ("P3") transactions and to develop a P3 agreement for a

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[1] *See, e.g.,* Act 57-2014 (as amended), Sections 1.3(qq) (definition of "Wheeling rate" to mean "a just and reasonable amount of money that PREPA may charge to a power producer for using its transmission and distribution facilities for wheeling and for the right to interconnect the electrical power generation facility of such power producer to the electric power grid of Puerto Rico, in accordance with the provisions of §§ 10641 et seq. of Title 13."), 1.3(tt) definition of "Wheeling" to mean "the transmission of electricity from one system to another through Puerto Rico's electric power grid, according to the wheeling provisions of §§ 10641 et seq. of Title 13, known as the 'Economic Incentives Act for the Development of Puerto Rico'."), 6.3(f) and (g) (relating to power and duties of Bureau to regulate wheeling rates and mechanism), 6.30 ("Wheeling") (substantive provisions regarding wheeling and Bureau regulation of wheeling); codified as 22 L.P.R.A. §§ 1051a(qq) and (tt), 1054b(f) and (g), 1054cc. *See also, e.g.,* Act 73-2008, Article 1, Section 2(d)(1)(H) (portion of definition of "Eligible Business" that relates to energy production through the use of renewable sources after June 18, 2011); and Article 4, Section 2 (substantive provisions regarding wheeling); codified as 13 L.P.R.A. §§ 10642(d)(1)(H) and 10672. PREPA, for purposes of the instant filing, is setting aside any legal questions about whether any of the relevant provisions has become inoperative, qualified, or conditional for any reason.

"concession" for the provision transmission and distribution ("T&D") services in order to attract private investment in the T&D system and improve the services. The wheeling Regulation should be consistent with, and not undercut or jeopardize, the restructuring and transformation efforts.

Therefore, PREPA's Comments and its responses to Order Exhibit A address the proposed Regulation as such, how it affects other customers and other entities, and its consistency with the restructuring and transformation efforts.

As explained further below, PREPA believes that the proposed Regulation contains provisions that are a good start for discussion of a wheeling Regulation, but that many other provisions have significant problems, have serious gaps, and/or need clarification. Foremost is that PREPA is deeply concerned that the proposed Regulation goes far beyond allowing *eligible* generators to wheel and far exceeds, in many other respects, the requirements and scope of statutory wheeling. PREPA also is very concerned about a number of aspects of the Regulation's structures and details as such. PREPA also is deeply concerned that the proposal contains provision that are out of sync with, or that could even undercut or jeopardize, aspects of the restructuring and transformation efforts. PREPA believes that some aspects of the proposed Regulation will not work, will not work as intended, are incomplete, and/or will inappropriately shift burdens and risks to other customers and/or to PREPA and any successor T&D provider. The shifting of burdens and risk, in particular, might discourage private interest in privatization or a concession for the provision of T&D services, or might make

private interest in privatization or a concession contingent on terms and conditions that are less favorable, or unfavorable, for the people of Puerto Rico.

II. TIMING AND FUTURE STEPS IN THIS DOCKET

Before turning to its General Comments, PREPA wishes to make three additional key points about the timing and procedures in this case.

First, PREPA notes that the task before the Energy Bureau, PREPA, and other interested parties is complicated by the status of the pending energy legislation commonly known as "Bill 1121" or as the "Public Energy Policy Act of Puerto Rico". When Act 120-2018 was enacted, the Legislative Assembly expressly contemplated that additional energy legislation would be enacted by December 2018, but the legislature also recognized that it might need more time, and that has proven to be the case.

The Energy Bureau, in drafting the proposed wheeling Regulation, did not have the benefit of the legislature's "conference" version of Bill 1121. The Energy Bureau approved the proposed Regulation on February 28, 2019. The "conference" version of Bill 1121 was not available until on or about March 14, 2019.

PREPA's understanding is that the Legislative Assembly adopted Bill 1121 on March 25, 2019, but that the Governor has not yet signed the Bill.

As a result, PREPA and other interested parties preparing Comments on the proposed Regulation have had relatively little time to consider whether and, if so, how, it is practical to factor pending Bill 1121 into the Comments. Accordingly, PREPA has prepared its Comments and its responses to Order Exhibit A's questions based on its

understanding existing law, *i.e.*, without Bill 1121. PREPA did not believe that it could practically prepare Comments and responses that assumed Bill 1121 enactment, in the time available. Other interested parties might or might not factor in Bill 1121 in their Comments.

If the Governor signs Bill 1121 into law, then PREPA strongly encourages the Energy Bureau to consider how best to move forward in this docket. Whatever procedures and schedule the Energy Bureau adopts should allow both the Energy Bureau and PREPA and interested parties a timely and full opportunity to revise, or propose revisions to, the proposed Regulation, respectively, in order to reflect the provisions of an enacted Bill 1121. In any event, PREPA states that it reserves the right to seek to update, supplement, and/or correct its Comments and responses in the event that Bill 1121 is enacted.

Second, regardless of Bill 1121, PREPA strongly encourages the Energy Bureau to conduct a Comments process on the "final" version of the proposed Regulation. Allowing comments on a "final" draft regulation that has any material changes from the version on which interested parties have commented is a common and best practice in utility rulemaking. The practice serves the interests of the public, the regulated entities, and the regulator. Indeed, this practice is a general principle of administrative agency rulemaking. When an administrative agency conducts a rulemaking, and the proposed final rule makes major changes from the first proposal, it is common for the agency to provide for additional comments before making the rule final. *See, e.g.*, "A Guide to the

Rulemaking Process" prepared by the Office of the Federal Register[2] ("If the rulemaking record contains persuasive new data or policy arguments, or poses difficult questions or criticisms, the agency may decide to terminate the rulemaking. Or, the agency may decide to continue the rulemaking but change aspects of the rule to reflect these new issues. If the changes are major, the agency may publish a supplemental proposed rule. If the changes are minor, or a logical outgrowth of the issues and solutions discussed in the proposed rules, the agency may proceed with a final rule.").

Finally, the proposed Regulation is an 82-page single-spaced, extremely complicated document with many provisions that, for PREPA's part, were unexpected, including provisions that PREPA is unsure how they are intended to work in isolation and/or in combination with other provisions, because there has not yet been a technical conference or other procedure by which PREPA and other interested parties could inquire about what is intended before preparing their Comments. PREPA has worked diligently to prepare Comments and responses to Order Exhibit A, but must state that the absence of Comments on any given provision should not be understood to mean that PREPA understands and supports, or does not object to, the provision as such or in context.

[2] Available at https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf.

III. GENERAL COMMENTS

PREPA submits the following General Comments. Some of the General Comments are stated relatively briefly because they are elaborated upon in PREPA's responses to Order Exhibit A and/or PREPA's Specific Comments.

First, the proposed Regulation, on its face, does not appear to be limited to generators that are *eligible* to wheel power under the wheeling statutory provisions. As noted earlier, Acts 73-2008 and 57-2014, as amended, allow *eligible* generators to "wheel" power over PREPA's electric grid. If a generator does not meet the statutory eligibility requirements, then the generator should not be able to wheel power under the Regulation. The proposed Regulation should be limited to eligible generators.

Second, the scope of the proposed Regulation far exceeds the requirements and scope of statutory wheeling. In brief, the proposed Regulation appears in numerous ways to be crafted as a proposed regulation for an electric sector that includes full transmission system open access, full retail open access, and major changes in the wholesale market.[3] That is problematic in multiple ways. The expansive scope is not consistent with existing law. For example, again, only *eligible* generators have a right to wheel power under the statutory wheeling provisions. The expansive scope also goes far beyond what is needed to implement wheeling as indicated above, for example. The expansive scope likely will create major complications and uncertainties. Some of the

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[3] Puerto Rico currently has a wholesale market in the sense that there are bilateral contracts between PREPA and generators under which PREPA buys power and capacity in order to provide retail supply service. Puerto Rico does not have a wholesale market in the sense of one in which there has been a governmental finding of an absence of, or full mitigation of, market power and in which wholesale prices therefore are competitive and are largely unregulated.

very broad provisions contain very general or unclear language. The expansive scope seeks to undertake, in a single rulemaking docket -- one that so far is limited to a "notice and comments" form of rulemaking -- processes that on the US mainland have required far more extensive and lengthy processes before utility regulators. The proposed Regulation should be revised to be limited to wheeling implementation.

Third, the wheeling Regulation must "establish the rules and conditions to ensure that wheeling does not affect in any way whatsoever (including technical problems and rate increases) nonsubscribers of wheeling services, as well as the rules necessary for implementation of a system that allows exempt business described in [Section 2(d)(1)(H) of Act 73-2008] or similar provisions in other incentive laws, to sell electric power to other entities through wheeling services." Act 57-2014, Section 6.30. The proposed Regulation does not yet appear to reflect analysis, proof of, or provisions, that "ensure that wheeling does not affect in any way whatsoever (including technical problems and rate increases) nonsubscribers of wheeling services...."

Fourth, the target of implementing wheeling for industrial and large commercial customers by January 2020 seems overly optimistic, given the additional major steps that the Order itself states are needed (see the Order, p. 2) (listing unbundling and ratemaking proceedings, including an evidentiary hearing; a transmission and distribution provider ("TDP") and system operator ("SO") proceeding; and selection of a concessionaire for T&D services and possible concessionaire proposals to revise the foregoing), not to mention, among other factors, the current absence of restructured PREPA financial obligations and of established and qualified vendors that are eligible

generators. If the scope of proposed Regulation were to be revised to fit statutory wheeling, then that would allow implementation for industrial and large commercial customers to be achieved much sooner, although January 2020 would remain a very difficult target, at best.

Fifth, the subjects of metering, billing, collections, disconnections, and customer relationships are poorly developed in the proposed Regulation, from the perspective of PREPA[4] and, PREPA believes, also from the vantage point of customers. Whose customer is the Customer for the applicable operational, financial, and practical purposes? As of today, PREPA's Customers receive a bill for all the electric services provided, which include services beyond generation. As instructed in Section 8.04 of the proposed Regulation, the TDP (currently PREPA, but the Regulation provides for separation) shall have the responsibility to measure the usage of all Customers and send Bills, irrespective of whether a Customer is served by the Default Service Provider ("DSP") (initially PREPA, as a practical matter) or an Energy Service Company ("ESC"). What is the basis for that determination that the TDP should perform that billing for the ESC, and, if separate, for the DSP? Why should the TDP bill any end use Customer of the ESC (or, if separate, the DSP), when the responsible entity for that Customer in the first instance should be the ESC (or the DSP)? The TDP should be limited to billing the DSP (if separate) or the ESC for the services provided by the TDP, because the TDP's direct customers, so to speak, are the DSP or an ESC, not the DSP's or ESC's end use

[4] In this filing, when PREPA refers to "PREPA", the reference also should be understood to refer to a PREPA successor, the TDP, and/or the SO, when and as applicable.

Customers.[5] Also, who is responsible for Customer disconnections for non-payment? Who assumes the costs for connections and disconnections? The ESC (or DSP) should pass the cost of the TDP's services to their Customers. In this manner, if there is any claim by the Customer, the resolution of it would be channeled through the corresponding ESC (or DSP), who at the end of the day should be the supply provider to that Customer. In addition, there should be other services beyond the ones provided by the TDP (as discussed further below) that should be also channeled through the DSP or the ESC, in order for them to bill their Customers. Under this proposed Regulation, the billing proposal seems to provide unnecessary burden to the TDP (and the Customer), when the entities that directly receive the TDP's services are the DSP or the ESC, not their end use Customers, although the latter benefit from them.

Sixth, as a related point, the proposed Regulation appears to be incompatible with the Energy Bureau's Regulation on Microgrids Development (Reg. No. 9028). PREPA does not yet see how metering and billing can work under the combination of the proposed Regulation and Reg. No. 9028. In brief, the former appears to require individual metering of all customers within microgrids in order to work, while the latter provides for a single meter at the point of interconnection of the microgrid, as clarified by the Energy Bureau, as PREPA currently understands it.

Seventh, the proposed Regulation does not list or appear to address the transmission services and ancillary transmission services that are needed for wheeling

[5] To be clear, the end use Customers benefit from the TDP's services, and ultimately should be subject to cost responsibility, but the TDP's services are provided directly, so to speak, to the DSP or ESC.

to work and how they are to be provided and billed. Such a list would include, for example, among others:

a. Scheduling, System Control, and Dispatch Service;

b. Reactive Supply and Voltage Control from Generation Service;

c. Regulation and Frequency Response Service;

d. Energy Imbalance Service; and

e. Operating Reserve – Spinning and Supplemental Reserve Service.

Finally, the proposed Regulation should not include its own interconnection procedure regulation. Interconnection regulations are and should be separate regulations. The wheeling Regulation instead can and should refer to the separate interconnection regulations.[6]

IV. RESPONSES TO ORDER EXHIBIT A

Q II.1 Are the proposed rules adequate to support non-discriminatory open access to the transmission network in support of wheeling transactions?

- See General Comments about the scope of the proposed Regulation.
- In Q II.1, PREPA understands the reference to "non-discriminatory open access" to mean lawful access to the transmission system of generators eligible for wheeling as provided under the combination of Acts 73-2008 and 57-2014, as amended.
- This question needs to be evaluated by experts in successful wheeling implementations, with relevant experience in implementing wheeling, in addition to the customer choice provisions, in very small electrical markets, with limited resource

[6] Please note that, in making its General and Specific Comments, PREPA incorporates its concerns about the Regulation for Microgrids Development and the difficulties of preparing a microgrids interconnection regulation that works with the microgrids regulation, as expressed, for example, in PREPA's December 26, 2018, filing in case no. CEPR-MI-2018-0001.

options, in a government owned corporation under bankruptcy with significant debt and an extensive subsidy structure, along with significant operating hurdles. Also, it would be important to compare and contrast larger scale wheeling implementations, such as the California disaster and the Texas experience, along with areas with no wheeling, such as Florida. In the relatively short period since the Order was issued, PREPA has not retained experts to perform such analysis.

Q II.2 Please comment on the overall industry structure outlined in Article 3 of the proposed rules. Are there key entities or elements missing? Are the roles and responsibilities of the proposed entities appropriate?

- See General Comments and response to Q II.1.
- The TDP and the SO.
    - As PREPA understands the Order and the proposed Regulation, the Order and the proposed Regulation do not create the Transmission and Distribution Provider (TDP) and the System Operator (SO).
    - Rather, PREPA understands the Order and the proposed Regulation to identify PREPA as the TDP and the SO, unless and until there is a concessionaire for T&D services, although the proposed Regulation contains multiple inconsistent provisions on that subject, as discussed further, below. See, e.g., Order, pp. 2-3, and proposed Regulation, Sections 3.02 and 3.03, which appear to take whatever entity is the TDP and the SO as a given; and, compare Section 3.01 versus Section 9.01(A).
    - PREPA would have significant concerns if the proposed Regulation were to be interpreted to create the TDP or the SO. PREPA does not believe that the Energy Bureau, under the wheeling statutory provisions, has the jurisdiction or authority to create the TDP or the SO, and that the assertion of such authority would be contrary to existing statutory provisions regarding PREPA, the electric sector, the Energy Bureau, and the restructuring and transformation efforts.
    - PREPA has serious concerns that the proposed Regulation imposes overlapping and/or potentially inconsistent rights and duties on the TDP and the SO. If the TDP and the SO are the same entity, then those concerns may be mitigated or manageable, but, if they are not the same entity, then the TDP and SO will have partially overlapping or conflicting roles and duties, likely resulting in confusion, conflict, and/or inefficiency.

- PREPA opposes the separation of the TDP and the SO at least as long as PREPA or its successor functions as the DSP. Such separation seems unwarranted and inefficient, at least in those circumstances.

- PREPA currently operates an economic dispatch system.

- The Creation of a New Wholesale Market Regulatory Regime

  - PREPA is concerned that the proposed Regulation appears to provide for the creation of a new wholesale market regulatory regime.

  - Puerto Rico already has laws and regulations governing many wholesale market transactions, such as PPAs under which PREPA is a purchaser of electricity to meet its supply obligations.

  - PREPA does not see anything in the wheeling statutory provisions that authorizes or justifies a new wholesale market regulatory regime. Moreover, developing a new wholesale market regulatory regime in the midst of the ongoing efforts toward privatization of generation and a T&D concession is ill-timed, with very serious risks of discouraging private interest and creating a regime that is out of sync with the restructuring and transformation efforts.

  - While PREPA opposes the creation of a new wholesale market regulatory regime, PREPA believes that, down the road (post-restructuring and transformation), there are scenarios in which the creation of an Independent Market Monitor, if it were to be authorized by and consistent with applicable law, potentially could be a positive step, if and when there is a competitive market in the expansive sense, as long as the specifics of the IMM and its role are sound. PREPA is concerned that that proposed Regulation has ambiguous provisions about whether there is one or two market monitors, and independence, as discussed further, below.

- Aggregation of Customers

  - PREPA has concerns about the proposed Regulation's provisions on aggregation of customers, as discussed further, below.

- Metering and Billing and Microgrids

  - As noted in its General Comments, and discussed further below, PREPA is concerned with the provisions on metering, billing, etc., in general and how the

proposed Regulation may interact (or conflict) on those subjects with the Regulation on Microgrid Development.

Q II.3 Is it appropriate that PREPA (or its successor(s)) continue to operate as the Default Service Provider? What responsibility should the Default Service Provider have to serve load in the event that an Energy Service Provider defaults?

- The service obligations of PREPA are defined by statute, and cannot and should not be altered by the proposed Regulation.

- That being said, in the short term, it is unavoidable that PREPA be the Default Service Provider for the foreseeable future. Until the emergence of a functional provider that can provide such service, there is no alternative. In the future, some company may exist which can fulfill the request.

- PREPA is concerned that the proposed Regulation might be read to impose DSP obligations that are impractical and excessively risky from operational and financial perspectives, as discussed further, below.

- PREPA also is concerned that the proposed Regulation is inconsistent on the subject of when PREPA or the TDP would cease to serve as the DSP, as discussed further, below.

Q II.4 What changes need to be made to the current transmission of information between PREPA and generators to support the SO's functions?

- See responses to Qs II.1, II.2, and II.3.

Q II.5 Prior to the development of an independent monitor and monitoring plan, what specific actions or oversight activities should the Energy Bureau undertake to ensure the reasonableness of the market structure to be set up under the SO Protocols?

- This Q assumes the creation of a new wholesale market regulatory regime. See General Comments and responses to Qs II.1 and II.2.

- In order to reach this Q, setting aside legal questions, it first is essential, among other things, to resolve basic structural matters, such as PREPA financial restructuring, cost allocation, subsidies payments, private operators, generation privatization, billing modernization, and substantial customer choice.

Q II.6 What additional customer protection measures should be included in the proposed rules?

- It is essential that any new ESC must abide by all customer protection rules as obligated as to PREPA, as a bare minimum. In addition, severe predatory behavior penalties must be enforced and applied. The Energy Bureau needs to establish a clear cut customer bill objection policy, regardless of the Customer's ESC or Default Service Provider, including provisions for service disconnection, reconnection, credit, deposits, and time limits, among others. See also General Comments.

Q II.7 The Energy Bureau envisions integrated resource planning to evolve to focus on both wholesale-level resources as well as distribution-level distributed energy resources. This would occur through a collaborative effort between the TDP and SO, as described in Article 7.05 of the proposed regulations. Are there any good examples of this process from other jurisdictions that Puerto Rico should consider?

- See General Comments and response to Q II.1. See also Comments on Sections 3.02, 3.03, and 7.05.

- PREPA opposes separation of the TDP and the SO, as explained earlier.

Q II.8 It is possible that in the near-term, the SO will not be completely independent from other system components. This is especially true during the time that the SO is still embedded in PREPA, where it will have some affiliation with generation assets. Please comment on how the proposed rules address this issue.

- PREPA opposes separation of the TDP and the SO, as explained earlier.

- Setting that aside, it appears that, if wheeling starts as soon as early 2020, then there would be no separation between the SO and TDP at that time, so, if there were legitimate concerns about bias on the part of the SO, then rules may need to be in place. The nature of the concerns is not clear. Economic dispatch is a well understood function. Depending on what are the concerns about bias on the part of the SO, whether the proposed Regulation usefully addresses the concerns is difficult to address in the abstract.

- The following point might be beyond the intended scope of Q II.8, but there need to be clear rules for the interaction between the SO and the particular ESC, so the system costs are shared correctly, in particular for all transmission services and

ancillary transmission services, a subject which has not been addressed in the proposed Regulation, and which is basic in any wheeling implementation.

Q II.9 If the SO and TDP are the same entity, the proposed rules would require corporate or functional separation between the SO and any other part of the organization that has an interest in any generation facility or other resource on the grid. Please comment on how the proposed rules address this issue.

- See responses to Qs II.1, II.8.

Q II.10 The proposed rules require PREPA to file an embedded cost of service study, a marginal cost of service study, and a total system long-run incremental cost (TSLRIC) study. The purpose of the embedded cost of service study is to ensure that historical costs are allocated across classes in an equitable manner. The purpose of the marginal cost of service study is to ensure that rate designs provide efficient price signals. The purpose of the TSLRIC study is to ensure that services are priced competitively. Please comment on this proposal and the associated provisions of the proposed rules.

- Any study must take into account PREPA's obligation to serve, debt payments, subsidy payments, etc. Rate studies should be addressed outside this proposed Regulation.

- That being said, PREPA is concerned and/or confused regarding the Energy Bureau's directives on this subject. In the Unbundling docket (case no. NEPR-AP-2018-0004), the Energy Bureau initially directed PREPA to prepare those 3 studies plus an unbundling study. However, in that docket, the Energy Bureau's February 8, 2019, order, removed that directive and instead provided that the Energy Bureau would retain outside consultants to perform the 4 studies, although PREPA was directed to cooperate with, and pay for, the consultants' work. Such studies normally are prepared in the first instance by the service provider. PREPA does not know when the Energy Bureau consultants are estimated to issue their four proposed studies, and how long it will take to finalize the 4 studies after PREPA and other interested parties review and respond to the studies. Thus, PREPA is uncertain whether the timeline in the Unbundling docket is consistent with the provisions of the proposed Wheeling Regulation.

Q II.11 Are the proposed sections regarding Terms and Conditions for Transmission Service and Initiating Transmission Service reasonable and comprehensive?

- See General Comments and response to Q II.1.

Q II.12 Should the generation sources related to wheeling be limited to renewable sources?

- This Question is for the Legislative Assembly, which has addressed the subject. The generation resources eligible for wheeling are defined by the combination of the applicable provisions of Acts 73-2008 and 57-2014, as amended. The Energy Bureau does not have the jurisdiction or authority to alter the wheeling statutory provisions.

V. SPECIFIC COMMENTS

Section	• Description of Section / provision	• Specific Comments
Section 1.03	• States in part: "Further, the Energy Bureau agrees that wheeling has the potential to promote transparency, open access, and non-discrimination in the power sector."	• See General Comments. • In context, PREPA understands the reference to "open access" to mean lawful access to the electric grid of generators eligible for wheeling under Acts 73-2008 and 57-2014, as amended.
Section 1.07	• "When a specific proceeding has not been planned for in this Regulation, the Energy Bureau may attend to it in any way that is consistent with Act 57-2014."	• Add at the end "and/or any other applicable law".
Section 1.09	• "Definitions"	• The definitions should be in alphabetical order.
Section 1.09 (8) and (9)	• 8) ""Competitive Service" refers to any electric service function for which there are two or more options from which a Customer may choose." • 9) ""Competitive Service Provider" refers to any entity providing Competitive Service."	• "Electric service" and "electric service function" are not defined by the regulation. (The term "electric service" is not used or defined by Act 57-2014, although it does use "electric power service".) • Is the term "electric service" here being used to mean the same thing as "energy service" as defined in Section 1.09 (23)? If so, then should "electric service" in (8) be changed to "energy service"? If not, then what is the intending meaning

Section	• Description of Section / provision	• Specific Comments
		of "electric service" and should it have its own definition?
Section 1.09 (2) and (3)	• 2) ""Aggregation" refers to entering into an agreement with multiple Customers and combining the electric load of said Customers for the purpose of purchasing Energy Service to meet the combined load on an aggregated basis." • 3) ""Aggregator" refers to a Municipality or a Person Certified by the Energy Bureau to contract with multiple retail Customers and to combine said Customers' electric load for the purpose of purchasing Energy Service on an aggregated basis."	• PREPA does not know what aggregation legal authority and scenarios are assumed or contemplated by the proposed Regulation. As a result, commenting on provisions relating to aggregation generally is not feasible at this time. • See also Comments on Article 14.
Section 1.09 (5)	• 5) ""Bill" refers to the document sent periodically by the Transmission and Distribution Provider to a Customer listing all the components, charges, and rates that make up the final cost each Customer must pay for electric service."	• See General Comments and response to QS II.2 and II.6.
Section 1.09 (13)	• 13) ""Default Service Provider" refers to the entity responsible for providing Energy Service to each Customer that is not served, in whole or in part, by an Energy Service Company."	• See General Comments and PREPA's responses to Qs II.2 and II.3.
Section 1.09 (14), (15), and (18)	• 14) ""Demand-Side Management Provider" refers to any Person that is engaged in the provision of Demand-Side Management Services to Customers. • 15) ""Demand-Side Management Services" refers to the provision of any service directly to a Customer besides generation, such as the provision of energy efficiency and demand response services, that aids in meeting that Customer's	• The term "Demand-Side Management Services" is defined too broadly. The definition expands the concept of DSM services beyond common usage to include anything that is not generation that helps meet the Customer's electric load. That is too vague. The definition should be limited to EE and DR, unless other specific and reasonable items

Section	• Description of Section / provision	• Specific Comments
	electric load." • 18) ""Distributed Energy Resource" refers to Distributed Generation, Energy Storage, Microgrids, or any other resource, including but not limited to energy efficiency or demand response, that is connected to the Distribution Infrastructure and that assists in meeting at least one Customer's electrical load."	are identified. • PREPA believes that the term "Demand-Side", in context, means "behind the meter" (behind the applicable meter that measures the customer's usage for purposes of billing by the utility).
Section 1.09 (27)	• 27) ""Independent Market Monitor" or "IMM" refers to the entity assigned responsibility for monitoring the operations of the System Operator, the Transmission and Distribution Provider, Energy Service Companies, and any other entity participating in wholesale and retail market exchanges to prevent market manipulation and market power abuses."	• See General Comments and responses to Qs II.1 and II.2. • The word "exchanges" as used here and as used similarly in several other spots in the proposed Regulation, such as Section 3.03, is undefined.
Section 1.09 (29) and (46)	• 29) ""Interconnection" refers to the connection of generating resources or Energy Storage to the Electric Power Grid." • 46) "Standard Generation Interconnection Agreement" refers to the Interconnection of generation to the Electric Power Grid."	• See General Comments.
Section 1.09 (31)	• 31) ""Market Monitor" refers to an entity within the Energy Bureau that is responsible for monitoring the wholesale market."	• See General Comments and responses to Qs II.1 and II.2. • This definition is confusing because it is ambiguous as to whether it means the IMM or is a second market monitor. • If this definition means the IMM, then this definition seems inconsistent and/or redundant with Section 1.09(27). The inconsistency is that (27) refers to monitoring more than the wholesale market and that (27)

Section	• Description of Section / provision	• Specific Comments
		provides for independence.
Section 1.09 (32)	• 32) ""Meter" refers to the equipment used to measure consumption and/or generation of energy at the point of connection between an individual Customer and Distribution Infrastructure as well as associated communications and control capabilities."	• See General Comments and responses to Qs II.2 and II.6.
Section 1.09 (33)	• 33) ""Microgrid" refers to a group of Interconnected loads and Distributed Energy Resources within clearly defined electrical boundaries that acts as a single controllable entity that can connect and disconnect from the Electric Power Grid to enable it to operate in either grid-connected or off-the-grid (islanded) mode."	• See General Comments and responses to Qs II.2 and II.6.
Section 1.09 (47)	• 47) ""Stranded Costs" refer to the historical financial obligations incurred by PREPA that may become unrecoverable due to regulatory changes, such as wheeling, as determined by the Energy Bureau."	• This provision, with respect to the words "as determined by the Bureau", may exceed the jurisdiction and authority of the Energy Bureau. Other law or action may be dispositive, e.g., statutes or the approved PREPA Plan of Adjustment under PROMESA, for example.
Section 1.09 (48)	• 48) ""System Benefits Charge" refers to a non-bypassable charge imposed on customers to support specific energy-system goals. The System Benefits Charge may be used to finance one or more of the following: energy efficiency, conservation, or demand-side management; renewable energy; efficiency or alternative energy-related research and development; low-income energy assistance; and/or other similar programs defined by applicable Territory or Federal law."	• Why does Section 1.09(48) refer to "conservation" but not to demand response"? Use of "demand response" seems more consistent with the rest of the proposed Regulation. • Note PREPA's concerns about a vague and overbroad definition of demand-side management services. See Section 1.09(15).

Section	• Description of Section / provision	• Specific Comments
Section 1.09 (49) and (54)	• 49) ""System Operator" or "SO" refers to the entity assigned responsibility for overseeing and facilitating wholesale exchanges of electricity, operating the Transmission System in a reliable and efficient manner, and ensuring open access to the transmission system, in coordination with the Transmission and Distribution Provider." • 54) ""Transmission and Distribution Provider" or "TDP" refers to the entity that owns or leases the Electric Power Grid and maintains that Electric Power Grid."	• See General Comments and responses to Q II.1, II.2.
Section 1.09 (51)	• 51) ""Third-Party Administrator" refers to an entity approved by the Energy Bureau to use ratepayer funds to deliver energy efficiency, demand response, and any other related service to Customers.	• This definition is out of sync with Section 3.06. Section 3.06 provides for a Third-Party Administrator for Demand-Side Management programs. See also, however, PREPA's Comments about Section 1.09(15).
Section 1.09 (52)	• 52) ""Transition Charges" refers to those charges defined in Chapter 31(6) of Act 4-2016, known as the Revitalization Act."	• Add at the end ", or any other applicable authority". This definition needs also to cover the possibility of lawful transition charges not based on authority under Act 4-2016.
Section 1.09 (55) and (56)	• 55) ""Transmission Service" refers to the delivery of electricity across the Transmission System by a Transmission Customer for its own purposes or to another Transmission Service Customer. • 56) ""Transmission Service Customer" refers to the Default Service Provider, as well as any Energy Service Company, power generation facility, utility-scale Energy Storage facility, or other	• See General Comments.

Section	• Description of Section / provision	• Specific Comments
	Person who uses Transmission Service."	
Section 1.17	• "Penalties for Non-Compliance. ****"	• PREPA is concerned by this Section, in terms of a lack of apparent authority for some of the provisions and also a lack of detail / standards creating serious unknown financial risks for entities and for Customers.
Section 2.01	• "General Regulatory Authority. ****"	• The Energy Bureau only has those authorities granted to it by statute. A Regulation cannot exceed the scope of the statutory authority. Section 2.01 contains a number of very general statements of authority. Section 2.01 should not be understood to add any authority not provided for by statute.
Sections 3.01 and 9.01(A)	• "Default Service Provider. The Default Service Provider shall be the energy provider for any Customer who is not served by an Energy Service Company for its generation. The generation shall be supplied through generating units that remain within the possession of the Default Service Provider, through Power Purchase Agreement, and, once a wholesale market is established, through generation procured in that market. In the event that an Energy Service Company (or combination of Energy Service Companies) provides less energy to a Customer than the Customer's consumption, the Default Service Provider shall serve the Customer's remaining load. The Default Service Provider shall also serve Customers who switch to an Energy Service Company in the event that the Energy Service	• See General Comments and response to Q II.3. • Sections 3.01 and 9.01(A) are inconsistent and incomplete. • Section 3.01 on the DSP refers to generation in the "possession" of the DSP and to PPAs, but omits power obtained from DG available to PREPA through NEM. • Under Section 9.01(A) of the proposed Regulation, PREPA is the DSP as long as it has sufficient generation through "ownership" and through long-term PPAs. Section 9.01(A) omits power obtained from DG available to PREPA through NEM and it omits generation leased or otherwise possessed, but not owned, by PREPA.

Section	• Description of Section / provision	• Specific Comments
	Company defaults. The Default Service Provider shall enter into an Operating Agreement with each Energy Service Company for the purposes of meeting all of each Customer's load and guaranteeing sufficient funds in the event of a default."	
3.02	• "Transmission and Distribution Provider. The Transmission and Distribution Provider shall be responsible for maintaining the Electric Power Grid and investing in that grid in a cost-effective manner, subject to Energy Bureau approval. Regarding the Transmission System, the TDP shall maintain and invest in the system in accordance with the IRP and planning processes coordinated with the System Operator, subject to Energy Bureau approval. Regarding the Distribution System, the TDP shall plan, maintain, and invest in that system, in accordance with the IRP, subject to Energy Bureau approval. The TDP shall also be responsible for operating the Distribution System in a least-cost non-discriminatory fashion."	• The phase "subject to Energy Bureau approval", is vague and ambiguous in context. In context, does it simply mean that the IRP is established by the Energy Bureau? If not, what else does it mean? • The Energy Bureau has authority relating to the IRP, modifications to the IRP, and IRP compliance, as established more specifically by statute. It is unclear what, if anything, is intended by adding "subject to Energy Bureau approval". • The IRP is a Plan. The IRP is not an inflexible, pre-determined set of granular investments, and Distribution projects by their nature usually are too numerous and varied, and not sufficiently costly, to be addressed, much less specified, by the IRP. • The Energy Bureau does not have jurisdiction or authority under Puerto Rico law to approve each individual expenditure by the TDP in, or to maintain, the Transmission and Distribution systems, even setting aside PROMESA and the PREPA Fiscal Plan and Budget processes thereunder. • The phrase "least-cost" is

Section	• Description of Section / provision	• Specific Comments
		vague and ambiguous in context. PREPA is not legally obligated to spend literally the lowest amount of money possible. A higher level of spending could, for example, result in valuable and cost-effective increases in reliability or resilience. • Section 3.02, in combination with Section 3.03, appears to mean that the TDP will operate the distribution system, but the SO will operate the transmission system. PREPA sees no sound rationale for that division of labor in the context of Puerto Rico and, at best, it is likely to add expense to system operations without benefiting customers. Moreover, such a split is very problematic when Distributed Energy Resources will play an increasingly important role in system dispatch. • The term "non-discriminatory" is vague and ambiguous in context. PREPA infers that here it means that PREPA will act in accordance with applicable law and agreements.
Section 3.03	• "System Operator. ****"	• See General Comments and response to Q II.2. • The proposed Regulation addresses obligations of the TDP and the SO in Section 3.02 and 3.03. If they are the same entity, that might not be problematic, but if they are not the same entity, then that could lead to partially overlapping or conflicting roles and duties,

Section	• Description of Section / provision	• Specific Comments
		resulting in confusion, conflict, and inefficiency. See above Comment about dividing operation of the transmission and distribution systems. For another example, Section 3.03(E) provides that the SO and the TDP are to conduct integrated resource planning in a coordinated manner. What that means is unclear, but if it means two IRPs, or an IRP process with both the TDP and the SO driving the process, that is likely to be impractical and expensive, possible very expensive. • The word "exchanges" as used here and as used similarly in several other spots in the proposed Regulation, such as Section 1.09(27), is undefined. • What is meant by "ensure" as used multiple times in Section 3.03? The TDP and the SO cannot guarantee that electric service will be available at all times, no matter what, with regard for the circumstances, such as a major Energy Service Company suddenly defaulting or a Category 5 hurricane. The use of the word "ensure" is problematic given the very open-ended penalty provisions of Section 1.07. • In context, PREPA understands the reference to "open access" to mean lawful access to the transmission and distribution systems of generators eligible for wheeling under Acts 73-2008 and 57-2014, as

Section	• Description of Section / provision	• Specific Comments
		amended. • PREPA currently operates an economic dispatch system.
Section 3.05	• "Demand-Side Management Providers. ****"	• See PREPA's Comments about Section 1.09(15). • PREPA does not see a basis or a use for the provision that "A Demand-Side Management Provider shall be presumed not to be an Energy Service Company." A DSM provider might or might not also be an ESC. There is no apparent reason for a presumption one way or the other.
Section 3.06	• "Third-Party Administrator of Demand-Side Management Services. ****"	• See PREPA's Comments about Section 1.09(15).
Article 4	• "UNBUNDLING PROPOSAL"	• PREPA notes its understanding, per the Energy Bureau's March 1, 2019, Resolution and Order, p. 3, that the proceeding to set unbundled rates for purposes of wheeling will be conducted as part of case no. NEPR-AP-2018-0004), not in the instant wheeling docket. • The Energy Bureau's two orders in that docket indicate that the unbundling is for the purpose of setting wheeling rates. • If and to the extent, if any, that the Energy Bureau's orders in either docket now or in the future mandate or contemplate the Bureau's ordering into effect unbundled rates for any purpose other than wheeling, PREPA reserves its right to object on any and all grounds

Section	• Description of Section / provision	• Specific Comments
		and its rights to propose its own rates under Act 57-2014 and to make any and all other lawful proposals.
Section 4.01	• "Purpose of Unbundling. ****"	• Either delete "generation-related" costs or change "generation-related" to "generation-related or other". There are many potential non-bypassable costs that in whole or in part are not generation related. See, e.g., Section 1.09(47) and (48) and Section 4.07.
Section 4.02	• "Unbundling Plan. ****"	• Section 4.02, directing PREPA to prepare and file an unbundling plan with embedded and marginal cost of service studies, a proposal for fully unbundled rates, and a proposal regarding any non-bypassable charges, is inconsistent with the Energy Bureau's February 8, 2019, Resolution and Order in the Unbundling case (no. NEPR-AP-2018-0004). That order removed a prior direction to PREPA to prepare an unbundling plan, submit those 2 studies, and also submit an unbundling study and a total system long-run incremental cost study. That order shifted the 4 studies to consultants to be retained by the Energy Bureau, while ordering PREPA to pay the costs of the consultants, subject to a possible request for rate recovery. • PREPA cannot develop a full set of non-bypassable charges

Section	• Description of Section / provision	• Specific Comments
		at this time. The necessary information largely does not yet exist. Developing a full set of non-bypassable charges will not be possible until after the approval of the PROMESA Title III Plan of Adjustment, at the earliest.
Section 4.03	• "Embedded Cost of Service Study. ****"	• See Comments on Section 4.02. • Section 4.03's directive that PREPA maintain its books in accordance with the FERC USOA is unauthorized and improper. The Energy Bureau has jurisdiction and authority to request appropriate information from PREPA, but not to dictate how PREPA maintains it books. The directive, moreover, overlooks that PREPA is a public power entity subject to government accounting principles; and, that PREPA is subject to Fiscal Plan and Budget directives from the actions of the Government of Puerto Rico, AAFAF, and the Financial Oversight and Management Board under the federal PROMESA statute and Act 2-2017. • Section 4.03(C)(2) and (4) should be combined. Transmission and ancillary services should not necessarily be separated here for this purpose, although that should be an option for fact-based professional judgment. • PREPA is unsure what is meant by Section 4.03(C)(7): "Investment for public

Section	• Description of Section / provision	• Specific Comments
		purposes". That is not a term in the FERC USOA. • Section 4.03(C)(8) should be deleted. PREPA (and anyone else) cannot prepare an embedded cost of service study where one or more of the functions is unknown and may or may not be determined later. • [Section 4.03(E) appears to assume that the utility will maintain its books per the FERC USOA. See above.] • Section 4.03(E)(1)(a) and (e) and (2)(g) should be deleted or revised. In FERC and mainland State utility commission practice, the balance and determination of direct assignment and allocation factors for general and intangible plant and A&G expense involve fact-based professional judgment. • Section 4.03(C)(1)(g) refers to "other Plant-related items." PREPA does not know what is meant by that phrase. • Section 4.03(C)(3)(b) should be deleted. This provision on debt service functionalization makes a factual assumption about how best to perform the functionalization. The regulation should not dictate the method. The method should be left to fact-based professional judgment. Also, this item might be affected by the restructuring efforts and, ultimately, the PROMESA Title III Plan of Adjustment. • Section 4.03(H)(3) may pose

Section	• Description of Section / provision	• Specific Comments
		unreasonable burdens by requiring the study to include results both as specified by the rule and by the proposed method. • Section 4.03(J) should allow an option of using an historical period or a forecast test period but should not require both, which would greatly increase the required work.
Section 4.04	• "Marginal Cost of Service Study. ****"	• See Comments on Section 4.02.
Section 4.05	• "Total System Long-Run Incremental Costs (TSLIRC) Study. ****"	• See Comments on Section 4.02.
Section 4.06	• "Unbundled Rates. ****"	• Section 4.06(B) should be deleted, revised, or may optional. Subsection (B) mixes together the general subject of "non-standard electric service and use of facilities" with the subject of Microgrids. Non-standard uses, by their nature, may require factual assessment of the costs and are not amenable to fixed rates. If (B) is meant to allow for formulaic or conceptual cost-based rate language, and not fixed rates, then that concern may be mitigated. PREPA has a separate concern that it cannot legally be compelled in general to allow third party Microgrid owners to use or lease utility equipment, subject to the specific statutory provisions about wheeling if and when they might apply to microgrids. PREPA made a similar point with respect to the Energy Bureau's original draft

Section	• Description of Section / provision	• Specific Comments
		Regulation on Microgrid Development and the Bureau then withdrew that concept from the final version of the regulation subject to future developments.
Section 4.07	• "Non-Bypassable Charges. ****"	• Legally mandated subsidies must be included as non-bypassable charges. • The second sentence of Section 4.07(A) should be deleted. There is no legal or factual basis for the Energy Bureau to presume and mandate that: "The sum of all the unbundled charges for Customers served by the Default Service Provider shall not be greater than the rates currently in effect."; and, to do so before there is an approved Plan of Adjustment under PROMESA Title III is premature as well as improper. The factual assumption may well prove to be correct, but it cannot be presumed as a matter of regulation. • Meeting all five of the identification requirements of Section 4.07(A) may or may not be possible with respect to any non-bypassable charges based on the Plan of Adjustment. That is not yet known. • Add to Section 4.07(C) "unless otherwise provided by other applicable law or court order." Section 4.07(C) may exceed the Energy Bureau's jurisdiction and authority and violate federal law with respect to any non-bypassable charges based

Section	• Description of Section / provision	• Specific Comments
		on the Plan of Adjustment. That is not yet known. Puerto Rico law also directs non-bypassable charges, as indicated above. • Section 4.07(D) and (E) should be deleted. See comments on Section 4.07(C). The provisions of Section 4.07(D) and (E) may be inapplicable to some non-bypassable charges.
Section 5.01	• "Description of Proceedings. ****"	• Change "competitive and well-functioning market" to "well-functioning wheeling structure". This docket involves a proposed wheeling Regulation and not something more expansive.
Section 5.02	• "Application to Unbundle Rates. ****"	• See Comments on Article IV.
Section 5.03	• "Initial Regulations, Proceedings and Pricing Proposals for System Operator and Transmission and Distribution Providers to Enable Industrial and Large Commercial Wheeling. ****"	• Section 5.03 should be deleted. The Energy Bureau lacks jurisdiction and authority to order PREPA to file an application to provide T&D services. This provision is not justified by the wheeling statutory provisions or any other statutory provisions and exceeds the Bureau's lawful role while unlawfully invading the statutory rights and duties of PREPA.
Section 5.04	• "Regulations and Proceedings Governing System Operators Overseeing the Wholesale Market. ****"	• Section 5.04 should be deleted. The Energy Bureau lacks jurisdiction and authority under the statutory wheeling provisions, and lacks a sound reason, to embark upon creation of a new wholesale market regulatory regime, as discussed earlier.

Section	• Description of Section / provision	• Specific Comments
Article 6	• "EVIDENTIARY PROCEEDINGS TO IMPLEMENT WHEELING"	• PREPA incorporates its other Comments and its responses to the 12 Questions to the extent that they are relevant to Article 6, e.g., with respect to what matters properly are within the scope of the evidentiary proceeding to implement wheeling. • The Energy Bureau should clarify how many evidentiary hearings there will be in the Unbundling docket and the instant docket, respectively, what is the scope of each hearing in each docket, what is the expected sequence and timing of the hearings, and what are the expected briefing, argument, and final order schedules in each docket. PREPA understands that the March 1, 2019, order, in the instant docket addresses to some degree some of those points, but clarification and additional detail, to the extent possible, would be helpful and might shed further light on possible needed changes in the proposed wheeling Regulation. • Thus, for example, the Energy Bureau should clarify whether or to what extent Article 6 applies to the evidentiary hearing(s) to be held in the Unbundling docket versus any evidentiary hearing(s) to be held in the instant docket.
Section 6.04	• "Public Notice. ****"	• In Section 6.04(A), with respect to the first use of the term "unbundled rates", change it to either "unbundled rates

Section	• Description of Section / provision	• Specific Comments
		applicable to wheeling" or "wheeling rates". See Comments on Article 4. • Make the same change in Section 6.04(A)(2). • Section 6.11(C) should be revised to provide that the applicant may file rebuttal testimony. That is a normal and fair provision in utility commission contested cases involving rates and where the utility is an applicant or will be the regulated in a new or revised manner as a result of the outcome of the case. • Section 6.12 uses the term exit fees. The term is used three times in the proposed Regulation but does not have a formal definition. The determination of exit fees might not be possible, or might be premature, in advance of the PROMESA Title III Plan of Adjustment. That is unknown.
Article 7	• "THE SYSTEM OPERATOR"	• Article 7 should be deleted as beyond the Energy Bureau's jurisdiction and authority under the wheeling statutory provisions, contrary to law, and unnecessary for adoption of a wheeling regulation. See earlier discussions of wholesale market regulation, the TDP, and the SO.
Section 7.01	• "System Operator. ****	• See Comments on Article 7. • PREPA opposes separation of the TDP and the SO, as discussed earlier • Section 7.01(B) appears to purport to create a new right of

Section	• Description of Section / provision	• Specific Comments
		open access to the transmission system, not limited to eligible generators under Acts 73-2008 and 57-2014. The Energy Bureau lacks jurisdiction and authority to create this right under the wheeling statutory provisions, and it is contrary to existing Puerto Rico law. • Section 7.01(B)(3) exceeds the Energy Bureau's jurisdiction and authority under the wheeling statutory provisions. • Section 7.01(B)(8) is vague. • With respect to Section 7.01(B)(9) and (11), and Section 7.01(C), see Comments on Section 3.02 relating to IRPs. • Section 7.01(B)(10) is vague and appears to be inconsistent with Regulation No. 8701. • Section 7.01(F) and (H) are unsuitable and inefficient because the SO should not be separated from the TDP.
Section 7.02	• "Wholesale Market Design and Function. ****"	• See Comments on Article 7. • Section 7.02 includes numerous vague terms, such as "a level playing field". That is just one example.
Section 7.03	• "Overview of Wholesale Market Participants. ****"	• See Comments on Article 7. • With respect to Section 7.03(A)(1), while PREPA is a default provider, it may be difficult to fulfill that role, without the accusations of being partial or biased. This role needs to be taken by another entity. • With respect to Section 7.03(A)(6), the SO may or may

Section	• Description of Section / provision	• Specific Comments
		not have enough information to implement. • Section 7.03(D) exceeds the Energy Bureau's jurisdiction and authority under the wheeling statutory provisions and creates inappropriate risks. See also Comments on Section 1.17.
Section 7.04	• "Independent Market Monitor. ****"	• See Comments on Article 7. • See also response to Q II.2. • PREPA is concerned that Section 7.04(D) is vague in terms of what it means for the IMM to report to the Energy Bureau. This provision, if it were to be adopted, should be clarified to be consistent with maintaining the independence of the IMM if there were to be an IMM.
Section 7.05	• "Continued Obligation to Conduct Integrated Resource Planning. ****"	• See Comments on Article 7. • The SO should not be separated from the TDP, as explained earlier. • See also Comments on Sections 3.02 and 3.03 relating to IRPs.
Article 8	• "THE TRANSMISSION SYSTEM"	• Article 8 appears to purport to create a new right of open access to the transmission system, not limited to eligible generators under Acts 73-2008 and 57-2014. The Energy Bureau lacks jurisdiction and authority to create this right under the wheeling statutory provisions, and it is contrary to existing Puerto Rico law. • The Regulation should not make changes to existing interconnection policy and

Section	• Description of Section / provision	• Specific Comments
		practice absent a demonstrated need or benefit.
Section 8.01	• "Non-Discriminatory Transmission Access. ****"	• See Comments on Article 8.
Section 8.02	• "Terms and Conditions for Transmission Service. ****"	• See Comments on Article 8. • The TDP should not be separated from the SO, as explained earlier. • As to Section 8.02(B) and (C), see also Comments on Section 3.02 relating to IRPs
Section 8.03	• "Initiating Transmission Service. ****"	• See Comments on Article 8. • The TDP should not be separated from the SO, as explained earlier. • With respect to Section 8.03(C)(4), the 15 day period may be too short. • With respect to Section 8.03(D)(1), the facilities study in 60 days may be too short.
Section 8.04	• "Metering and Billing. ****"	• See Comments on Article 8. • PREPA is highly concerned about the application of the Regulation's Metering and Billing provisions in the context of microgrids. See General Comments, response to Q II.2, and Comments on Section 1.09(32). • More generally, is PREPA, or the TDP, if not PREPA, responsible for all billing, including mailing, inserts, payment receipts? What would be the procedure for bill objections? Who will take care of objections? What would it be for non-payment, if PREPA collects? Who is responsible for system programming and configuring of the billing

Section	• Description of Section / provision	• Specific Comments
		system? Who pays? Who handles estimated reads or metering issues? How much of a burden will be placed on a billing system, will bills be determined by monthly consumption, or hourly reads? Who is responsible for providing billing data, and estimated bills? Is the ESC in any way responsible for getting the data, and on time?
Article 9	• "OBLIGATIONS OF DEFAULT SERVICE PROVIDER"	• See response to Q II.3 and Comments on Sections 1.09(13) and (39), 3.01 combined with 9.01(A), and 4.07.
Section 9.01	• "Default Service Provider. ****"	• See Comments on Article 9.
Article 10	• "OPERATING AGREEMENTS BETWEEN THE ENERGY SERVICE COMPANIESAND THE DEFAULT SERVICE PROVIDER AND THE TRANSMISSION AND DISTRIBUTION PROVIDER"	• As to the DSP, see Comments on Article 9. • The DSP and the TDP might be the same entity.
Section 10.01	• "Proposed Operating Agreement between the Energy Service Companies and the Default Service Provider and the Transmission and Distribution Provider."	• See Comments on Article 10. • As to Section 10.01(A), there is no mention of load balancing or clearing per hour. This is especially difficult in integrating renewables. • In Section 10.01(B), "barriers to wheeling" should be changed to "unlawful barriers to wheeling". Wheeling is not automatically the highest of all priorities or superseding of other law, as is made clear, for example, by Section 6.30 of Act 57-2014 in its provisions on protecting other customers. • As to Section 10.01(B)(10) and

Section	• Description of Section / provision	• Specific Comments
		(11), see response to Q II.2 and Comments on Sections 1.09(32) and 8.04.
Article 11	• "CODES OF CONDUCT"	• See General Comments.
Section 11.03	• "General Principles for the Operation of the Code of Conduct"	• Section 11.03(A) has no limit to relevant and necessary data and information. • Section 11.03(B) is extremely vague and does not define ring-fencing in this context.
Section 11.04	• "Codes of Conduct"	• As to Section 11.04(H), see earlier discussion of the FERC USOA. • Section 11.04(J) may exceed the Energy Bureau's jurisdiction and authority, e.g., if and when it is contrary to other law.
Article 12	• "CERTIFICATION OF ENERGY SERVICE COMPANIES OFFERING WHEELING"	• See General Comments on exceeding eligible generators under the wheeling statutory provisions.
Article 13	• "REGULATION OF ENERGY SERVICE COMPANIES"	•
Section 13.01	• "General Provisions"	• Section 13.01(C) is another provision that raises but does not answer a number of related questions about metering, billing, collections, and disconnection. As written, can a wheeling service be disconnected and, if so, by whom and when? As written, does the Customer have to pay, as a practical matter?
Section 13.08	• "Environmental Disclosure"	• As to Section 13.08(E)(2), PREPA's billing system would need to be upgraded in order to handle of these requests. In addition, the system cannot handle multiple inserts for placing in particular bills -- everyone or no one.

Section	• Description of Section / provision	• Specific Comments
		• As to Section 13.08(E)(2)(d), the details on this section on items i to xi are very troublesome, since the descriptions seem biased and incomplete. Having many descriptions handled by various ESC's can also increase confusion, or bias. The information requirement should be handled centrally, or from an independent point of view.
Article 14	• "AGGREGATION OF CUSTOMERS"	• PREPA does not know what aggregation legal authority and scenarios are assumed or contemplated by the proposed Regulation, so commenting on provisions relating to aggregation is not feasible at this time. • Aggregation is an extremely complex subject from many perspectives, including authority, consent, opt in or opt out, operational issues, financial issues, metering, billing, collections, disconnection, etc. The proposed Regulation includes insufficient detail to assess its provisions.

WHEREFORE, the Puerto Rico Electric Power Authority respectfully requests that the Honorable Puerto Rico Energy Bureau accept PREPA's General Comments responses to Order Exhibit A, and Specific Comments, and that the Bureau, if and as it proceeds further with this Docket, proceed in a manner that is consistent with Puerto Rico wheeling statutory law unless and until a change in applicable law.

RESPECTFULLY SUBMITTED,

IN SAN JUAN, PUERTO RICO, THIS 1st DAY OF APRIL, 2019

PUERTO RICO ELECTRIC POWER AUTHORITY

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CERTIFICATION OF FILING AND SERVICE

I HEREBY CERTIFY that the foregoing Comments and Responses filing was, on April 1, 2019, filed in person in hard copy format at the office of the Clerk of the Puerto Rico Energy Bureau, and, further, that the filing was sent via email to the Puerto Rico Energy Bureau through secretaria@energia.pr.gov and mcintron@energia.pr.gov; and to the office of the Energy Bureau's internal legal counsel via email to legal@energia.pr.gov and sugarte@energia.pr.gov.

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