

In re: Regulation on Wheeling
Case Number: CEPR-MI-2018-0010

COMISIÓN DE ENERGÍA DE PUERTO RICO	
Recibido por:	<i>[Signature]</i>
Fecha:	1. abril. 19
Hora:	6:05 pm

April 1, 2019

VIA E-MAIL to comentarios@energia.pr.gov

Attention: Edison Avilés-Deliz, Chairman, Puerto Rico Energy Bureau

Dear Mr. Avilés-Deliz,

National Public Finance Guarantee Corporation ("National") hereby submits these comments regarding the Puerto Rico Energy Bureau's (the "Bureau") proposed Regulation for Wheeling (the "Proposed Regulation"), in response to the Bureau's Notice of Proposed Rulemaking and Request for Public Comments. National is the single largest creditor of the Puerto Rico Electric Power Authority ("PREPA"), and holds or insures a significant amount of the outstanding bonds issued by other Commonwealth entities, and therefore has a significant stake in the implementation of a fair, transparent, and ultimately successful wheeling process for PREPA. These comments are intended to aid the Bureau by expressing concerns that National has about PREPA's ability to timely implement the dramatic changes to its business, system structure, and revenue models contemplated by the Proposed Regulation.

General

First, National is concerned with the relationship between the wheeling process and other important processes such as unbundling, the Integrated Resource Plan ("IRP"), the regulatory reform legislation, the Transmission and Distribution ("T&D") concession, and the privatization of PREPA's generation assets. (Consider also that the Bureau has rejected PREPA's IRP as noncompliant since the Proposed Regulation was promulgated.) All these processes are running more or less concurrently, on what appear to be aggressive timelines. Without a clear process to assess, define, and value the end-state electrical system vision, as well as a roadmap delineating the relationship between the above processes, each of the independent processes has the potential to introduce significant uncertainty into the nature and value of the end-state system.

Second, National is concerned that the Unbundling Plan contemplated in the Proposed Regulation—an essential precursor to the implementation of wheeling—likely cannot be achieved by PREPA under current management. *See* Proposed Regulation, § 4.02. The unbundling process referred to here and in Case No. NEPR-AP-2018-0004 is extremely complex and would be the first of its kind; it is National's understanding that no utility to date has established a similar unbundled model inclusive of Distributed Energy Resources ("DERs").¹ DERs could improve the reliability and operational efficiency of PREPA's system, but navigating this transition poses formidable challenges, which are amplified by PREPA's current issues as described in the ongoing

¹ While utilities in some U.S. states are considering advanced DER business models (such as New York, Maryland, Illinois, and California), those utilities are more technologically advanced and better able to implement such reforms than PREPA. Among other things, they have already unbundled their generation infrastructure and established processes to manage their bulk power systems.

proceeding to appoint a receiver for PREPA.² For instance, PREPA does not appear to have the capability to develop and execute a robust integration strategy for DERs and a Distributed Energy Resource Management System (“DERMS”).³ This is highlighted by the fact that PREPA recently admitted that it has not conducted any studies since the 2015 rate review that would: (i) support unbundling, (ii) update the embedded Cost of Service (“COS”) study, or (iii) value its assets.⁴ This caused the Bureau to conclude that PREPA “does not reflect a readiness to undertake the necessary studies and consequently the Unbundling Plan in the time required.”⁵ National shares in the Bureau’s concern that PREPA, under current management, does not have the capability to undertake complicated tasks in this process, which would include the development of a DERMS.

Third, National believes that PREPA, under current management, is likely incapable of timely conducting various studies called for in the Proposed Regulation. Specifically, the regulation requires PREPA to perform at least three separate studies in order to achieve the desired wheeling and unbundling goals. Proposed Regulation, § 4.03(B) (“PREPA shall perform an embedded cost of service study to be filed with the Bureau.”), § 4.04(A) (“PREPA shall perform a marginal cost of service study to be filed with the Energy Bureau.”), § 4.05 (“PREPA shall perform a Total System Long-Run Incremental Cost (TSLRIC) study to be filed with the Energy Bureau.”). Yet, as described above, PREPA “does not reflect a readiness to undertake the necessary studies ... in the time required.” The regulation also calls for PREPA to “propose fully unbundled cost-based rates for electric service, unbundled by generation, transmission, and distribution.” Proposed Regulation, § 4.06. But PREPA has proven unable to meet numerous deadlines to submit rate information in other Bureau proceedings, including Case Nos. NEPR-AP-2018-0003 and CEPR-AP-2018-0002.⁶ Again, National is concerned that PREPA will not be able to comply with various requirements of the Proposed Regulation.⁷

² These include, but are not limited to: a high level of management and trust employee turnover resulting in a lack of execution capability and follow-through, an inability or unwillingness to achieve key deadlines and milestones in Bureau proceedings and elsewhere, and operational issues such as high outage rates and a lack of collections.

³ Integration of DERs at scale requires implementation of an enterprise DERMS that can optimize, coordinate, and control a variety of DERs, including distributed generation, energy storage, and microgrids. It would be necessary to develop functional/technical requirements, as well as integrating core operational technologies and communication networks. It would also be necessary to adopt sophisticated new forecasting, planning, and simulation tools.

⁴ *PREPA’s Compliance Filing for Information Due January 25, 2019*, Case No. NEPR-AP-2018-0004. In that filing, PREPA responds to the majority of the Bureau’s requests by referring the Bureau to other entities, rather than providing the requested information itself.

⁵ *Resolution and Order re: PREPA’s Compliance Filing of January 25, 2019*, Case No. NEPR-AP-2018-0004, p.2 (deciding to hire a consultant for this function instead of PREPA, the cost of which would be passed on to PREPA).

⁶ Indeed, in the former, the Bureau reminded PREPA that the extended deadline was “final and unalterable,” and “warn[ed] PREPA that ... noncompliance with Energy Bureau orders is subject to the imposition of fines of up to \$25,000 per day.” *Resolution and Order re: PREPA’s Verified Motion for Extension of Time*, Case No. NEPR-AP-2018-0003.

⁷ While some of these studies could be performed with the assistance of an outside contractor under the Proposed Regulation, an independent contractor would still require substantial support from PREPA’s management and staff, who lack the experience required to meaningfully assist. This is confirmed by PREPA’s historic inability to

Finally, the Bureau's order in connection with the Proposed Regulation provides a timeline for implementing wheeling, which contemplates setting pricing for the transmission and distribution concession by Summer or Fall 2019, selecting a transmission and distribution concessionaire by September 2019, and implementing wheeling by January 2020. *Resolution and Order re: Notice of Proposed Rulemaking and Request for Public Comments*, Case No. CEPR-MI-2018-0010, p.3. In light of the slippage that has already occurred from the originally announced timeline for PREPA's privatization and transformation (*i.e.*, 18 months from January 2018, or Summer 2019), National is concerned that PREPA, under current management, will not be able to facilitate completion of the requisite steps according to the Bureau's timeline. Particularly concerning is the fact that PREPA has yet to submit a compliant IRP—even though various provisions of the Proposed Regulation are explicitly interrelated to the IRP. *See, e.g.*, Proposed Regulation, §§ 3.02, 3.03, 7.01, 7.05, 8.02.

In sum, National is concerned that the complex restructuring contemplated by the Proposed Regulation, including the unbundling plan, would be difficult to achieve absent more proven, knowledgeable, and independent management at PREPA. A failed or substandard wheeling and unbundling process would lead to suboptimal outcomes for PREPA, its customers, and its various stakeholders. The Proposed Regulation would redefine PREPA's business and revenue models in substantial ways, requiring PREPA to effectively manage the resulting transformation processes, be a primary leader in the regulatory review and associated proceedings, and effectively engage with key stakeholders. National is concerned that PREPA's current management simply is not up to the task.

properly leverage outside support—recently evidenced by its failure to complete a timely and compliant Integrated Resource Plan despite the assistance of Siemens.

Submitted by:

/s/ John Jordan

John Jordan

Managing Director

National Public Finance Guarantee Corporation

Phone: 914-765-3556

E-mail: john.jordan@nationalpfg.com

Comments re CEPR-MI-2018-0010

Jordan, John J. <john.jordan@nationalpfg.com>

Mon, Apr 1, 2019 at 6:05 PM

To: "comentarios@energia.pr.gov" <comentarios@energia.pr.gov>

Cc: "Jordan, John J." <john.jordan@nationalpfg.com>

In re: Regulation on Wheeling
Case Number: CEPR-MI-2018-0010

April 1, 2019

VIA E-MAIL to comentarios@energia.pr.gov

Attention: Edison Avilés-Deliz, Chairman, Puerto Rico Energy Bureau

Dear Mr. Avilés-Deliz,

National Public Finance Guarantee Corporation (“National”) hereby submits these comments regarding the Puerto Rico Energy Bureau’s (the “Bureau”) proposed Regulation for Wheeling (the “Proposed Regulation”), in response to the Bureau’s Notice of Proposed Rulemaking and Request for Public Comments. National is the single largest creditor of the Puerto Rico Electric Power Authority (“PREPA”), and holds or insures a significant amount of the outstanding bonds issued by other Commonwealth entities, and therefore has a significant stake in the implementation of a fair, transparent, and ultimately successful wheeling process for PREPA. These comments are intended to aid the Bureau by expressing concerns that National has about PREPA’s ability to timely implement the dramatic changes to its business, system structure, and revenue models contemplated by the Proposed Regulation.

**John Jordan | Managing Director – Risk Management | National Public Finance
Guarantee Corporation | Phone (914) 765-3556 | Mobile (914) 216-8626 |
john.jordan@nationalpfg.com | www.nationalpfg.com**