



Comments on Proposed Wheeling Regulations

Submitted on May 9, 2019

1. Section 1.04-Applicability

Amend Section E such that the Regulation to include medium commercial customers and all government sector entities including Municipalities.

In the case of medium commercial customers, they shall be defined as those that qualify under the PREPA GSP tariff (General at Service at Primary Distribution Voltage). Such service would consist of electricity delivered in Alternating current, 60 Hertz, 3 or 4 wires, three-phase; 2,400; 4,160; 8,320 or 13,200 volts. We believe that this customer group would have a maximum demand of 50KVA.

Based on a review of documents submitted by PREPA available in the Energy Bureau docket (IRP, Tariff Proposals, Fiscal Plan) it is our belief that under the current proposal only 23% of the energy consumption in the commercial sector would qualify for Wheeling whereas under our the proposed amendment, 74% of the energy consumption in this sector would be eligible to participate in the wholesale power market through the proposed Wheeling Regulation. Based on data submitted by PREPA in the 2019 IRP, the total amount of commercial and industrial customers that would be eligible under the Wheeling tariff would amount to around 11,707 while 116,094 commercial would not be eligible.

In essence, this threshold will define the size of the Wholesale Power market in Puerto Rico. If the threshold is set too high, initially the competitive Wholesale power market will be quite limited in scope. This will have two (2) adverse effects. First, all those companies excluded from this segment will be at a competitive disadvantage vis a vis those companies that are permitted to source their power from this market. Although this would lead one to conclude that eligibility under the Wheeling tariff should apply to the entire commercial market immediately, we recognize the need to proceed at a reasonable cautious pace in order to allow the Energy Bureau obtain experience monitoring and regulating a competitive market. In our view, the proposed Amendment balances the objectives of promoting competition and a level playing field for commercial customers with the need for regulatory caution and experimentation in a more satisfactory manner than the existing Draft Wheeling Proposal.

Secondly, the expectation is that competition generated by a competitive wholesale power market shall serve as a stimulus to reduce prices and foster investment and innovation in the industry. Therefore, the smaller the size of competitive wholesale market, the more limited will be its impact on the Puerto Rico economy.

2. Penalties for Non-Compliance

- A) Amend the daily penalty to up to \$50,000 per day for non-compliance event. We submit to the Commission that a penalty of \$10,000/day may not provide a high enough financial deterrence because over a 1 year period it would amount to \$3,640,000. Upon considering the fact that the electricity market of Puerto Rico is around \$3 billion, there could be situations where it might make financial sense to pay a \$3.6 million annual penalty because the financial might be higher.

3. Section 4.03- Embedded Cost of Service Study

- B) Embedded Cost of Service Study to be performed by an independent Contractor selected by the Energy Bureau. Under the Proposed Regulation, it is unclear and under what circumstances PREPA or the Energy Bureau would conduct the study. Given the short time frame granted to the Energy Bureau under current laws to review all Proposals submitted by PREPA, the proposed amendment will allow the Bureau to perform its regulatory function more effectively. Under the current Draft Regulation (Section 6.13(C)-Approval of Tariffs,), the Energy Bureau shall have 60 days upon the submission of Tariffs [by PREPA] -including supporting documentation ,such as, cost studies- to issue an order either, approving or disapproving the tariff, or requiring PREPA to amend portions of its tariffs. Given the complexities involved, it appears that such timeframe would not provide the Energy Bureau with sufficient time to adequately review these complex cost studies unless it has already become familiar with the subject matter through its own cost studies.

Nevertheless, this should not preclude PREPA from conducting its own cost studies but under the proposed amendment, the Energy Board will have its own cost study to benchmark against the PREPA embedded cost study.

The only impediment to implementing the proposed amendment would be any budgetary constraints that might be faced by the Energy Bureau. In such an instance, the Energy Bureau could retain the option to conduct those cost studies that it considers priority areas. (Note-Please refer to our proposed amendments below since we are recommending the same amendments in other sections related to cost studies).

4. Section 4.04- Marginal Cost of Service Study

- A) Same comments as in Section 3 above.

5. Section 4.05- Total System Long-Run Incremental Costs (TSLRIC) Study

- A) Same comments as in Section 3 above.

6. Section 8.02- Terms and Condition for Transmission Services

2) In order to determine the reasonableness of any security requested by the TDP to cover the costs of planning, licensing and constructing any new transmission facilities customary industry practices in the US market shall be utilized as a basis of reasonableness.

7. Section 8.04- Metering and Billing

Amend this section such that Energy Service Providers utilizing the Wheeling regulation shall perform all billing to the end user. This is critical due to the following:

- a. The End User is a customer of the Energy Service Company, not the TDP provider while the customer of the TDP provider is the Energy Service Company, not the end user. The billing relationship is an integral part of the client-supplier relationship, for this reason, the Energy Service company must be allowed to invoice its customers directly. Thus, it is essential to promoting competition in the wholesale power market.
- b. If the TDP provider were to perform billing and collections, the Energy Service Company's cash flows would depend entirely on the effectiveness of the TDP providers billing and collections efficacy and would reduce the role of the Energy Service provider to that of an Agent and not an Independent entity.

8. Section 10.01 -Operating Agreement

Section B

(3) The agreement shall include a reasonable requirement for the provision of an irrevocable letter of credit, a surety bond or cash deposit, or other Guarantee for the required energy collateral in the event that the Energy Service Company is deemed to not be sufficiently creditworthy. In order to determine the reasonableness of any security requested by the TDP customary industry practices in the US market shall be utilized as a basis of reasonableness.

(9) Clarify paragraph. Proposed amendment is that Energy Service Company shall pay the TDP provider for costs incurred in the usage of the TDP facilities and services.

9. Section 11.04- Codes of Conduct

T. New section

Energy Service providers shall report to the Energy Bureau any evidence of market power abuse by the Default Service provider.

10. Section 13.04- Marketing, Solicitation and Customer Information

B. Clarify that the requirement to provide customers with sufficient information that will allow them to compare costs against other offers does not require that the Energy service Provider include a comparable cost table of its competitors.

Gabriel A. Perez Sepulveda
Blue Planet Energy
gabriel@blueplanetenergy.com
787-316-5915