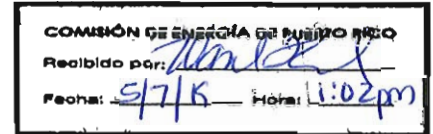


IN RE: INTERCONNECTION REGULATIONS
Case Number: NEPR-MI-2019-0009



July 5, 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 in response to the Puerto Rico Energy Bureau’s (the “Bureau”) request for comments regarding generator interconnection regulations. 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, reliable, and safe interconnection process for PREPA. These comments are intended to aid the Bureau in formulating the standards and technical requirements that will ultimately guide the draft interconnection regulations PREPA must submit to the Bureau.¹

Background

On May 20, 2019, the Bureau issued a Resolution and Order regarding the process for developing generator interconnection regulations.² The order notes the importance of interconnection regulations, which must be promulgated pursuant to Commonwealth law by October 8, 2019.³ Among other regulatory goals, the order flags the importance of efficiency, reliability, and safety of interconnection.⁴ The Bureau describes a multistep process for drafting the regulations: (i) the Bureau will hold public workshops and solicit comments on interconnection; (ii) with reference to stakeholder input, the Bureau will establish clear standards and technical requirements for interconnection; (iii) PREPA will submit to the Bureau draft interconnection regulations, which must comply with the Bureau’s standards and requirements; (iv) the Bureau will amend the draft regulations as needed; and (v) the Bureau will hold a final round of public hearings before promulgating the regulations.⁵ The Bureau is currently soliciting stakeholder comments.

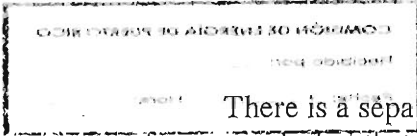
¹ While these comments focus on the prospective interconnection regulation, they also encompass any other necessary updates or changes to related regulations, and National reserves its rights to comment on any such related regulations.

² *Resolution and Order re: Modification of PREPA Interconnection Regulations and Workshops for Stakeholders*, NEPR-MI-2018-0009 (May 20, 2019) (the “Interconnection Order”).

³ *See id.* at pp.1-3 (stating that Act 17-2019 requires such regulations to be promulgated within 180 days from the date of that act’s passage, which was April 11, 2019).

⁴ *Id.* at pp.1-4.

⁵ *Id.* at pp.4-6.



There is a separate but related proceeding before the Bureau regarding the interconnection of microgrids, but that proceeding appears to have stalled for the last six months or more.⁶ It began over a year ago, when the Bureau ordered PREPA to develop a draft regulation for microgrid interconnection within 120 days, *i.e.* by September 13, 2018.⁷ However, on September 17, 2018, PREPA filed a motion to indefinitely stay the proceeding, or alternatively to extend the due date for the draft regulation until February 2019.⁸ The Bureau denied PREPA's motion and ordered it to file the draft regulation by October 31, 2018.⁹ On the revised due date, PREPA filed a second motion to indefinitely stay or extend the due date for the draft regulation.¹⁰ On November 9, 2018, the Bureau responded by ordering PREPA to provide "any information and/or documentation" that PREPA had gathered or prepared related to the draft regulation.¹¹ On December 20, 2018, the Bureau ruled that PREPA had not complied with its prior orders and was thus subject to a fine; it ordered PREPA to show cause why it should not be fined.¹² PREPA submitted a filing that listed purported justifications for its noncompliance.¹³ Finally, on January 31, 2019, the Bureau concluded that PREPA's justifications were largely unfounded and that no considerable progress had been made on the draft regulation, which was "merely an outline of a generic regulation."¹⁴ The Bureau also denied PREPA's renewed requests to dismiss or relinquish control of the microgrid interconnection proceeding.¹⁵ No filings have posted on this docket in the months since.

Comments

First, this interconnection regulation proceeding should take into account the related proceeding on the regulation of microgrid interconnection, and vice versa. Interconnection of microgrids will likely impact the interconnection of customer generation. And as discussed above, the microgrid interconnection proceeding has not considerably progressed for some time, meaning it is still in a position to benefit from the work done here. The Bureau should consider creating a roadmap to PREPA's transformation and the interconnection of new generation assets, which would be useful for coordinating these related proceedings. The Bureau should also clarify the next steps and timing in the microgrid interconnection proceeding, given the lack of filings in the last six months. Indeed, the history of that proceeding illustrates the importance of sticking to a

⁶ See generally Case No. CEPR-MI-2018-0008.

⁷ *Order Requiring PREPA to Develop, and File for Commission Review, Proposed Rules for the Interconnection of Microgrid Systems*, CEPR-MI-2018-0008 (May 16, 2018).

⁸ *PREPA's Motion to Stay or Extend Due Date for Proposed Interconnection Regulation*, CEPR-MI-2018-0008 (Sept. 17, 2018).

⁹ *Resolution and Order re: PREPA's Request to Stay or Extend Due Date for Proposed Interconnection Regulation*, CEPR-MI-2018-0008 (Sept. 24, 2018).

¹⁰ *PREPA's Second Motion to Stay or Extend Due Date for Proposed Interconnection Regulation*, CEPR-MI-2018-0008 (Oct. 31, 2018).

¹¹ *Resolution and Order re: PREPA's Request to Stay or Extend Due Date for Proposed Interconnection Regulation*, CEPR-MI-2018-0008, at p.3 (Nov. 9, 2018).

¹² *Order to Show Cause*, CEPR-MI-2018-0008 (Dec. 20, 2018).

¹³ *PREPA's Compliance Filing*, CEPR-MI-2018-0008 (Dec. 26, 2018).

¹⁴ *Resolution re: PREPA's Compliance Filing of December 26, 2018*, CEPR-MI-2018-0008, at p.2 (Jan. 31, 2019).

¹⁵ *Id.*

well-defined timeline here—despite an initial 120-day deadline, no meaningful draft regulation has yet been submitted in over a year. Here, fewer than 120 days remain before the deadline imposed by Act 17-2019. The Bureau should therefore take care to avoid the sort of delays that have affected the microgrid interconnection proceeding.

Second, in order to achieve the stated goals of safety and reliability,¹⁶ a staged process should be established regarding the automatic approval of interconnection for generation systems under 25kW. A 25kW threshold for automatic interconnection approval is higher than the threshold for many other utilities,¹⁷ leading to the concern that the interconnection of numerous larger systems, though individually under 25kW, could quickly add up to a significant load (or overload) on PREPA's system—potentially impacting its safety and reliability. This automatic interconnection approval process could get out of hand without proper controls. National therefore recommends that the interconnection regulation require a timely advance notification to PREPA of automatic interconnections; following this notification, PREPA should then have a defined time in which to assess the impact of such interconnections and, if needed, to defer them until the system can safely and reliably accommodate them.¹⁸

Third, in order to avoid delays similar to those discussed above and to achieve the stated goal of expediting interconnection,¹⁹ the interconnection regulation should incorporate a specific, binding timeline governing the interconnection process. This could include deadlines for responsible parties (*e.g.*, PREPA, a system operator, and/or the Bureau) to achieve key milestones like interconnection application review, system study, meter setting, site acceptance, agreement approval, and issuance of permission to operate. It would also be reasonable to set predetermined penalties for an unexcused failure to achieve a given milestone. To further assist customer-generators, the timeline could indicate when various services would be offered, such as pre-design calls, pre-construction calls, site visits, and so on. By establishing a specific timeline for the interconnection process, the regulation would improve transparency and allow developers and customers to make informed decisions based on clear expectations.

Fourth, consistent with the comments above, PREPA (or any system operator) should allocate resources to creating and maintaining an online portal for interconnection applications.²⁰ Such a portal would facilitate the interconnection process by allowing the submission of information, tracking applicants' status, providing a centralized means of communication, and allowing a holistic view of interconnections and their effect on the system.²¹

¹⁶ Interconnection Order at pp.3-4.

¹⁷ *See* Act 17-2019, §§ 1.11(d), 3.9.

¹⁸ The Bureau may also consider incorporating system size tiers into the interconnection regulation, *e.g.* under 25kW, 25-50kW, 51-150kW, etc. This is a common practice and allows for variations in the interconnection process to recognize the differences between such systems.

¹⁹ *See* Interconnection Order at pp.1-2.

²⁰ The portal could also include an accommodation for microgrid interconnection applications, though they will be more complex in terms of size, dispatch, and effect on the system, and will therefore likely be processed differently. However, having the information in one place would be useful.

²¹ Alternatively, PREPA or a system operator could hire a third party to create and maintain this resource. This could be a more effective solution if PREPA or the system operator does not itself have the technical capabilities to do so.

Finally, to ensure that PREPA or a system operator has the resources necessary to effectively support the interconnection of customer-based generation, the regulation should establish reasonable fees to cover expenses associated with certain interconnection processes. This practice is typical of many U.S. utilities. Such fees could include an application processing fee, an engineering study fee, and a system upgrade fee. An application processing fee could be nominal for smaller systems—calculated to cover administrative expenses—but tiered for larger systems. More substantial engineering study fees and system upgrade fees would likely be more applicable to larger, more complicated systems (as well as other potential fees).²² The touchstone of any fees established by the interconnection regulation should be that they remain reasonable and connected to actual expenses incurred in processing interconnections. The need for adequate resources is illustrated by the fact that, as discussed at the June 7, 2019 interconnection workshop, PREPA’s list of feeders has not been updated since 2016 and its interconnection application has other issues.

National respectfully requests that the Bureau consider these comments when establishing the standards and technical requirements for the draft interconnection regulation to be submitted by PREPA. Learning from the issues with the related microgrid interconnection proceeding discussed above, the process here should move forward deliberately so that the statutory deadline of October 8, 2019 can be met. As for the substance of the interconnection regulation, National recommends that: (i) PREPA’s interconnection procedure, if providing automatic approval of systems under 25kW, have a staging mechanism to address the resulting potential for safety and reliability concerns; (ii) there be fixed, mandatory timelines for interconnection milestones; (iii) PREPA establish and/or update an online portal for tracking and managing interconnection applications and milestones; and (iv) there be reasonable fees tailored to cover the necessary expenses associated with certain interconnection processes.

Submitted by:

/s/ John Jordan

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²² As for system upgrade fees, another issue for the regulation to address is whether an individual customer-generator would be responsible for the fee when they trigger the need for an upgrade, or whether the upgrade fee would be spread across a group of customers requesting interconnection within a certain period or area. The latter may be a more equitable solution if the upgrade will benefit multiple customers requesting interconnection.