In Re: Reglamento Sobre El Mercado De Certificados Energía Renovable
Case Number: NEPR-MI-2019-0010

July 15, 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 regulations for a Renewable Energy Credits ("REC") market. 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 establishment of a fair and effective REC market in Puerto Rico. National hopes these comments will assist the Bureau in formulating the regulations that will govern the REC market.

On May 20, 2019, the Bureau issued a Resolution and Order[1] regarding the process for developing regulations governing a REC market in Puerto Rico, as required by Commonwealth law.[2] The order notes that a strong REC market is an essential component of Puerto Rico's energy future, and in particular, will promote greater reliance on renewable energy. It also solicits stakeholder comments regarding (i) what elements should be considered in creating such a market; (ii) challenges arising from its implementation; and (iii) mechanisms to efficiently support its operation. National responds to the Bureau's request for comments as follows.

First, the REC regulations should mandate the establishment of a single REC tracking system in Puerto Rico—*i.e.* an electronic database for registering, creating, and tracking the transfer and retirements of RECs.[3] States with Renewable Portfolio Standard ("RPS") programs typically use tracking systems developed by APX, which offers a reliable online platform. One of the most important functions of a tracking system is to avoid "double-counting" of RECs—meaning the same REC is sold to multiple parties. Double-counting RECs is problematic because it makes there appear to be a greater amount of renewable generation than there actually is, preventing full realization of benefits associated with such generation. Also, typical practice is that a government entity or other third party administers the system, not the utility itself. Thus, National recommends that neither PREPA nor any successor operator be allowed to administer the REC tracking system.

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[1] *Resolución y Orden re: Reglamento Sobre El Mercado De Certificados De Energía Renovable*, NEPR-MI-2019-0010 (May 20, 2019) (the "REC Order").

[2] *See id.* at pp.1-3 (discussing the requirements set forth in Act 82-2010, as amended).

[3] It is also important that the regulations provide a defined process for verifying the eligibility of renewable energy projects to create RECs, to avoid fraud or other issues.

Second, to further verify that RECs reflect actual renewable energy production, the regulations should establish appropriate metering requirements. Such requirements will depend on the nature and size of the particular system. For instance, other jurisdictions typically require project owners to pay for installation of revenue-grade, production meters for systems larger than 10kW (or less if the value of RECs is particularly high in that jurisdiction). Revenue-grade meters will add to system cost, so the regulations will need to consider who bears that additional cost and what is the appropriate generation threshold for revenue-grade meters. These revenue-grade production meters will also be needed for net-metered projects, because the meters currently in use for such projects only measure the amount of electricity that the customer puts back on the grid—in other words, they do not account for the full production amount. In most jurisdictions, net-metered projects are allowed to generate RECs for their full production amount.

Third, the Bureau should consider how RECs will be used to meet RPS and how they will be retired. For instance, the Bureau should allow vintage RECs to be applied toward RPS compliance, as long as the vintage RECs have been tracked and verified in a registry and have not been retired. Use of vintage RECs will assist PREPA in meeting the ambitious RPS, which rapidly step up to 100 percent.[4] But vintage RECs should have an expiration date so that they are not "banked" for too long—preferably two to three years from production. Likewise, the retirement procedures for PREPA to meet RPS should be clearly defined and address past RPS compliance years. PREPA (or any successor system operator) should report retirement of RECs in a registry—such as the tracking system discussed above—to demonstrate that it has complied with the RPS and so that all stakeholders may evaluate whether it is necessary to make Alternative Compliance Payments, which are discussed further below.

Fourth, in setting prices for RECs, the Bureau should consider whether a market-based approach is most appropriate in the near-term, or a combination of fixed-price and market-based approaches. Some of the most critical factors include the availability of multiple buyers and sellers, the duration of REC contracts, and the projects' size.

- Number of Buyers and Sellers: If there are multiple available REC buyers (as may be the case following privatization, if other retail energy providers emerge), then a market-based approach is preferable because it provides more price responsiveness. In the near term, however, fixed pricing or a descending-price auction is favored because there is only a single buyer (PREPA) and a low-liquidity market. If a fixed price is used, it will be important to tier the price for differently sized systems in order to promote transparency and certainty for project owners. By securing a large portion, but not all, of RECs in this manner in the near term, the risk of overpaying for RECs in periods of supply shortage will be mitigated, and the market will have time to grow. This will also help owners of smaller systems (*i.e.*, net-metered projects) weigh the decision to install renewable capacity. The remaining portion of RECs can be procured with a market-based approach.

[4] The Bureau could also consider setting interim-year targets for meeting RPS, so that the ramp-up is smoothed over time.

- Duration of REC Contracts: A fixed-price or descending-price auction approach, coupled with longer-term contracts (*i.e.*, ten or more years), will provide new project owners with greater price certainty for project financing. Market-based pricing is associated with short-term REC sales where intermediate parties provide one to five years of price certainty for sellers. However, short-term REC sales with limited price certainty may be a barrier to securing financing for large projects.

- Project Size: In a market-based approach, smaller residential and commercial projects will need to be aggregated by a third party to ensure cost-effective participation in the REC market. Meanwhile, larger projects can directly engage in the REC market. A fixed-price approach, though, would allow more automation of REC purchasing, and small projects could more easily participate without aggregation. For larger projects under a fixed-price approach, auctions may be needed to obtain the best pricing.

Fifth, it will be important to provide visibility and transparency to ratepayers regarding the nature of the new REC market. At least one participant in the June 14, 2019 REC regulation workshop proposed that RECs should not be openly identified as an additional cost, as this could scare ratepayers. National disagrees with this proposal. PREPA's ratepayers should be fully informed as to how RECs relate to electricity rates—including the fact that they are contributing, through their electricity bills, to funding PREPA's transformation and transition toward a renewable energy future. This could be done through a renewable energy rider on electricity bills. Obscuring the nature of the transformation would be a disservice to the people of Puerto Rico and the public policy reflected in Act 17-2019, among others.

Finally, the Bureau should consider setting Alternative Compliance Payments ("ACPs"). In a REC market, Alternative Compliance Payments become necessary when REC supply is insufficient for suppliers to meet the RPS in a given year; an ACP is then incurred for their shortfall. The pricing structure for ACPs is important, because that price serves essentially as a REC market cap—*i.e.*, the market will rise toward the ACP when there is a REC supply shortage. Thus, an undersupplied REC market can expect high prices equivalent to the ACP.[5] The Bureau should also consider who would be liable for ACPs. It does not seem appropriate for PREPA to pay ACPs, given that, as a public entity, such costs would be passed along to its ratepayers. At least until a private system operator can take responsibility, it would be more appropriate for the Commonwealth government to pay for any ACPs incurred by PREPA.

National respectfully requests that the Bureau consider these comments when drafting the REC market regulations.

[5] The use of banked or vintage RECs may help alleviate some stress associated with shortages.

Submitted by:

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