

COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY BUREAU

NEPR

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IN RE: REVIEW OF THE PUERTO
RICO ELECTRIC POWER
AUTHORITY INTEGRATED
RESOURCE PLAN

CASE NO.: CEPR-AP-2018-0001

SUBJECT: Petition of National Public
Finance Guarantee Corporation to Intervene

**PETITION OF NATIONAL PUBLIC FINANCE GUARANTEE CORPORATION
TO INTERVENE**

Petitioner National Public Finance Guarantee Corporation (“National”), by and through its attorneys at Adsuar Muñiz Goyco Seda & Perez-Ochoa, P.S.C. and Weil, Gotshal & Manges LLP, hereby submits this Petition to Intervene in the Integrated Resource Plan (“IRP”) proceeding pursuant to Regulations 8543 and 9021,¹ and Sections 3.5 and 3.6 of Act 38-2017.² In support thereof, National respectfully states as follows:

On July 3, 2019, the Puerto Rico Energy Bureau (the “Bureau”) issued a Resolution and Order regarding the IRP filing presented on June 7, 2019 by the Puerto Rico Electric Power Authority (“PREPA”).³ After deeming it necessary to commence Phase 2 of the IRP proceeding, the Bureau invited “[a]ny interested person” to file a petition to intervene on or before August 2, 2019, which petition should describe a “substantive interest” in the proceeding.⁴ The Bureau has

¹ See *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures*, Regulation No. 8543, at § 5.05 (Dec. 18, 2014); *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, Regulation No. 9021, at § 3.03 (Apr. 24, 2018).

² See *Uniform Administrative Procedures Act of the Government of Puerto Rico*, Act No. 38-2017, §§ 3.5-3.6 (as amended).

³ *Resolution and Order re: Completeness Determination of PREPA’s IRP Filing and Procedural Calendar*, CEPR-AP-2018-0001 (July 3, 2019).

⁴ *Id.* at p.7.

since stated that this invitation to intervene is important “[t]o ensure transparency in its [IRP] proceedings, and to promote ample public participation.”⁵ The Bureau has granted the intervention petition submitted by the Environmental Defense Fund, while others remain under consideration.⁶

Pursuant to Section 3.5 of Act 38-2017 (as referenced in Section 3.03 of Regulation 9021), a petition to intervene is evaluated based on the following factors:

- (1) Whether the petitioner’s interest might be adversely affected by the proceeding;
- (2) Whether there are other means in law for the petitioner to adequately protect its interest;
- (3) Whether the petitioner’s interest is already adequately represented by the parties to the proceeding;
- (4) Whether the petitioner’s participation can assist in preparing a more complete record in the proceeding;
- (5) Whether the petitioner’s participation will excessively delay the proceeding;
- (6) Whether the petitioner represents or speaks for the interests of other groups or entities; and
- (7) Whether the petitioner may provide unique information, expertise, or technical advice in the proceeding.

⁵ *Resolution re: Petition to Intervene; Environmental Defense Fund*, CEPR-AP-2018-0001, at p.1 (July 26, 2019) (granting Environmental Defense Fund’s petition to intervene).

⁶ The Bureau (then the Puerto Rico Energy Commission) also granted National’s petition to intervene in PREPA’s prior IRP proceeding. *See Resolución y Orden: Conferencia Técnica; Participación de Interventores en el Proceso de Evaluación del Plan Integrado de Recursos*, CEPR-AP-2015-0002 (Oct. 23, 2015). There, National contended that the IRP process was properly conducted, that PREPA’s supporting assumptions and analyses were sound, and that the IRP should be approved as filed—unlike some other intervenors, who opposed PREPA’s IRP. *See Final Resolution and Order on the First Integrated Resource Plan of the Puerto Rico Electric Power Authority*, CEPR-AP-2015-0002, at Appendix B, p.109 (Sept. 23, 2016) (“Prior IRP Final Order”).

See Uniform Administrative Procedures Act of the Government of Puerto Rico, Act No. 38-2017, § 3.5 (as amended). The Bureau shall apply these factors “liberally.” *Id.* As described below, these factors support granting National’s Petition to Intervene.

Factors 1-3: National’s Substantial Interest in the Proceeding

The first three intervention factors relate to a petitioner’s interest in the proceeding. As the single largest creditor of PREPA and a holder or insurer of large amounts of outstanding bonds issued by other Commonwealth entities, National has a substantial interest in the development of PREPA’s IRP. Specifically, National insures approximately \$968 million of revenue bonds issued by PREPA; has paid claims to holders of PREPA bonds in the amount of approximately \$423.5 million; and owns approximately \$139.2 million (exclusive of accrued and accreted interest) of uninsured PREPA bonds. Bonds like these are funded by revenue generated from PREPA’s operations—operations that will be directly affected by the IRP. Thus, National has an integral, substantial interest in PREPA’s operations, including PREPA’s generation mix and facilities, its related capital expenditures and costs, and other IRP considerations.

National’s interest, as described above, is not adequately represented in other proceedings or by other parties. This IRP proceeding relates to how PREPA achieves stated goals like providing effective customer service, obtaining financial viability, promoting resiliency and sustainability, and fueling growth. It will involve important, long-term choices for PREPA, and as such National—a key investor in PREPA—respectfully submits that it should be allowed to

intervene.⁷ Similarly, as PREPA's single largest creditor, National is uniquely situated such that no other intervenor would adequately represent its perspective.⁸

Factors 4 and 7: National's Ability to Assist with the Proceeding

Factors 4 and 7 relate to whether a petitioner can assist with the proceeding, for instance by contributing technical information, expertise, or advice. National, along with its technical advisor Black & Veatch, is well-situated to assist with developing the record and highlighting relevant issues for the Bureau. In fact, National previously intervened in PREPA's prior IRP proceeding,⁹ providing material input and supporting the IRP proposed by PREPA.¹⁰ National's position stood in contrast to many other intervenors, who opposed PREPA's IRP.¹¹ Here, if allowed to intervene, National will draw upon the extensive experience it has gained with PREPA over the years, including from on-island site visits, analysis of documents and proposals, and participation in other Bureau proceedings (past and present). National and its advisor Black & Veatch can meaningfully contribute to the IRP process, as they did before.

⁷ Attempting to address important planning issues after the fact, or in a piecemeal fashion in other proceedings, would not be adequate to represent National's interest in PREPA's long-term success.

⁸ Indeed, as of this writing, no major insurer and holder of PREPA bonds has sought intervenor status.

⁹ See *Resolución y Orden: Conferencia Técnica; Participación de Interventores en el Proceso de Evaluación del Plan Integrado de Recursos*, CEPR-AP-2015-0002 (Oct. 23, 2015).

¹⁰ See Prior IRP Final Order at Appendix B, p.109 (Energy Commission summarizing that "National ... contend[s] that the IRP process was properly conducted, that PREPA's assumptions and analysis made in support of its proposed IRP are sound and that the IRP should be approved as filed. [National] endorse[s] PREPA's treatment of energy efficiency and demand-side management").

¹¹ See generally *id.* at Appendix B (Energy Commission summarizing criticisms from EcoEléctrica, ELAC, ICSE-PR, INESI, Mesa, OEPPE, and a consortium of private equity firms).

Black & Veatch would also bring unique industry knowledge and expertise to bear on this proceeding. Black & Veatch is a top-ranked engineering, procurement, consulting and construction company, with core competencies in power engineering and design. Black & Veatch works on significant power projects around the world and has extensive experience in relevant areas. For example, Black & Veatch is deeply familiar with IRP modeling; power generation design and development; generation upgrade, retrofit, and conversion feasibility assessments; fuel markets forecasting; renewables development and interconnection; transmission and distribution development; and environmental and regulatory compliance. Issues like these are of central importance to this IRP proceeding.

National and its technical advisor Black & Veatch will facilitate development of a complete record, aid the Bureau in assessing the IRP, and offer unique experience and technical resources. These factors further support granting National's Petition to Intervene.

Factor 5: National Will Not Delay the Proceeding

The fifth factor relates to whether a petitioner would excessively delay the proceeding. National's intervention would not excessively delay the IRP. National will submit any filings in accord with the schedule duly established by the Bureau—as it has done with this Petition to Intervene—and will also seek to identify critical issues and promote effective, timely consideration of the IRP. National certainly does not seek to prolong or delay this proceeding.

Factor 6: National's Interest Aligns with the Public Interest

The last factor relates to whether a petitioner speaks for other groups or entities in the community. As PREPA's single largest creditor, National shares the general interest of other creditors and the public at large in having a well-run, viable, and reliable utility that drives

economic growth. That is why National seeks to intervene in this proceeding—to assist in developing an IRP that leads to an effective electrical system for all stakeholders. Thus, National’s interest here aligns with the public interest.

WHEREFORE, National respectfully requests that the Bureau:

- a. Grant National leave to intervene and admit it as a party in the IRP proceeding;
- b. Serve all notices and copies of pleadings, orders, docket entries, and other communications and documents regarding these proceedings upon the undersigned counsel at the addresses provided; and
- c. Grant any other relief that the Bureau deems just and proper.

RESPECTFULLY SUBMITTED,

THIS 1st DAY OF AUGUST, 2019

CERTIFICATE OF SERVICE: We hereby certify that on this same date a true and accurate copy of the foregoing motion was sent via electronic means to **Autoridad de Energía Eléctrica de Puerto Rico** to Nérida Ayala Jiménez, Esq., Nitza D. Vázquez Rodríguez, Esq. and Carlos M. Aquino Ramos, Esq. [at n-ayala@aepr.com](mailto:n-ayala@aepr.com), n-vazquez@aepr.com, c-aquino@aepr.com; to the **Oficina Independiente de Protección al Consumidor**, to Hannia Rivera [at hrivera@oipc.pr.gov](mailto:hrivera@oipc.pr.gov); and to the **Oficina Estatal de Política Pública Energética** to Wilma I. López Mora at wilma.lopez@aepr.gov.

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