

GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU

NEPR

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INRE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY
INTREGRATED RESOURCE PLAN

CASE NO.: CEPR-AP-2018-0001

SUBJECT: Regulation for Energy
Wheeling

REGULATION FOR ENERGY WHEELING

TO THE HONORABLE ENERGY BUREAU

NOW COME, CENTRO UNIDO DE DETALLISTAS (CUD); CAMARA DE MERCADEO, INDUSTRIA Y DISTRIBUCION DE ALIMENTOS (MIDA); PUERTO RICO MANUFACTURES ASSOCIATION (PRMA); UNIDOS POR UTUADO (UPU), Y EL INSTITUTO DE COMPETITIVIDAD Y SOSTENIBILIDAD ECONÓMICA DE PUERTO RICO (ICSE-PR) (hereinafter the not profit intervenors) through its undersigned attorney and respectfully allege and pray:

1. On July 30, 2019 the Bureau expressed:

"The Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau"), pursuant Act 57-2014, as amended, known as the *Puerto Rico Energy Transformation and RELIEF Act* and Act 38-2017, known as the *Uniform Administrative Procedures Act of the Government of Puerto Rico*, proposes to adopt the Regulation for Energy Wheeling.

On March 1, 2019, the Energy Bureau issued a proposal for the Regulation on Wheeling. Because of the fact that Act 17-2019, known as the *Puerto Rico Energy Public Policy Act*, was enacted after the Energy Bureau issued its proposed Regulation, the Energy Bureau determined necessary to adapt the proposed Regulation to the new Puerto Rico energy public policy. As such, the Energy Bureau has developed a new proposal for the Regulation for Energy Wheeling, which shall govern the wheeling mechanism in Puerto Rico. The new proposed Regulation aims to implement wheeling to make independent power producers able to sell energy directly to industrial and large commercial customers, using the Puerto Rico electric grid to transport said energy."

2. The first proposed wheeling regulation included an Article 14, titled "Aggregation of Customers".

3. On the definitions section the following concepts were included:

“Aggregation” refers to entering into an agreement with multiple Customers and combining the electric load of said Customers for the purpose of purchasing Energy Service to meet the combined load on an aggregated basis.

“Aggregator” refers to a Municipality or a Person Certified by the Energy Bureau to contract with multiple retail Customers and to combine said Customers’ electric load for the purpose of purchasing Energy Service on an aggregated basis.”

4. In the final proposed wheeling regulation neither these definitions nor the Article 14 appear.

5. Section 1.7, Electrical System Planning and Operation, of Act 17, 2019 states:

“The Energy Bureau may, subject to the provisions of this Act, pursuant to the planning parameters established in the Integrated Resource Plan, adopt the rules that shall govern the process through which large scale industrial and commercial consumers, energy cooperatives, or **other demand aggregator structure** may enter into power purchase agreements directly with an independent power producer. Likewise, the Bureau shall prescribe the rules that shall apply to the wheeling of such power through the Electrical System, and the rates applicable to consumers and independent power producers for such services.”

6. Appearing parties wish to know whether the elimination of the section and definitions of aggregation is because the aggregation will not exist as a concept or its elimination is due to the Bureau understanding that it is not needed as a separate concept, for its is covered by other sections of the regulation.

In other words, whether aggregation will exist and be available even after the definition and the specific aggregation section is eliminated?

7. Further, appearing parties request that a direct reference is made to aggregation of loads, since it is not only included on Act 17, 2019, but is through aggregation that small load customers, such as residential and small businesses will have access to Wheeling.
8. The aggregation of distributed generation is a mechanism, that due to technological advances in particular concerning distributed storage, makes no longer pertinent the issue of size (ex. Utility size) for the aggregation of small

distributed generation defies the need to a certain size generator unit precisely because aggregation of small generation. This way the combination of the small producers aggregated, is the same as a “bigger” generator.

Specific Comments

- a. The wheeling scheme looks a little complicated for an island system. Is there really a need to have a system operator? To the extent that PREPA signs a concession agreement and another entity runs the T&D system, PREPA should serve as the system operator and scheduler (wheeler) for those that need to have power delivered from generation to load.
- b. It is CRITICAL that the regulation preclude PREPA creating a competitive entity. The proposed regulation seems to contemplate this and attempts to address market and information issues by requiring a code of conduct. NO code of conduct will address the inherent conflict between a monopoly (PREPA) and its competitive affiliate being under the same corporate umbrella. PREPA’s role should be that of System Operator and Provider of Last Resort.
- c. Section 1.10 Definitions. Delete term (1) “Affiliated Energy Service Provider” – the regulation should specifically PRECLUDE the creation of a competitive service provider by the Monopoly Service Provider (PREPA).
- d. Section 1.10.26. The definition of Interconnection should be expressed to include connection not only of a distributed energy resource but also of all the entities listed in section 1.10.6 – “Customer” or “Wheeling Customer”
- e. Section 1.10.36. It is not clear why the definition of a PPA is limited to that between the Provider of Last Resort and a competitive electric power service company.
- f. Section 1.10.40. If the Bureau is convince that PREPA should not be allowed to create competitive affiliates, Ring Fencing won’t be an issue and the definition won’t be needed.
- g. Section 1.10.44. Recommend adding a sentence: “The System Operator is PREPA or its successor.”
- h. Section 3.01(A) Recommend to add a sentence to the end: “Due to the sensitive nature of the information available to PREPA in this role, PREPA is precluded from creating, purchasing, affiliating with or partnering with (for purposes of serving as competitive electric service entity) a Competitive Electric Power Service Customer or Wheeling Customer.
- i. Section 3.04 uses an undefined term – “Third Party Administrator”
- j. Section 4.02 – Consider revising 1st sentence as follows: “PREPA in its role as System Operator shall ensure...”
- k. Section 4.02 (L) – this section should be deleted. The protocols discussed in this section should be developed by stakeholders, not just PREPA, and approved the Bureau.
- l. Section 4.03 –Recommend revising first sentence to read: “The System Operator, in coordination with the Transmission and Distribution Provider and other stakeholders,...

- m. Section 4.06 (A) (3) and (4) seem duplicative. It is not clear what the difference is between estimate revenue from fees and estimated revenue from tariff...
- n. Section 4.06 (B) Recommend revising to add at the end “subject to input from market stakeholders.”
- o. Section 4.09 (A) – Recommend adding a phrase – “support retail competition where applicable”
- p. Section 6.03 – The last sentence. “Provider may enter into different arrangement for billing and metering with a competitive EPSC.” Is no clear. Different from what? This doesn’t add to transparency and non-discrimination. Recommend to delete the sentence.
- q. **Article 7. I Recommend adding a new section B) – PREPA shall not create competitive affiliated entities to participate in electricity markets. M**
- r. **Section 8.01 (A) The Competitive Electric Power Service Companies do not need to enter into contracts with the Provider of Last Resort. Their contractual relationship is with the T&D Provider for wheeling services.**
- s. Section 8.01 – this section **should not be a 3 way contract** (POLR, T&D Provider, CEPSC). **PREPA in its role as POLR should file a tariff with the Bureau containing proposed fees or charges that it will assess in the event that a CEPSC doesn’t deliver sufficient energy.** Further, the tariff should contain PREPA’s proposal for the information outlined in the following subsection of section 8.01.
- t. Section 9.02. To the extent that PREPA is prohibited from creating competitive affiliates as it should be, the second sentence is unnecessary.
- u. **Section 9.03 (B) - change the term “captive Customers” to “Provider of Last Resort Customers.”**
- v. Section 9.03 (C) – Recommend deleting as drafted and replace with **“Any entity engaged in providing a Monopoly Service to Provider of Last Resort Customers in Puerto Rico is prohibited from owning or operating competitive businesses.”**
- w. Recommend deleting Section (D)
- x. Section 9.04 – Should add a new Section (B) – The Provider of Last Resort shall not establish a separate affiliate engaged in Competitive Electric Power Supply or Services.
- y. Recommend deleting the rest of the Section except for Sections (V) and (W).

WHEREFORE, It is respectfully requested from Bureau to receive and consider these comments.

CERTIFICATE OF SERVICE

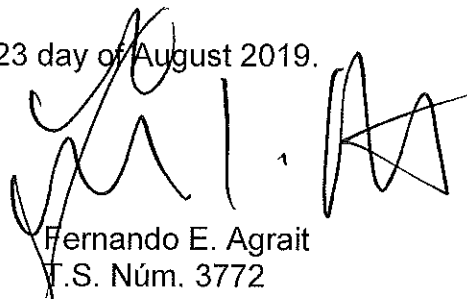
We hereby certify that, a copy of the filing was sent via e-mail to the Energy Bureau Clerk and internal legal counsel to: secretaria@energia.pr.gov;

wcordero@energia.pr.gov; legal@energia.pr.gov; and sugarte@energia.pr.gov. A hard copy of the foregoing will be filed with the Clerk of the Energy Bureau tomorrow.

In addition, the foregoing filing was sent via e-mail to the approved or pending intervenors (Arctas, Caribe GE, League of Cooperatives and AMANESER 2025, OIPC, EcoEléctrica, Empire Gas, Environmental Defense Fund, Local Environmental Organizations, National, "Non Profits", Progression, SESA-PR, Renew, Shell, Sunrun, Wartsila, Windmar Group) and amicus (ACONER, AES-PR, RMI) at the following e-mail addresses: sierra@arctas.com, tonytorres2366@gmail.com, cfl@mcvpr.com; gnr@mcvpr.com, info@liga.coop, amaneser2020@gmail.com, hrivera@oipc.pr.gov, jrivera@cnslpr.com, carlos.reyes@ecoelectrica.com, ccf@tcmrslaw.com, manuelgabrielfernandez@gmail.com, acarbo@edf.org, pedrosaade5@gmail.com, rmurthv@earthjustice.org, rstgo2@gmail.com, larroyo@earthjustice.org, jluebemann@earthjustice.org, acasellas@amgprlaw.com, loliver@amgprlaw.com, epo@amgprlaw.com, robert.berezin@weil.com, marcia.goldstein@weil.com, jonathan.polkes@weil.com, gregory.silbert@weil.com, maortiz@lvprlaw.com, rnegron@dnlawpr.com, castrodieppalaw@gmail.com, voxpopulix@gmail.com, paul.demound@shell.com, javier.ruajovet@sunrun.com, escott@ferraiuoli.com, mgrpcorp@gmail.com, aconer.pr@gmail.com, axel.colon@aes.com, rtorbert@rmi.org, kbolanos@diazvaz.law y n-vazquez@aeepr.com.

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In San Juan, Puerto Rico, this 23 day of August 2019.



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