GOVERNMENT OF PUERTO RICO

Public Service Regulatory Board
Puerto Rico Energy Bureau

REGULATION FOR ENERGY EFFICIENCY AND DEMAND RESPONSE

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REGULATION FOR ENERGY EFFICIENCY AND DEMAND RESPONSE

ARTICLE 1. GENERAL PROVISIONS

Section 1.1 Title.

This Regulation shall be known as the *Regulation for Energy Efficiency and Demand Response.*

Section 1.2 Legal Basis.

This Regulation is adopted pursuant to the provisions of Act 57-2014, as amended, known as the *Puerto Rico Energy Transformation and RELIEF Act* ("Act 57-2014"); Act 17-2019, known as the *Puerto Rico Energy Public Policy Act* ("Act 17-2019"); and Act 38-2017, as amended, known as the *Uniform Administrative Procedure Act of the Government of Puerto Rico* ("LPAU", for its Spanish acronym). Specifically, Section 6.29B of Act 57-2014, requires the Energy Bureau to, among other things, (i) ensure that Puerto Rico reaches a goal of thirty percent (30%) of energy efficiency by 2040; (ii) establish, within a term of one hundred and eighty (180) days, regulations governing the energy efficiency mechanisms to be used; (iii) establish energy efficiency programs, which may be managed and verified for compliance with the annual goals established by these regulations by a third-party administrator ; and (iv) establish regulations for demand response programs within a term of one hundred and eighty days (180) days.

Section 1.3 Purpose and Executive Summary.

Energy efficiency and demand response have a significant role to play in rebuilding a stronger energy system that is responsive to customers' needs, as demonstrated by the significant level of energy efficiency required in the new energy public policy. Energy efficiency not only provides a mechanism to assist individual customers to decrease their consumption of electricity, thereby lowering their energy bills, but it also reduces the costs of the electric system as a whole. It addresses principles of quality and equity, among others, by diminishing the need for expensive fossil fuel generation.

In adopting these regulations, the Energy Bureau has been guided by many of the principles outlined in Act 17-2019 including the principles of efficiency, quality, continuity, adaptability, impartiality, solidarity and equity. This Regulation is designed to ensure that Puerto Rico reaches the goal of thirty percent (30%) of energy efficiency by 2040 with programs overseen by a third-party administrator experienced in designing and implementing an array of energy efficiency programs that will be available to all customer classes, including municipalities.

The development of demand response programs that can help reduce the reliance of the Puerto Rican people on expensive peaking capacity that drives up costs for all customers, is also addressed in these regulations. Customers participating in demand response programs will benefit through having opportunities to reduce their energy costs by better managing their usage.

Section 1.4 Applicability.

This Regulation shall apply to the following:

A) PREPA and any successor entity responsible for delivering transmission and/or distribution service to customers;

B) All companies offering electric service that are operating in Puerto Rico at the time that this Regulation enters into effect as well as to all companies that intend to operate or offer electric services in Puerto Rico and that choose to offer demand response services;

C) The Third Party Administrator;

D) The System Operator established under the Regulation on Energy Wheeling;

E) This Regulation will not apply to entities that provide energy efficiency or demand response assistance to electric customers in Puerto Rico but are not Electric Power Service Companies.

Section 1.5 Interpretation.

This Regulation shall be interpreted in a way that promotes the highest public good and the protection of the interests of the residents of Puerto Rico, and in such a way that proceedings are carried out rapidly, justly, and economically.

Section 1.6 Provisions of Other Regulations.

The provisions of this Regulation may be supplemented by the provisions of other regulations of the Puerto Rico Energy Bureau that are compatible with the provisions of this Regulation.

Section 1.7 Unforeseen Proceedings.

When a specific proceeding has not been planned for in this Regulation, the Energy Bureau may attend to it in any way that is consistent with Act 57-2014.

Section 1.8 Dates and Time Periods.

In computing any time period established in this Regulation, or by order of the Energy Bureau, the day of the occurrence of the act, event, or noncompliance that triggers the period shall not be counted, and the established period shall begin to elapse on the following day. Whenever a due date falls on a Saturday, Sunday, or legal holiday, said due date shall be extended until the next workday.

Section 1.9 Definitions.

A) These definitions are to be used for this Regulation and are not intended to modify

the definitions used in any other Energy Bureau regulation or order.

B) For the purposes of this Regulation, the following terms will have the meaning established below, except when the context of the content of any provision clearly indicates something else:

1) "Annual Plan" means a plan filed by the Third Party Administrator regarding its plans for programs and initiatives in the coming year. The Annual Plan includes and identifies any changes from the approved Three-Year Plan as applicable.

2) "Annual Report" means a report filed annually by the Third Party Administrator that includes information regarding the programs implemented in the immediately preceding year and the impacts of those programs. The Annual Report includes the TPA's formal claim regarding its performance on the metrics used to determine its compensation.

3) "Bill" means the document sent periodically by the Transmission and Distribution Provider (PREPA or its successor entity) to a Customer listing all the components, charges, and rates that make up the final cost each Customer must pay for electric service.

4) "Competitive Electric Power Service Company" refers to any Electric Power Service Company other than the Provider of Last Resort that provides or seeks to provide Generation Service to Wheeling Customers.

5) "Customer" means any Person who receives Generation Service for that Person's usage.

6) "Customer Class" means the classification of a customer in accordance with PREPA's tariff provisions that define applicability and rates.

7) "Customer Energy Usage Data" means data obtained from a Customer's Meter and which is associated with that Customer.

8) "Demand Response" or "DR" means changes in electric usage by end-use customers from their normal consumption patterns in response to changes in the price of electricity over time, or to incentive payments designed to induce lower electricity use during periods when system costs increase or when system reliability is jeopardized.

9) "Demand Response Service Provider" means the Third Party Administrator and any Electric Power Service Company that offers demand response service to its customers.

10) "Demand-Side Management Provider" means any Person that is engaged in the provision of Demand-Side Management Services to Customers.

11)"Demand-Side Management Services" refers to the provision of any energy conservation, energy efficiency, energy storage, demand response, and customer-sited generation services provided directly to a Customer that aids in meeting that Customer's electric load.

12)"Distributed Energy Resource" means Distributed Generation, Energy Storage, Microgrids, or any other resource, including but not limited to energy efficiency or demand response, that is connected to the distribution system and that assists in meeting at least one Customer's electrical load.

13)"Distributed Generation" means an electric power generation facility in Puerto Rico connected to the distribution system and producing power for self-supply or sale.

14)"Electric Power Grid" means the electric power transmission and distribution system of Puerto Rico.

15)"Electric Power Service Company" or "EPSC" means any natural or juridical person or entity, including energy cooperatives, engaged in the rendering of energy generation, transmission, and distribution services, billing, wheeling, grid services, energy storage, the resale of electric power, as well as any other electric power service as defined by the Energy Bureau.

16)"Energy Bureau" means the Puerto Rico Energy Bureau, a specialized independent entity in charge of regulating, supervising, and enforcing the energy public policy of the Government of Puerto Rico, created by Act 57-2104 and renamed and reorganized by virtue of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board and Act 211-2018, formerly known as the Puerto Rico Energy Commission.

17) "Energy Efficiency" means the reduction in energy use attributable to implementing Energy Efficiency Measures designed to reduce a customer's energy power consumption.

18) "Energy Efficiency Measure" means any device or program implemented to reduce energy consumption and includes, but is not limited to, replacing and installing more energy efficient appliances and equipment, insulating buildings, and updating technology and equipment in order to achieve reductions in electric power consumption.

19) "Energy Storage" means any resource that is capable of receiving electric energy from the Electric Power Grid or any other generation resource for later injection of electricity back to the Electric Power Grid or to serve any load.

20)"First Contracted Year" means the initial period of the first TPA contract. One of the purposes of the First Contracted Year is to learn about the potential for energy efficiency in different markets in Puerto Rico and inform the first

Three-Year Plan.

21) "Free Rider" means energy and/or demand impacts associated with program participants who would have implemented a program measure or practice in the absence of the program.

22) "Generation Service" refers to the provision of electric generation to Customers in Puerto Rico by the Provider of Last Resort or by a Competitive Electric Power Service Company.

23) "Gross Savings" means the change in energy consumption and/or demand that results directly from program-related actions taken by participants in an efficiency program, regardless of why they participated. Gross impact estimates also account for factors associated with actual measure installations and operations verified though evaluation activities (*e.g.*, data errors, installation and persistence rates, and hours of use).

24) "Impact Evaluation" means an evaluation of energy and/or demand savings from a program, project, or measure. It consists of a program level performance evaluation (which is simply referred to as "evaluation") and project or site level performance measurement and verification ("M&V") activities.

25) "Market Baseline Study" means an analytical study that assesses the market in Puerto Rico for an energy efficiency or demand response technology or service, including assessment of the level of utilization under current programs or in the absence of programs.

26) "Meter" means the equipment used to measure consumption and/or generation of energy at the point of connection between an individual Customer and the distribution system as well as associated communications and control capabilities.

27) "Microgrid" means a group of interconnected loads and Distributed Energy Resources within electrical boundaries clearly defined by the Energy Bureau that acts as a single controllable entity with respect to the transmission and distribution system of the Electric Power Grid. Microgrids shall have the capacity to connect to and disconnect from PREPA's transmission and distribution system in order for them to be able to operate connected to the grid as well as off the grid.

28) "Municipality" means the local government legal entity organized and existing pursuant to Article VI, §1 of the Constitution of the Commonwealth of Puerto Rico and Act No. 81 of August 30, 1991, as amended, known as the Autonomous Municipality Act of the Commonwealth of Puerto Rico.

29) "Net Savings" means the total change in energy that is attributable to an energy

efficiency or demand response program. This change in energy may include, implicitly or explicitly, the effects of Free Riders, Spillover, energy efficiency standards, changes in the level of energy service, and other causes of changes in energy consumption or demand.

30) "Non-Bypassable Charge" means any charge which a Qualified Electricity Consumer is required to pay irrespective of whether they receive Generation Service from the Provider of Last Resort or a Competitive Electric Power Service Company.

31) "Person" means a natural person; a legal entity created, organized, or existing under the laws of the Commonwealth of Puerto Rico, the United States of America, any state of the union, or any foreign state or country; a Municipality or a consortium of Municipalities; or a government entity (other than PREPA).

32) "Planning Year" means the calendar year prior to the Program Implementation Period for a Three-Year Plan.

33) "Potential Study" means an analytical study that quantifies the amount of the energy efficiency or demand response that either exists, is cost-effective, and could be realized through the implementation of energy efficiency programs and policies in Puerto Rico, including by customer class or sector, and identifies opportunities for energy and demand savings.

34) "PREPA" means the Puerto Rico Electric Power Authority, a corporate entity created by virtue of Act No. 83 of May 2, 1941, as amended, and any successor distribution, transmission or generation owner or operator.

35) "Process Evaluation" means a system assessment of a program or programs and consists of in-depth examination of the design, delivery, and operations of the program. Its aim is to improve the ability of the program to achieve energy and demand savings and accomplish other program goals.

36) "Program Implementation Period" means a three (3) year period, corresponding to the period of a Three-Year Plan, during which the TPA administers EE and DR programs and during which time the performance of the TPA is evaluated with respect to performance metrics.

37) "Program Year" means a 12-month period during with the Third Party Administrator provides Demand-Side Management Services and which is subject to reporting in an Annual Report. A Program Implementation Period is composed of three Program Years.

38) "Provider of Last Resort" means the entity responsible for (i) providing Generation Service to each Customer that is not served, in whole or in part, by a Competitive EPSC and (ii) providing Generation Service to any Wheeling Customers whose Competitive EPSC has defaulted by either failing to provide

sufficient energy to meet the Wheeling Customer's load for any given period, or by terminating the contract with the Wheeling Customer. The Provider of Last Resort shall be PREPA or its successor.

39) "Puerto Rico Benefit Cost Test" or "PR Test" means a cost-effectiveness screening test developed in accordance with this Regulation and used to evaluate whether proposed or actual EE and DR programs or initiatives provide greater benefits than their costs.

40) "Qualified Electricity Customer" means any Customer that is statutorily allowed to purchase Generation Service from Competitive Electric Power Service Companies upon the effective date of the Regulation on Energy Wheeling. This includes Industrial Customers, Large Commercial Customers, Electric Power Service Companies, microgrids, energy cooperatives, municipal ventures, and community solar, as defined under Act No. 57-2014, Section 6.3, as amended in Act 17-2019.

41) "Renewable Resource" means any combination of Alternative Renewable Energy Resources or Sustainable Renewable Energy Resources as such terms are defined in Act 82-2010, as amended, known as the Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico. Such resources shall be located in Puerto Rico.

42) "Spillover impacts" means reductions in energy consumption and/or demand caused by the presence of a program, beyond the program-related gross savings of the participants and without financial or technical assistance from the program.

43) "System Benefits Charge" refers to a Non-Bypassable Charge imposed on Customers to support Demand-Side Management Services offered by the Third Party Administrator.

44) "System Benefits Charge Account" means an account managed by the Energy Bureau into which all revenues collected through the System Benefits Charge are deposited.

45) "System Operator" or "SO" means the entity responsible for overseeing and facilitating wholesale exchanges of electricity, operating the Electric Power Grid in a reliable and efficient manner, and ensuring open access to the Electric Power Grid, in coordination with the Transmission and Distribution Provider.

46) "Third-Party Administrator" refers to the entity approved by the Energy Bureau to use ratepayer funds collected under a System Benefits Charge to deliver Demand-Side Management Services, other than customer-sited generation services, to Customers.

47) "Three-Year Plan" means the plan filed by the Third Party Administrator, and

subject to review and approval by the Energy Bureau, that identifies the proposed EE and DR programs, budgets, and goals for a three-year Program Implementation Period.

48) "Transmission and Distribution Provider" or "TDP" means the entity that owns or leases the Electric Power Grid and maintains and operates that Electric Power Grid.

49) "Technical Reference Manual" or "TRM" means a single, transparent data source of energy savings values to be used by the TPA for developing historical and future energy savings for its programs. The TRM contains deemed energy and demand savings, deemed savings calculations, impact factors such as net to gross ratios.

50) "Verification" means a process of quantitative analysis to verify the performance claims submitted by the Third Party Administrator in its Annual Reports.

51) "Wheeling" means the transmission of electricity from an independent power producer to the end consumer through Puerto Rico's Electric Power Grid and which does not constitute distributed generation through any net metering mechanism.

C) Every word used in the singular in this Regulation shall be understood to also include the plural unless the context indicates otherwise.

Section 1.10 Controlling Version.

Should any discrepancy between the Spanish version and the English version of this Regulation arise, the provisions of the English version shall prevail.

Section 1.11 Severability.

If any article, provision, word, sentence, paragraph, subsection, or section of this Regulation is disputed, for any reason, before a court and declared unconstitutional or null and void, such ruling shall not affect, damage, or invalidate the remaining provisions of this Regulation, rather the effect shall be limited to the article, provision, word, sentence, paragraph, subsection, or section that has been declared unconstitutional or null and void. The nullity or invalidity of any article, word, sentence, paragraph, subsection, or section, in any specific case, shall not affect or jeopardize in any way its application or validity in any other case, except where it has been specifically and expressly invalidated for all cases.

Section 1.12 Forms.

The Energy Bureau shall establish the forms it deems necessary to conduct the proceedings pursuant to this Regulation and shall inform the public via its website. The fact that the Energy Bureau has not adopted one or more forms, is in the process of reviewing them, or

the Internet website is out of service, shall not relieve any party of its obligation to comply with the provisions stated herein, provide the information required by this Regulation, or otherwise comply with any applicable Energy Bureau order.

Section 1.13 Mode of Submission.

The forms, documents, and appearances required by virtue of this Regulation or any order of the Energy Bureau must be submitted before the Energy Bureau in electronic format according to the instructions which, from time to time, the Energy Bureau establishes through an order in relation to the electronic filing system.

If the electronic filing system is temporarily not operating or functioning, the forms, documents, and appearances required by virtue of this Regulation or by any order of the Energy Bureau shall be submitted before the Energy Bureau in accordance with any instructions that the Energy Bureau shall provide at that time through an order.

Section 1.14 Effect of Submission.

In filing any document before the Energy Bureau, the party undersigning such document shall be deemed to have Certified that the content of said document is true and that, according to the signer's best knowledge, information, and belief, formed after reasonable inquiry, the document is based on reliable and trustworthy facts, arguments, judicial sources, and information.

Section 1.15 Confidential Information.

If in compliance with the provisions of this Regulation or any of the Energy Bureau's orders, a Person has the duty to disclose information to the Energy Bureau considered to be privileged, pursuant to applicable evidentiary privileges, said Person shall identify the alleged privileged information and request in writing for the Energy Bureau to treat such information as confidential, pursuant to Article 6.15 of Act 57-2014. In identifying privileged information and requesting confidential treatment by the Energy Bureau, the requesting party shall follow the rules and procedures established by the Energy Bureau in Resolution CEPR-MI-2016-0009, as such resolution may be amended from time to time, for the filing, handling, and treatment of confidential information. Except in the case of information protected under the attorney-client privilege, the claim of confidential treatment shall, under no circumstances, be grounds for denying such information from being filed with the Energy Bureau.

Section 1.16 Validity.

Pursuant to Section 2.8 of the LPAU, this Regulation shall enter into effect thirty (30) days after its submission to the Department of State and the Legislative Library of the Office of Legislative Services.

Section 1.17 Compliance with Other Applicable Legal Requirements.

Compliance with this Regulation shall not relieve any party affected by this Regulation from fully complying with other applicable legal and regulatory requirements enforced by any other government entity.

ARTICLE 2. THIRD PARTY ADMINISTRATOR SELECTION AND CONTRACT

Section 2.1 Selection Via Request for Proposals.

A) The Energy Bureau shall issue a competitive Request for Proposals ("RFP") and seek bids from qualified firms to act as a TPA to administer energy efficiency ("EE") and Demand Response ("DR") programs for electric customers in Puerto Rico. The TPA will be responsible for the oversight of the operation of each program, including vendor selection, reporting requirements, and budget oversight and allocation.

   1) The Energy Bureau shall issue the RFP with sufficient time to allow for TPA selection, contracting, and planning before the Program Implementation Period for which services are sought.

   2) In the event that the Energy Bureau has not established the final funding under Section 3.1 prior to issuing the RFP, the Energy Bureau shall provide a range of potential funding to inform RFP respondents.

B) The Energy Bureau shall provide a preference to those bidders that demonstrate an intention to utilize Puerto Rican businesses and individuals for program implementation to the maximum degree possible, to foster increased employment and expertise among Puerto Ricans.

C) The Energy Bureau shall seek to select a TPA that is capable of delivering energy efficiency and demand response services at the pace required to meet the statutory goal of thirty percent (30%) efficiency improvement by 2040.

D) The TPA shall be contracted by the Energy Bureau. The costs associated with the TPA, including its compensation, as approved by the Energy Bureau, as well as the costs related to the implementation of the EE and DR programs, will be recovered through the System Benefits Charge approved by the Energy Bureau. The TPA is also encouraged to pursue other sources of funds to support its programs.

Section 2.2 The First Selection of a Third Party Administrator.

A) The Energy Bureau shall establish, by order or resolution, the details of the process for the first selection of a TPA and the initial launch of EE and DR programs.

B) The Energy Bureau will issue an RFP to select the first TPA within sixty (60) days of the date on which this Regulation is final.

C) The first TPA will begin implementation of EE and DR programs during the First Contracted Year, using implementation vendors that it selects via a competitive process or that are part of the TPA's team in its response to the Energy Bureau's RFP. One goal of program implementation during the First Contracted Year will be to learn about the potential for energy efficiency in different markets in Puerto Rico and inform the first Three-Year Plan.

D) The first TPA will develop the first Three-Year Plan during the First Contracted Year. The TPA will engage with stakeholders to develop the proposed plan as soon as reasonably possible after its selection, and present that Three-Year Plan to the Energy Bureau for approval during the second half of the First Contracted Year.

E) The Energy Bureau may establish by order or resolution the duration of the First Contract Year and/or the first Program Implementation Period.

Section 2.3 Contract Tenure.

A) The term of the TPA contract shall be established to allow the TPA to operate EE and DR programs for a three (3) year period, with a potential term extension of an additional three (3) years.

1) A TPA contract shall include time prior to the three-year Program Implementation Period to allow for planning, and subsequent to the Program Implementation Period for reporting. While only one firm will be the TPA at any given time, there will be overlapping contract terms to account for planning and for the smooth handoff of programs. In the case of the first TPA, the initial contract shall include the period covered in the First Contracted Year.

2) The process for extending the contract shall be governed by the following provisions:

a) The TPA shall inform the Energy Bureau at least ninety (90) days prior to the commencement of the Planning Year if it will seek a term extension for its role as TPA for the second Program Implementation Period of its contract.

b) The Energy Bureau shall inform the TPA at least sixty (60) days prior to the commencement of the Planning Year if it intends to extend the TPA's contract or to issue a new RFP.

B) When the Energy Bureau issues an RFP for a TPA (in the event that the contract is not extended for the second three-year period, or at the end of the three-year extension), the incumbent TPA must respond to the RFP if it wishes to continue operating as the TPA.

C) In the event that the role of TPA passes from one firm to another, the incumbent TPA

shall take all due care to facilitate an orderly transition to the new TPA. The TPA contract shall include terms that link TPA compensation to the care and quality of the transition.

Section 2.4 Performance-Based Compensation.

A) The TPA shall be eligible to receive performance-based compensation based on achievement of goals established for the three-year Program Implementation Period.

1) The RFP shall request, and each bidder shall include in its proposal, the structure, process and amounts each bidder seeks for performance-based compensation. This shall include any performance to be measured in each year of the Program Implementation Period and/or in aggregate over the three-year Program Implementation Period.

2) The Energy Bureau will review the proposed performance incentives and negotiate with the selected bidder to determine the structure, including the frequency and conditions for payment, process, and amounts, of performance incentives and other compensation.

3) The final performance-based compensation structure shall be consistent with the Three-Year Plan and the associated budget for the TPA.

4) If the Energy Bureau extends the TPA contract for a second three-year period, the structure and amount of the performance-based compensation for that period will be negotiated between the Energy Bureau and TPA and shall be consistent with the Three-Year Plan for that period.

B) The contract between the Energy Bureau and the TPA shall establish performance incentive metrics that are action-based, program-based, or both.

1) Action-based metrics are metrics that track specific actions that are intended to lead to a desired outcome.

2) Program-based metrics measure the outcomes of specific programs or collections of programs. Possible program-based metrics for measuring TPA performance include, but are not limited to:

a) Value of savings in dollars (annual or lifetime).

b) MMBTU of total energy savings (annual or lifetime).

c) Electric energy savings (annual or lifetime).

d) Peak-coincident or dispatchable capacity of demand-side resources.

C) The TPA's contract with the Energy Bureau shall also establish minimum requirements to serve potentially underserved markets. Such customer segments

include, but are not limited to:

1) Low income.

2) Small business.

3) Residential.

4) Government.

D) The Energy Bureau shall verify the TPA's performance claims as described in Section 6.2 of this Regulation.

ARTICLE 3. ENERGY EFFICIENCY AND DEMAND RESPONSE BUDGETS, PROGRAMS, AND PLANS

Section 3.1 Budget.

A) The Energy Bureau shall establish by order the total amount of funding to be expended for EE and DR programs, including the program implementation and administration; associated evaluation, measurements, and verification activities; and other studies necessary for the proper functioning of the terms of this regulation.

B) The Energy Bureau shall establish total funding for each of the years of the Program Implementation Period by order no later than three hundred and thirty (330) days prior to the start of the Program Implementation Period.

Section 3.2 Efficiency and Demand Response Programs.

A) The TPA shall develop energy efficiency programs that seek to achieve all cost-effective efficiency savings and demand response resources over time, where cost-effective is defined by the Puerto Rico Benefit-Cost Test ("PR Test") described in Section 5.1 of this Regulation.

B) With regards to the provision of these programs, the TPA shall, among other things:

1) Increase the efficiency of buildings, appliances, lighting, equipment, products, industrial processes, and other end uses;

2) Encourage energy conservation and reduce absolute energy use through controls, system sizing, optimization of operation and maintenance practices in buildings and manufacturing plants and consumer actions;

3) Promote demand response from buildings and manufacturing plants to reduce system-wide or local peak loads;

4) Promote load shifting demand response measures from peak hours to off-peak hours, and increase the utilization of excess renewable energy generation;

5) Prioritize lost opportunity markets;

6) Pursue market transformation strategies;

7) Provide all eligible consumers with the opportunity to participate in services and initiatives;

8) Strive to provide comprehensive services to all customers including customer education, contractor training, audits, rebates, and financing;

9) Pursue innovative approaches to the cost-effective acquisition of energy efficiency and demand response;

10) Encourage compliance with Puerto Rico's building energy code, and contribute to increasing the stringency of that code while maintaining its cost-effectiveness;

11) Balance near-term and long-term resource acquisition to maximize total cost-effective energy efficiency and demand response resource acquisition over time; and

12) Provide information and education that will empower consumers to manage their energy use and energy bills.

C) As the TPA's programs begin, mature, and develop over time, the Energy Bureau and TPA may choose to prioritize certain of these objectives.

D) EPSCs may engage in DR programs as described in Article 8 of this Regulation.

Section 3.3 Three Year Energy Efficiency and Demand Response Plan.

A) The TPA shall develop a Three-Year Plan for programs to be implemented over the three (3) year Program Implementation Period. The TPA shall design its plans to identify and implement all cost-effective EE and DR programs, consistent with the most recently approved Integrated Resource Plan ("IRP") or any subsequent comparable economic analysis, to the extent feasible within the approved funding. The EE and DR programs shall conform to best practice program design principles. At a minimum, programs shall:

1) Align with the goal of achieving thirty percent (30%) savings by 2040, and with achieving those savings as soon as practicable;

2) Pass one or more cost-effectiveness tests as designated by the Energy Bureau;

3) Address all relevant markets related to EE and DR measures;

4) Serve all customer classes;

5) Address all relevant end-uses;

6) Attempt to overcome all relevant market barriers to adoption of energy efficiency and demand response measures;

7) Promote customer equity, both by offering programs to all customer classes and by achieving high participation rates across all customers;

8) Ensure that low-income and hard-to-reach customers are marketed and served;

9) Take full advantage of all relevant trade allies to maximize opportunities to market, deliver and install efficiency and demand response measures; and

10) Avoid lost opportunities, which occur when efficiency measures are not installed when it is most cost-effective to do so.

11) For the purpose of resource planning and market expectations, each Three-Year Plan shall furthermore include a projected plan for efficiency and demand response resource acquisition for a twenty (20) year planning period (extending for seventeen (17) years past the three-year period). This projected plan shall illustrate how the statutory goal of thirty percent (30%) savings by 2040 will be achieved, and provide estimated total funding required for each year.

B) Three-Year Plans shall include at a minimum the following elements:

1) Summaries and tables for the following metrics.

a) Cost-effectiveness. Cost-effectiveness shall be provided for each plan year at the program, sector, and portfolio levels in accordance with Section 5.1 of this Regulation.

b) Benefits. All benefits included in the primary cost-effectiveness test in accordance with Section 5.1 of this Regulation shall be provided by benefit category for each plan year at the program, sector, and portfolio levels.

c) Budget. The budget for each plan year, broken out by budget category, shall be provided at the program, sector, and portfolio levels.

d) Savings. Planned net and gross annual and lifetime savings for each Program Year shall be provided at the program, sector, and portfolio levels. Annual capacity savings shall be provided for each plan year at the program, sector, and portfolio levels.

e) Participants. Planned participants, broken down by customer class,

shall be provided for each plan year at the program, sector, and portfolio levels. Participant definitions shall be provided by program or measure type.

2) Program narratives.

   a) The narratives shall be provided for each program to establish program goals, program structure, target participants by customer class, and strategies to overcome market barriers and achieve program goals.

3) Evaluation, measurement, and verification ("EM&V") plan.

   a) The Three-Year Plan must include a strategic plan to conduct EM&V activities through competitively procured independent evaluators under contract to the Energy Bureau throughout the planning period.

4) Avoided costs.

   a) Avoided cost calculations for the planning period in accordance with Section 5.2 of this Regulation shall be included in the Three-Year Plan.

5) Public Lighting Plan.

   a) The Three-Year Plan shall include a plan to replace all public lighting with LED or comparable lights as quickly as reasonably achievable, working in concert with the owners of such lights.

C) The Three-Year Plan procedural schedule shall be as follows.

1) The TPA shall present its draft Three-Year Plan to an open meeting of interested stakeholders and members of the public no later than two hundred and ten (210) days before the beginning of the Program Implementation Period and make the written document publicly available at that time.

   a) The TPA shall solicit feedback from stakeholders in meetings and via written comments.

   b) The TPA shall endeavor to solicit stakeholder participation and input from diverse perspectives including, but not limited to, the following:

      i. Residential consumers;

      ii. Low income consumers;

      iii. Small businesses;

      iv. Large commercial consumers;

v. Manufacturers;

vi. Environmental organizations;

vii. Organized labor;

viii. The Independent Consumer Protection Office;

ix. Energy Public Policy Program of the Department of Economic Development and Commerce;

x. Municipalities; and

xi. Other public interest organizations.

c) The TPA shall prepare a summary of feedback received and a discussion of how the feedback has or has not been incorporated into the Three-Year Plan, and file this document when it submits the Three-Year Plan to the Energy Bureau.

d) In the event that the TPA is newly under contract to the Energy Bureau (for example, if a new TPA is selected after a competitive RFP), and there is not sufficient time to develop a draft plan prior to the deadline established in paragraph (C)(1) of this section, the Energy Bureau shall establish an alternative timeline for required stakeholder engagement on the draft Three-Year Plan.

2) The TPA shall submit its Three-Year Plan to the Energy Bureau at least one hundred and twenty (120) days before the beginning of the Program Implementation Period of the Planning Year.

a) The Energy Bureau shall initiate a proceeding to evaluate the filed Three-Year Plan, along with its associated budget and performance objectives.

b) The Energy Bureau shall solicit comments on the filed Three-Year Plan from stakeholders and the public, and specifically invite the participation of stakeholders who provided feedback on the draft Three-Year Plan.

c) The Energy Bureau need not require formal testimony or a contested case process, although it may use such processes at its discretion. The Energy Bureau shall provide an opportunity for interested parties to be heard in a public hearing.

3) Not later than end of the Planning Year, the Energy Bureau shall issue a decision on the Three Year Plan which ensures that the TPA has identified and

shall capture all energy efficiency and demand reduction resources that are cost effective or less expensive than supply resources. The Energy Bureau shall approve the Three Year Plan, reject and require the resubmission of the Plan, or accept the Plan in part and require resubmission with instructions on other parts of the Plan.

a) In the event that the Energy Bureau does not approve a Three-Year Plan before the end of the Planning Year, the Energy Bureau shall issue a decision stating the programs that shall be implemented until such time as a Three-Year Plan is approved.

Section 3.4 Annual Plan.

A) In each of the first and second years of implementation of each Three-Year Plan, the TPA shall file an Annual Plan with the Energy Bureau at least 90 days prior to the beginning of the next Program Year.

B) The Annual Plan shall describe in detail changes that the TPA proposes to make to the Three-Year Plan for implementation in the coming year (years two and/or three of the Three-Year Plan).

C) The TPA shall publish a draft Annual Plan for stakeholder feedback no later than one hundred and fifty (150) days before the end of the Program Year, and welcome stakeholder feedback within thirty (30) days to facilitate incorporation of responses to this feedback in the TPA's Annual Plan filing to the Energy Bureau.

D) In the Annual Plan:

1) The TPA may request changes to the performance metrics or targets;

2) The TPA may request changes to the amount or allocation of the annual budget; and

3) The TPA may make changes to the program offerings based on data evaluated from a program or other circumstances.

E) The Energy Bureau shall consider the filed Annual Plan.

1) The Energy Bureau shall solicit stakeholder comments on the filed Annual Plan to inform its decision.

2) The Energy Bureau may, at its discretion, open a proceeding for the purpose of evaluating the TPA's proposed Annual Plan and any proposed changes in the budget.

F) The Energy Bureau and TPA may amend the TPA's contract or otherwise make necessary changes to implement an approved Annual Plan.

G) The Energy Bureau shall approve the Annual Plan, reject and require the resubmission of the Plan, or accept the Plan in part and require resubmission with instructions on other parts of the Plan. The approved Three-Year Plan, as modified by any past approved Annual Plans, remains in effect until an order approving the Annual Plan is issued.

ARTICLE 4. SYSTEM BENEFITS CHARGE

Section 4.1 Establishment.

A) The Energy Bureau shall annually evaluate the System Benefits Charge ("SBC") so as to collect sufficient revenues to cover the annual budgets of EE and DR programs established under this Regulation.

B) If other revenue is obtained to assist in funding these programs, such as from grants, Federal funds, or compensation for services provided, the Energy Bureau may adjust the SBC to account for those funds.

C) The Energy Bureau shall establish the funding mechanism for the SBC to ensure that program costs are fully collected, allocated and distributed in a cost effective, fair and equitable manner.

D) In the event that annual collections of revenue from the System Benefits Charge differ from the annual prudent spending for that year, the Energy Bureau shall reconcile the difference by adjusting the amount to be collected in the following year.

Section 4.2 Collection.

A) The TDP/SO shall collect the funds resulting from the SBC through its billing and payment processing system.

B) On a monthly basis, the TDP/SO shall transfer the funds collected from the SBC to a System Benefits Charge Account established by the Energy Bureau. At the time of each such transfer, the TDP/SO shall file with the Energy Bureau a statement regarding the funds collected that details how the amount was calculated.

1) In the event that a customer pays only a portion of the bill on which the SBC is charged, the TDP/SO shall transfer funds in an amount equal to the total payment multiplied by the fraction, expressed as a percentage, that the SBC represented of the full billed amount.

a) For example, if a bill was for $100, of which the SBC reflected $4, and the customer paid $50, the TDP/SO would transfer $2 ($50 x 4%).

Section 4.3 Fiscal Management.

A) The Energy Bureau shall establish and maintain a System Benefits Charge Account

into which the TDP/SO makes monthly deposits pursuant to this Regulation.

B) The Energy Bureau may issue a contract for accounting and other support services to maintain and manage the System Benefits Charge Account.

C) The Energy Bureau shall pay the TPA and other EE and DR programmatic and support contractors from the System Benefits Charge Account, pursuant to the terms of the contracts between the Energy Bureau and the entities under contract to the Energy Bureau. The Energy Bureau shall not make payments to subcontractors or TPA vendors; these shall be the responsibility of the TPA or other contractors.

D) The Energy Bureau may establish a target minimum balance for the System Benefits Charge Account in order to ensure the ability to pay its contractors as due. The Energy Bureau may collect the necessary funds to establish this minimum balance through the reconciliation process described in this section or by making an adjustment in rates at any time necessary.

ARTICLE 5. COST EFFECTIVENESS

Section 5.1 Cost Benefit Test.

A) Puerto Rico Cost-Benefit Test.

The TPA shall assess the cost-effectiveness of measures, programs, and portfolios according to a cost-benefit test that reflects the policy objectives of Puerto Rico with regard to energy, environmental, and societal impacts. The Energy Bureau shall propose the specific benefits and costs to be included in the PR Test with stakeholder input, prior to the development of the first Three-Year Plan. The Energy Bureau shall approve a PR Test that accurately reflects the policy objectives of Puerto Rico, accounts for stakeholder input, and reflects the directives in these regulations.

The Energy Bureau shall include in the PR Test all relevant generation, transmission, and distribution impacts, reliability and resilience, other fuel impacts, and environmental impacts, and may include other non-energy impacts, economic development impacts, and social equity impacts. The accrual of specific non-energy impacts to certain programs or technologies, such as income-eligible programs or combined heat and power, may be considered.

B) Principles.

The TPA shall apply the following principles when developing the PR Test:

1) Efficiency as a Resource. EE is one of many resources that can be deployed to meet customers' needs. It should, therefore, be compared with both supply-side and demand-side alternative energy resources in a consistent and comprehensive manner.

2) Energy Policy Goals. Puerto Rico's cost-effectiveness test should account for its applicable policy goals, as articulated in legislation, Energy Bureau orders, regulations, guidelines, and other policy directives.

    a) The PR Test should reflect the guiding principles of the Puerto Rico Electric system as defined in Act 17-2019, namely efficiency, quality, continuity, adaptability, impartiality, solidarity, and equity.

3) Hard-to-Quantify Impacts. Efficiency assessment practices should account for all relevant, important impacts, even those that are difficult to quantify and monetize.

4) Symmetry. Efficiency assessment practices should be symmetrical, for example, by including both costs and benefits for each relevant type of impact.

5) Forward Looking. Analysis of the impacts of efficiency investments should be forward-looking, capturing the difference between costs and benefits that would occur over the life of efficiency measures with those that would occur absent the efficiency investments. Sunk costs and benefits are not relevant to a cost-effectiveness analysis.

6) Transparency. Efficiency assessment practices should be completely transparent, and should fully document and reveal all relevant inputs, assumptions, methodologies, and results.

C) Assessment Level.

The Energy Bureau may establish that cost-effectiveness of the TPA's plans be assessed at the portfolio, sector, and/or program level. The primary assessment level for plans shall not be at the measure or project level.

1) The TPA shall plan to achieve cost-effectiveness at the assessment level selected by the Energy Bureau.

2) In this context, the following definitions apply:

    a) Measure: An EE or DR measure is a specific action taken, or equipment or appliance installed.

    b) Project: A project is composed of multiple measures applied at a particular site or by a particular customer.

    c) Program: A program creates EE or DR resources through use of a set of measures and projects, typically focused on a combination of one or more end uses and a sector. For example, a program might address lighting in commercial buildings or provide rebates for retail purchase of certain efficiency products.

d) Sector: A sector is a portion of the customers within the service territory who have substantial characteristics in common, such as residential, commercial, or industrial.

e) Portfolio: The complete set of actions by the TPA composes its portfolio.

3) Low income programs shall be assessed for their cost-effectiveness but do not need to pass the cost-effectiveness screening test to be included in the portfolio. The PR Test may include factors that account for the particular costs or benefits of EE and DR for low income customers.

D) Discount Rate.

Benefits and costs that are projected to occur over time shall be stated in present value terms in the PR Test calculation using a discount rate that appropriately reflects that energy efficiency or demand response is a low-risk resource in terms of cost of capital risk, project risk, and portfolio risk. The discount rate shall be reviewed and updated in the Energy Efficiency Plans, as appropriate, to ensure that the applied discount rate is based on the most recent information available.

E) Analysis Period.

The number of years over which cost-effectiveness is assessed shall be long enough to capture the full stream of costs and benefits associated with the suite of measures.

F) Free Ridership and Spillover.

Benefits included in the PR Test shall be reflective of net resource impacts. As such, Free Ridership and Spillover effects shall be accounted for in cost-effectiveness calculations.

Section 5.2 Avoided Costs.

A) The Energy Bureau shall conduct a study or other analysis to develop avoided cost estimates to be used for assessing the cost-effectiveness of the TPA's energy efficiency and demand response programs. The Energy Bureau shall develop mechanisms and approaches for the calculation of avoided costs that are consistent for application to energy efficiency and demand response and to other assessments of the value of grid resources. The Energy Bureau shall endeavor to use analyses conducted in other contexts to lower the cost of developing avoided costs. The avoided costs shall include all benefits incurred from the reduction in electricity, natural gas, oil, propane, wood, kerosene, water, and other resources as a result of energy efficiency. Avoided costs shall be calculated for each year of the analysis period.

B) Avoided costs may be updated annually, and shall be updated no less frequently than every three years.

C) Avoided costs shall be monetized to the extent possible, and include, but not be limited to, avoided energy costs, avoided generating capacity costs, avoided T&D costs including line losses, avoided ancillary services, avoided utility environmental compliance costs where applicable (*e.g.*, the costs of reducing power plant emissions and complying with the renewable portfolio standard), and societal costs of pollutant emissions. Avoided costs that cannot be monetized shall be considered on a qualitative basis.

D) The TDP/SO and Provider of Last Resort shall provide all requested data necessary for the calculation of avoided costs. This shall include information in their possession regarding the costs of different generation and demand side resources, as well as the costs associated with construction and operation of the electric transmission and distribution systems.

ARTICLE 6. REPORTING, MEASUREMENT, EVALUATION, AND VERIFICATION

Section 6.1 Reporting.

A) Quarterly Public Reports.

The TPA shall provide quarterly public reports to the Energy Bureau on the implementation of the Three-Year Plan and the most recent applicable Annual Plan. These reports shall be filed within thirty (30) days of the end of each quarter. The reports shall include a description of the TPA's progress in implementing the plan, a summary of the EE and DR resources secured to date measured on the metrics used to evaluate the TPA's performance under its contract, and other such information as the Energy Bureau shall determine and establish under the terms of the contract between the TPA and the Energy Bureau.

B) Annual Report and Performance Claim.

No later than ninety (90) days following the end of each Program Year, the TPA shall file an annual report and performance claim regarding its activities in the previous calendar year. The annual report serves as the contractual performance claim by the TPA, and is used to determine its performance compensation. The annual report shall include each of the following.

1) A description of the TPA's complete activities in implementing the Annual Plan;

2) A report of progress on the Three-Year Plan;

3) Detailed and quantitative claims regarding the TPA's performance during the past year on each of the metrics by which the TPA's performance is evaluated under its contract;

4) Detailed assessment tables of the following areas, including comparison of the

actual with the planned values in each area. Where the actual value differs from the planned value by more than fifteen percent (15%), the Annual Report shall include an explanation of the variance:

a) Costs.

i. Costs categorized by administration costs, marketing and delivery costs, program vendor costs, customer financial incentives, technical or training support offered to customers or other trade allies, customer payments, and other costs.

ii. Costs categorized by customer class: residential, commercial, industrial, and governmental (including municipal and institutional).

b) Cost-effectiveness. Cost-effectiveness shall be provided for each plan year at the program, sector, and portfolio levels in accordance with Section 5.1 of this Regulation.

c) Benefits. All benefits included in the primary cost-effectiveness test in accordance with Section 5.1 of this Regulation shall be provided by benefit category for each plan year at the program, sector, and portfolio levels. Benefits shall be provided in physical units as well as monetary units where applicable and shall include a discussion of qualitative non-energy benefits.

d) Budget and expenditures. The budget and expenditures for each plan year, broken out by budget category, shall be provided at the program, sector, and portfolio levels.

e) Savings. Planned net and gross annual and lifetime energy and capacity savings for each Program Year shall be provided at the program, sector, and portfolio levels.

f) Participants. The number of participants shall be provided for each plan year at the program, sector, and portfolio levels. Participant definitions shall be provided for each program.

5) Other such information as the Energy Bureau shall determine by order or resolution.

C) Energy Bureau Determination on Annual Report.

Not later than thirty (30) days after submission of the Annual Report, the Energy Bureau shall issue a decision as to whether the TPA has met the reporting requirements as stipulated in this Regulation. The Energy Bureau may require the TPA to provide additional pertinent information as needed to meet the requirements.

In the event a resubmission is required by the Energy Bureau, the TPA shall submit the revised Annual Report subject to the terms of the TPA's contract.

Section 6.2 Evaluation and Verification.

A) The Energy Bureau shall review the Annual Report as filed by the TPA under Section 6.1 of this Regulation and shall verify the performance claims made by the TPA in the Annual Report.

B) The TPA shall provide any and all program data requested by the Energy Bureau to evaluate the TPA's performance and verify its performance claims.

C) The TPA shall furthermore participate in Market Baseline and Potential Studies, as well as other relevant research or analysis, conducted by the Energy Bureau. The TPA may carry out additional market characterization work as necessary to plan its services and initiatives, and to support its long-range planning responsibilities, as part of its routine course of operations. The TPA and Energy Bureau shall seek synergies with other studies.

D) Evaluation.

1) The Energy Bureau shall evaluate the TPA's EE and DR programs, in accordance with the EM&V plan contained within the approved Three-Year Plan.

2) The Energy Bureau shall publish the final report from each program evaluation.

3) The Energy Bureau and Third Party Administrator shall use the results of evaluation report to update the Technical Reference Manual and to inform changes to programs in order to make them more effective.

E) Verification.

1) The TPA shall submit performance claims in the Annual Report as detailed in Section 6.1 of this Regulation. In the event that the submission of a complete Annual Report is delayed relative to the dates required by that section, the subsequent dates in this subsection shall be commensurately deferred.

2) The Energy Bureau shall verify the TPA's performance claims.

a) The Energy Bureau may conduct site visits and metering analysis and utilize statistical sampling or other techniques to confirm or refute the TPA's claims.

3) The Energy Bureau shall publish the final report for each verification activity no later than one hundred and eighty (180) days following the end of the

Program Year and solicit comments on it from the TPA, parties to the Three-Year Plan proceeding, and the public. The Energy Bureau may conduct an investigation, at its discretion, in order to address concerns raised in the comments.

4) Following consideration of the verification reports and the filed comments, the Energy Bureau shall make its determination regarding the performance of the TPA on each performance claim.

Section 6.3 Technical Reference Manual.

A) The Technical Reference Manual ("TRM") shall be used to measure and quantify savings from implementation of TPA programs.

B) The Energy Bureau shall have authority over and responsibility for the TRM. The TRM shall not be copyrighted by the TPA or otherwise restricted from use by successor contractors that may fill the role of the TPA.

C) The Energy Bureau may, from time to time, modify the TRM. If the Energy Bureau determines that the TRM should be modified, it may, at its discretion, start a public proceeding to evaluate and approve such modification.

D) The Energy Bureau may require assistance from the TPA or other contractors to amend or evaluate the TRM.

ARTICLE 7. RESPONSIBILITIES OF THIRD-PARTY ADMINISTRATOR

Section 7.1 Structure.

A) The TPA is an EPSC and has all the responsibilities under this and other regulations that apply to EPSCs and to the services that the TPA provides.

B) The TPA shall identify a single individual as the person responsible for direction of its Puerto Rico activities. This individual shall be referred to as the TPA Director. The TPA Director shall reside in Puerto Rico and have managerial responsibility for all actions under the TPA's contract with the Energy Bureau.

Section 7.2 Competitive Procurement.

A) The TPA shall utilize contracted vendors to implement energy efficiency and demand response initiatives.

1) The TPA shall use an open, competitive, and transparent process to select vendors.

2) The TPA shall endeavor to foster a competitive market in efficiency and demand response services and to avoid anti-competitive or monopoly power concerns in the market for the provision of EE and DR services.

B) The TPA may implement energy efficiency and demand response initiatives using its own staff and resources in the following cases:

1) The TPA has conducted an open and transparent process to identify potential vendors and has found that vendors' bids are not cost-effective or would not assure sufficient program quality.

2) Pilot programs or programs in development. Once the Energy Bureau determines that a program is sufficiently mature, it shall be implemented by a vendor unless it otherwise qualifies for TPA implementation under this subsection.

3) The TPA requests and receives approval from the Energy Bureau to implement a program or initiative itself.

C) Except as provided in Section 7.3, the TPA shall select service providers, such as the vendors which implement EE and DR programs, and grant recipients through a competitive bidding process. Competitive bidding processes shall be conducted by issuance of one of the following documents:

1) Request for Proposals (RFP).

2) Request for Qualifications (RFQ).

3) Program Opportunity Notices (PON).

The processes shall be designed to maximize participation from qualified bidders.

D) If the TPA's winning response to the Energy Bureau's competitive RFP included partnership with an identified implementation subcontractor for a proposed program, the TPA need not conduct a separate competitive process to identify a vendor for that program.

E) When the TPA is to select a service provider or grant recipient by competitive bid, it shall develop and issue an RFP, RFQ, or PON.

1) Each RFP and RFQ will contain sufficient information to permit bidders to develop responsive proposals. This information will include, at a minimum:

a) A description of the scope of work required;

b) The required content and format of the bids;

c) A list of the bid evaluation criteria and scoring weights to be applied;

d) The date, time and place that the proposal is due. Open solicitations may alternately specify a notice period for closing the solicitation;

e) The name, address, and contact information for the TPA contact person; and

f) A copy of the standard agreement or applicable alternative agreement as described in Section 7.4.

g) In each RFP or RFQ, the TPA will establish reasonable timeframes for the submission of bids, the evaluation of bids, and the selection of the winning bidders.

2) Each PON will be a formal request for programs or projects within an area or market sector that require bidders to detail their own approach to the PON's topic. A PON will describe the objectives of the program opportunity but the bidder is then responsible for providing a detailed statement of work that represents a solution to the opportunity outlined in the PON.

F) Notice of RFPs, RFQs and PONs. The TPA will maintain a list of interested persons who will be notified whenever the TPA issues a RFP, RFQ or PON related to a program or project. The TPA will reasonably advertise each RFP, RFQ and PON. Each RFP, RFQ or PON will be posted on the website maintained by the TPA and provided to the Energy Bureau.

G) Written Questions and Pre-Bid Conferences. The RFP, RFQ, or PON will specify the manner in which written questions may be asked. The TPA at its option may hold a pre-bid conference. Answers to written questions and to all questions raised at a pre-bid conference will be posted on the website maintained by the TPA.

H) Submission of Bids. To the extent practicable, the TPA will accept bids electronically in response to RFPs, RFQs, or PONs. The TPA shall keep a written record of the bidder's names, the date and time the bid was received, the cost/price of the bid and the bidder's contact person. The responses to RFPs, RFQs, or PONs shall be provided to the Energy Bureau upon request and treated as public documents, with the exception of any information claimed and verified as confidential.

I) Rejection of Noncompliant or Untimely Bids; Rejection of All Bids. The TPA shall reject all bids that do not comply with the requirements of this Regulation or the RFP, RFQ or PON, or that are not submitted before the deadline for submitting bids. The TPA may reject all bids if it finds that the bids are unreasonably high in cost or that acceptance of any bid will not be in the public interest as determined by the TPA in accordance with the Three-Year Plan and the laws and regulations governing the TPA.

J) Evaluation and Selection

1) Proposal Review Team. Responses to each RFP, RFQ and PON will be reviewed and evaluated by an assigned Proposal Review Team. Each Proposal Review Team shall be comprised of a minimum of three persons. The chairperson of each Proposal Review Team shall be the Director of the TPA, or the Director's

designee. The chairperson of each Proposal Review Team will select the other members of the Proposal Review Team. The other members may be members of the TPA staff or other persons who have training or experience relevant to the program or project for which the competitive bidding process is held.

2) Criteria. Evaluation and selection criteria will be listed in each RFP, RFQ or PON. Criteria may include, but are not limited to:

    a) Cost.

    b) For service providers, to the extent practicable, the extent to which the proposal promotes the development of resources, infrastructure and skills within Puerto Rico.

    c) Experience and qualifications.

    d) Responsiveness to the solicitation.

    e) Other criteria as the Director of the TPA may determine consistent with the Three-Year Plan and the laws and regulations governing the TPA.

3) Bid Review. Each member of the Proposal Review Team will individually review all bids based on the criteria established in the RFP, RFQ or PON. The Proposal Review Team will document the scoring and the substantive information that supports the scoring, and select the winning bidder(s).

4) Review Process. The Proposal Review Team may take any of the following steps, either with respect to all of the bids received, or to a subset of bids selected as superior to the others:

    a) Consult with prior clients on the performance of bidder or particular persons proposed for the program or project.

    b) Schedule presentations or interviews with representatives of the bidder or persons proposed for the program or project.

    c) Conduct a review of past performance, including a review of reports, analyses, or other materials that would reflect on the bidder's performance.

    d) Request additional data or material to support bids from any or all bidders.

5) Bidder Discussions. The Proposal Review Team may review bids and award a contract based on the bids received without discussion with any bidders, or may conduct limited discussions or negotiations with all bidders or a selected subset of bidders determined to have presented superior bids. The Proposal

Review Team may review and score bids after any amendments to the bids as a result of the discussions or negotiations. The Proposal Review Team may enter into price negotiations for a "best and final offer" with selected bidders, prior to contract award. The Proposal Review Team will not substantially change the nature of the proposals sought by the RFP without notifying bidders and permitting all bidders to modify their bids.

6) Contract Award. The Proposal Review Team may make one or more contract awards to fulfill the requirements of the RFP, RFQ or PON. The contract award will be made to the highest rated proposal or proposals that conform to the requirements of the RFP, RFQ or PON.

7) Bid Rejection. The Proposal Review Team may summarily reject any bid that it finds contains false or misleading material information. The TPA may bar any entity or person that has submitted false or misleading material information as part of a bid from participating in any contract award for a period of up to three years.

8) Notification. The TPA shall notify all bidders responding to an RFP, RFQ or PON of the contract award decision in writing, postmarked or electronically mailed a minimum of 14 calendar days prior to contract effective date.

9) Contract Execution. After fourteen (14) calendar days from the contract award notification, the Director of the TPA, or the Director's designee, shall execute a written contract with the winning bidder or bidders.

10) Final Approval. Standard agreements or other agreements, as described in Section 7.4, between the TPA and selected service providers or grant recipients shall be given final approval by the Director of the TPA, at least seven calendar days prior to the proposed contract effective date.

11) Effective Date. The effective date of the agreement shall be the date the Director approves the agreement.

Section 7.3 Other Types Of Solicitations.

A) The TPA may select a service provider for one or more programs without employing a competitive bidding process if the TPA finds that the selection of the service provider by another solicitation process will promote the efficient and effective delivery of programs and is consistent with the objectives and overall strategy of the programs. Solicitations that do not employ competitive bidding processes may include:

1) Open Solicitations. The TPA may use an open solicitation to select multiple service providers for a program through an ongoing solicitation process. The open solicitation specifies the qualifications and requirements the service provider is required to meet. Service providers meeting these qualifications

must complete a cooperative program agreement, as described in Section 7.04(C), with the TPA to provide the specified services.

2) Sole Source Procurements. The TPA may use a sole source procurement when: (1) the service provider has unique qualifications, resources, or experience; (2) there is not enough time to use a competitive bidding process; (3) the TPA finds that the program or required service would clearly benefit from a sole source procurement; or (4) the service provider is an identified partner in a grant proposal that has been submitted by and awarded to the TPA. The TPA Director may approve a sole source procurement for $25,000 or less. Upon request by the TPA Director, the decision to use a sole source procurement for more than $25,000 will be made by the Energy Bureau.

3) Low-Income Service Providers. For the delivery of conservation programs to low-income residential customers, the TPA may, without employing a competitive bidding process, utilize or partner with governmental, for-profit, and not-for-profit entities with particular expertise or specialization in serving low-income residential customers.

Section 7.4 Types of Agreements.

A) Standard Agreement. Except as allowed in subsections B through E, contracts between the TPA and service providers or grant recipients must be in writing and use the TPA standard agreement form. The completed standard agreement must describe the service to be performed, the terms and conditions agreed to by the parties, the cost of the service and how and when payment will be made.

B) Memorandum of Understanding (MOU). The TPA may use an MOU as an alternative to the standard agreement when implementing agreements with government or quasi-governmental agencies.

C) Cooperative Program Agreement. The TPA may use a cooperative program agreement as an alternative to the standard agreement when implementing agreements with multiple service providers under an open solicitation for a program.

D) Cooperative Agreements. The TPA may use a cooperative agreement, or memorandum of agreement (MOA), when implementing agreements for cooperative efforts with academic or community service organizations.

E) Grant Agreement. The TPA may use a grant agreement when awarding a grant to a group, organization or other recipient. The grant agreement must describe the terms and conditions and scope of performance or action which is expected of the grant recipient.

Section 7.5 Engage with Stakeholders.

A) The TPA shall provide relevant, comprehensive, and comprehensible information

regarding its programs, and other activities to diverse stakeholders and the public, and to answer the questions of members of the public in a timely and straightforward manner.

B) The TPA shall provide drafts of its proposed Three-Year Plans and Annual Plans to stakeholders on the schedules described in Section 3.2 and Section 3.4 of this Regulation.

C) The TPA shall work collaboratively with stakeholders to reflect stakeholder input in program design and planning.

Section 7.6 Public Sector Participation.

A) The TPA shall coordinate its activities with those of the Department of Economic Development and Commerce with regard to EE and DR in public facilities.

1) The TPA shall provide technical expertise and programmatic assistance to the Department of Economic Development and Commerce, municipal governments, and any other relevant aspects of Puerto Rico or local government, in order to achieve the goals for energy savings in Article 4 of Act 57-2014, and any other such duly enacted targets or orders regarding EE or DR in public facilities.

2) The TPA shall assist with and promote a strategy of using Energy Savings Performance Contracts (ESPCs) as the primary option to achieve energy efficiency in buildings under the control of the Judicial branch or any agency, instrumentality, or public corporation of the Executive Branch, in accordance with Article 4.1 of Act 57-2014, as amended.

a) If, after a cost-effectiveness analysis, the TPA and the Department of Economic Development and Commerce jointly conclude that it is extremely onerous to comply with this provision, they shall request an exemption from the Energy Bureau and shall state the basis for their conclusion.

B) The TPA shall develop programs, with the goal of partnering with all relevant governmental entities, replace one hundred percent (100%) of street lighting with light-emitting diode (LED) or renewable lighting technology as quickly as reasonably achievable. The programs must be developed to achieve 100% replacement by the year 2030.

Section 7.7 Program Name.

The trade name of the Puerto Rico's EE and DR programs shall be different from that of the TPA. The trade name shall be the property of the Energy Bureau and the Energy Bureau shall allow the TPA to use this trade name. The TPA shall, in the delivery of its services, use the

trade name on all marketing materials, and only use this trade name when providing services or making public representations in its role as the TPA.

ARTICLE 8. DEMAND RESPONSE SERVICES

Section 8.1 Demand Response Service Providers.

A) Both the Third Party Administrator and Competitive Electric Power Service Companies may offer DR service to their customers and shall be subject to these Regulations. Together these types of entities shall be referred to as "Demand Response Service Providers." Companies or other entities that provide DR assistance to customers but which are not EPSCs are not subject to this Regulation.

1) The Third Party Administrator

a) The TPA shall select one or more vendors pursuant to Section 7.2 of this Regulation to offer DR services to customers.

i. The TPA shall foster a vibrant market for DR vendors. The goal of developing such a market is to allow a future transition to a market-based DR approach in which DR vendors would offer resources directly to the TDP/SO. The role of the TPA in offering DR services will be re-evaluated in each Three-Year Plan to determine if a robust market is developing across all customer classes and if the TPA should still engage and at what level in DR services for each customer class. This can also be re-examined at any time at the Energy Bureau's discretion upon a motion by an interested party requesting such re-examination or upon the Energy Bureau's initiation.

ii. The TPA shall have as a goal for its DR programs to meet or exceed the amount of DR resource identified in the most recent approved Integrated Resource Plan.

b) The TPA shall develop DR programs for all sectors.

c) The Provider of Last Resort shall offer DR services to its Customers through the TPA and shall not develop independent programs.

d) Where potential DR programs involve rate designs such as time-varying rates, curtailment tariffs or peak-time rebates the TPA, TDP/SO and Provider of Last Resort shall work together to develop these programs and submit them to the Energy Bureau for approval. EPSCs may also participate in this process.

e) The TPA shall aggregate the DR resources developed and provided by its DR vendors into a dispatchable resource that is offered to the

TDP/SO. This resource shall identify for the TDP/SO the quantity of DR capacity available in each time period of the day, and the cost of each unit of dispatchable DR, subject to the requirements in the TDP/SO operating procedures, as approved by the Energy Bureau. The TPA shall dispatch or facilitate the dispatch of these DR resources in accordance with Section 8.4 of this Regulation.

f) The TPA shall strive to optimize the benefits to participants in its DR programs while simultaneously providing the best aggregated DR resource to the TDP/SO. There need not be a one-to-one correspondence between the total capacity of DR resources participating in the programs of the TPA and its vendors and the capacity of the aggregate DR resource that the TPA makes available to the TDP/SO.

g) The TPA's Three-Year Plan or Annual Plan filing shall include a demand response plan as defined in Section 8.2.

2) A Competitive EPSC may offer DR services as part of its services to its Customers.

a) To avoid double payment, Customers with DR resources that participate in a Competitive EPSC's DR service may not also offer their DR resources to other EPSCs or the TDP/SO, nor may they participate in a TPA program that in any way overlaps the EPSC's DR service in which they are participating.

b) A Competitive EPSC may utilize the services of a contractor or vendor to manage its DR programs.

B) The TPA shall pursue all available cost-effective DR resources, including diverse technologies and various services provided.

1) Energy storage technologies, such as batteries or thermal storage, may provide DR services.

2) The TDP/SO, in its operating procedures, and the TPA, in its DR program designs, shall differentiate among types of DR resources in a manner befitting the characteristics of the resources and the services the resources can provide.

C) The Energy Bureau shall establish by Order limitations on the use of DR resources that utilize electric generation that consumes fossil fuels, such as backup generators, in order to restrict the use of these DR resources to situations in which customers would lose electric service without the use of such resources.

Section 8.2 Demand Response Plans.

A) The TPA and all Competitive Electric Power Service Companies that offer DR services are required to file annual demand response plans in accordance with this section.

1) The Energy Bureau shall establish the annual filing deadline by order or resolution.

2) Competitive EPSCs are not required to offer DR programs. Each Competitive EPSC that provides retail energy supply to Customers and does not offer DR programs must make a filing to the Energy Bureau stating that it will not offer DR services and indicating how it will facilitate participation by its customers in the DR programs offered by the TPA.

3) The TPA's Three-Year Plans and Annual Plans shall contain the information required of demand response plans in accordance with this section.

B) Each filed demand response plan shall include, but need not be limited to:

1) The DR Service Provider's objectives for the acquisition of cost-effective demand response resources;

2) Planned programs and/or DR rate offerings to acquire demand response resources;

3) A defined calendar for offering such programs and/or DR rates;

4) Justification for the program and/or rate designs based on cost-effectiveness;

5) Three- and five-year plans for each identified program or DR rate; and

6) Identification of the customer classes to be served by each program or DR rate.

C) A DR Service Provider may request to the Bureau that some or all of its demand response plan be treated as confidential business information.

D) On an annual schedule established by the Energy Bureau, each DR Service Provider shall report to the Energy Bureau a description of the DR Service Provider's complete activities in implementing its annual demand response plan, as well as any other such information as the Energy Bureau shall determine by order or resolution.

E) The Energy Bureau will post the list of DR Service Providers on its website, along with a non-confidential version of each such DR Service Provider's annual DR plan.

Section 8.3 Customer Participation.

A) The TPA, EPSCs, and the TDP/SO shall exercise due diligence in meeting obligations under this regulation so as to facilitate a customer's election to participate in DR

programs as quickly as possible.

1) The TDP/SO shall provide any requested information it is obligated to provide under Section 9.2, in a timely fashion, to an inquiring DR Service Provider to facilitate a customer's enrollment or participation in a DR program. The DR Service Provider shall demonstrate that the customer authorizes this data request by either (i) providing the appropriate form under Section 9.2 with the customer's signature or (ii) demonstrating that the customer is enrolled in the DR Service Provider's DR program(s).

B) The TPA may not use information obtained in the process of conducting its duties to interfere with any customer's relationship with any EPSC for DR services.

C) The TDP/SO and DSP may not disrupt, disturb, or interfere with any customer's choice of DR program.

D) Each DR Service Provider shall maintain an accurate and up to date list of the service accounts that participate in its DR programs, and provide such list to the TDP/SO. The purpose of this list is to ensure that each service account participates in the programs of at most one DR Service Provider.

E) Prior to enrolling a customer in DR service, a DR Service Provider must obtain the customer's written consent for the enrollment in DR service and ensure that the customer has not and will not enroll in another DR Service Provider's DR service during the term of its agreement with its DR Service Provider.

F) Customers requesting DR service or program participation may not partition the electric loads of a service account among different DR Service Providers. The entire reduction of a service account's electric demand for a DR program must be registered to only one DR Service Provider. Customer accounts are not precluded from enrolling and participating in multiple DR programs with a single DR Service Provider, but are prohibited from simultaneously reenrolling and participating in the event-based DR programs of more than one DR Service Provider. During an overlapping event in two or more programs for a single DR Service Provider, the customer's load reductions may not count more than once for payment or other counting purposes.

G) A DR Service Provider shall not create any unlawful barriers to prevent a customer from leaving its DR programs or service.

H) DR Service Providers shall be solely responsible for having appropriate contractual or other arrangements with their customers necessary to implement DR service consistent with all applicable laws, Energy Bureau requirements, and this regulation.

I) Customer inquiries concerning a DR Service Provider's charges or services should be directed to the DR Service Provider.

J) DR Service Providers intending to enroll residential and small commercial customers

in DR services are required to meet additional requirements.

1) Such DR Service Providers must obtain approval from the Energy Bureau for a standard form letter or electronic communication to be submitted to each customer explaining the DR Service Provider's terms and conditions of participating in the DR service.

2) The DR Service Provider must transmit each standard letter or electronic communication to the customer within 5 business days of the customer's agreement to participate in the DR service. The DR Service Provider shall then provide such customer five (5) business days to opt-out of such participation through written response or electronic communication.

K) In the event that the Energy Bureau terminates or revokes the DR Service Provider's certification or orders the termination of the DR Service Provider's DR services, the DR Service Provider shall notify each affected customer and the TDP/SO within two (2) business days.

1) In the event of a discontinuation of DR service by a DR Service Provider:

a) The DR Service Provider must un-enroll the affected customer(s) from its DR programs and inform the TDP/SO.

b) The customer shall thereafter be eligible and have the right at any time to enroll in another DR Service Provider's DR service or program(s) pursuant to this regulation. In the event of the discontinuance of a DR service, the DR Service Provider shall provide its customers with written notice within five days of the Order on discontinuance that shall explain the discontinuance and provide the customer with information on the TPA DR programs and any other information the Energy Bureau requires in its Order on the discontinuance.

L) To the extent that a customer takes service from a Competitive EPSC, other EPSCs, the TPA, and the TDP/SO shall have no obligations to the customer with respect to the DR services provided by the Competitive EPSC.

M) To the extent that a customer takes service from the Provider of Last Resort or TDP/SO, the customer's DR Service Provider has no obligations to the customer with respect to the services provided by the Provider of Last Resort or TDP/SO.

Section 8.4 Dispatching Demand Response Resources.

A) The TDP/SO shall maintain the ability to dispatch DR resources made available by the TPA.

B) The TDP/SO shall dispatch DR resources in a manner that supports the least cost operation of the Puerto Rico electric system, when viewed from a total system

perspective.

C) The TPA shall make the demand response resources that it has acquired available to the TDP/SO for dispatch in accordance with the TDP/SO's rules or operating procedures, as approved by the Energy Bureau.

D) The TPA shall verify, or facilitate the verification of, the reliability of each DR resource it acquires in accordance with the rules or operating procedures of the TDP/SO.

E) The TPA shall compensate the customers who provide demand response resources based on their performance and availability, or facilitate such compensation by the TDP/SO in accordance with the rules or operating procedures of the TDP/SO.

Section 8.5 Demand Response Measurement and Verification.

A) The TDP/SO shall adopt, subject to approval by the Energy Bureau, procedures to measure and verify the DR resources provided by the TPA. The Energy Bureau shall establish a deadline, by order or resolution, for the adoption of these procedures. The TDP/SO may offer multiple models to measure and/or verify DR resources and may assign a DR resource to use a particular methodology based on its particular characteristic, or allow the TPA or customer providing the DR resource to select the methodology.

B) The TDP/SO procedures to measure and verify DR resources shall include:

1) How to establish the baseline load, to which changes in load are compared when measuring DR resources delivered; and

2) A process to test the deployment of each DR resource or aggregated set of DR resources provided by a DR Service Provider on a regular basis (such as twice per year). Measured dispatch of the resource by the TDP/SO as part of standard grid operations shall be an allowed mechanism to verify the resource.

ARTICLE 9. PRIVACY AND CUSTOMER DATA

Section 9.1 Customer Information.

A) Each EPSC shall adopt and maintain a privacy and data security policy that describes and governs how it stores, safeguards, and limits disclosure of customer information.

B) Each EPSC's privacy and data security policy is subject to review and approval by the Energy Bureau.

C) The Energy Bureau may audit each EPSC's procedures and practices to ensure consistency with its privacy and data security policy.

D) Each EPSC's privacy and data security policy shall ensure at a minimum that:

1) The company may not sell private or proprietary customer information.

2) The company may not disclose private or proprietary customer information with or to its affiliates, subsidiaries, or any other third party for the purposes of marketing services or product offerings to a retail electric customer who does not already subscribe to that service or product, unless the company has first obtained the customer's written or electronic permission to do so.

    c) The TPA shall be allowed to share customer information with its vendors, verifiers, and evaluators, with data sharing limited to that which is necessary for the effective operation of each vendor's program or programs or the verification or evaluation of such programs.

3) The EPSC must:

    a) Obtain a retail electric customer's prior permission for each instance of disclosure of his or her private or proprietary customer information to an affiliate, subsidiary, or other third party for purposes of marketing services or products that the customer does not already subscribe to; and

    b) Maintain a record for each instance of permission for disclosing a retail electric customer's private or proprietary customer information.

4) The EPSC must retain the following information for each instance of a retail electric customer's consent for disclosure of his or her private or proprietary customer information if provided electronically:

    a) The confirmation of consent for the disclosure of private customer information;

    b) A list of the date of the consent and the affiliates, subsidiaries, or third parties to which the customer has authorized disclosure of his or her private or proprietary customer information; and

    c) A confirmation that the name, service address, and account number exactly matches the company's record for such account.

5) This section does not require customer permission for or prevent disclosure of private or proprietary customer information by the EPSC to a third party with which the EPSC has a contract where such contract is directly related to conduct of the EPSC's business and the services being provided, provided that the contract prohibits the third party from further disclosing or selling any private or proprietary customer information obtained from the EPSC to a party that is not the EPSC and not a party to the contract with the EPSC.

6) The EPSC may collect and release retail electric customer information in

aggregate form if the aggregated information does not allow any specific customer to be identified.

7) The policy must include procedures, consistent with applicable law, for investigation and resolution of complaints by a retail electric customer whose private or proprietary information may have been sold by the EPSC or disclosed by the EPSC for the purposes of marketing services or product offerings in violation of this section.

D) The TPA is an EPSC and the requirements under this section apply to the TPA.

Section 9.2 Sharing Customer Usage Data.

A) The TPA requires access to customer energy usage information in order to evaluate and recommend EE and DR services to customers. The TDP/SO shall work collaboratively with the TPA to design and implement an electronic system to securely transfer or share customer energy consumption data collected by the TDP/SO with the TPA. The TDP/SO shall share such data in as close to real time as it is practicable to do.

B) The TDP/SO shall develop and publish, subject to approval from the Energy Bureau, a standard form that will allow for customer authorization to share customer-specific information and usage data. The TDP/SO will provide confidential customer-specific information and usage data to parties specified by the customer, if those parties have customer authorization using this form.

C) The TDP/SO shall ensure that the meter data that it provides to EPSCs and the TPA is accurate. The TDP/SO must transfer the data required to evaluate DR event performance within a reasonable period of time (24 hours) following the event.

1) The TDP/SO shall establish a simple process using the approved standardized form for requests of DR-relevant customer data by DR Service Providers and customers. Data shall include: twelve (12) months of historical usage data if available, the meter and service account numbers, the location of the customer on the grid, and whether the customer is currently enrolled in any DR programs (and with which DR Service Provider).

2) If the customer is enrolled in a DR program provided by the DR Service Provider, the TDP/SO shall further provide, upon request, ongoing usage data as required by the DR Service Provider for billing and settlement at a minimum of fifteen (15) minutes interval data, within 24 hours from the time the TDP/SO acquires the usage data, or as mutually agreed by the TDP/SO and DR Service Provider, or as frequently and at the interval ordered by the Energy Bureau.

D) The TDP/SO shall ensure that customers wishing to participate in DR services have the appropriate metering devices, and shall respond to requests by customers for

appropriate metering equipment on a timely basis. The TDP/SO may charge the customer or DR Service Provider for the cost difference for a device that is different from the metering equipment the customer would otherwise have been provided.

1) With approval and authorization from the customer, an EPSC or the TPA can install and use a telemetry solution (e.g. a KYZ pulse device) that has the consent of the TDP/SO. The data from the telemetry solution can be used by the DR Service Provider in measuring customer performance and meeting requirements of the TDP/SO. The DR Service Provider shall be responsible for the installation cost of the telemetry solution.

2) If a meter change is required (i.e. the existing meter is not an appropriate interval meter):

    a) If the customer has the option of a meter that would provide the appropriate interval information as part of a TDP/SO deployment of such metering, the customer and DR Service Provider can elect to begin DR services after the meter installation date.

E) If DR participation requires a meter or telemetry solution that would not otherwise be installed at no charge to the customer, the customer may elect to have the necessary metering equipment installed by the TDP/SO. The TDP/SO shall charge the DR Service Provider for the cost of this equipment. Nothing in this regulation is intended to prevent a DR Service Provider and its customer from agreeing to allocate these costs between them.

ARTICLE 10. RATE DESIGN

Section 10.1 Rate Designs.

A) The TDP/SO and Provider of Last Resort shall develop, for the Energy Bureau's approval, rate designs that are consistent with customer implementation of cost-effective EE and DR resources.

1) The TDP/SO may develop and implement time-varying rates and/or demand charges that are informed by the costs of distribution or transmission infrastructure. Any such rate structure must be cost-based and must not discourage beneficial electrification or the more efficient use of the grid.

2) The Provider of Last Resort may develop and implement time-varying rates and/or demand charges that are informed by the costs of energy supply. Any such rate structure must be cost-based and must not discourage beneficial electrification or the more efficient use of the grid.

3) The TDP/SO and Provider of Last Resort shall strive to align between their respective rates the hours of the day and/or months of the year that would be subject to peak, off-peak and potentially, shoulder rates.

ARTICLE 11. PLANNING

Section 11.1 Resource and Grid Planning.

A) The TPA shall ensure that it has sufficient planning and implementation capabilities to provide support for utility planning processes directed by the TDP/SO, including the IRP and both, transmission and distribution planning.

B) In furtherance of such planning, the TPA shall:

1) Maintain the capability to forecast the penetration and impact of efficient and flexible end use products and practices for use in planning;

2) Cooperate with the TDP/SO and other EPSCs in the delivery of integrated utility service; and

3) Undertake or support resource potential studies on an Island-wide basis or in a limited geographic area to estimate the pace and cost to which potential energy efficiency and demand response resources may be acquired.

C) As part of its responsibilities for planning for and developing a least cost reliable and efficient electric grid, the TDP/SO shall include in all planning processes the changes in energy consumption and peak load that result from the activities of the TPA and any other EE or DR providers.

1) In developing the IRP, the TDP/SO shall include the projected EE and DR resources available to Puerto Rico over the twenty (20) year planning horizon, including the impact of market transformation and codes and standards, that have been identified and approved by the Energy Bureau in the most recent Three-Year Plan or other proceeding.

a) The TDP/SO shall identify whether achievable increases in the projected EE and DR resources could avoid specific and substantial infrastructure investments (including generation investments) or other costs to ratepayers.

b) The TDP/SO shall consider EE and DR resources acquired by the TPA and other EPSCs. The TDP/SO shall further consider the achievable potential for energy efficiency and demand response identified in any Potential Studies conducted in Puerto Rico.

c) The TPA and TDP/SO shall collaborate to ensure that the load forecasts used by the TDP/SO in the IRP reflect the best combined estimate of future electric load, as well as appropriate uncertainty.

2) The TDP/SO shall request from the TPA, and the TPA shall provide, any information necessary for an accurate and up to date assessment of demand

side resources in the IRP, or any transmission or distribution planning processes.

ARTICLE 12. GEOGRAPHICALLY TARGETED PROGRAMS

Section 12.1 Identifying Non-Wires Alternatives.

A) The TDP/SO shall identify opportunities where EE or DR resources may cost-effectively avoid or defer the need to construct transmission or distribution infrastructure.

1) The TDP/SO shall develop and submit to the Energy Bureau for approval a non-wires alternative (NWA) screening framework for proposed TDP/SO transmission or distribution investments. The Energy Bureau shall establish, by order or resolution, the deadline for the submission of this framework. This framework will be used to evaluate whether EE, DR, or other distributed energy resources should be investigated as part of a least-cost approach addressing situations where existing transmission or distribution infrastructure is expected to be insufficient to maintain reliability.

B) The TDP/SO shall screen any transmission or distribution investment with a cost of greater than $1 million using the approved NWA screening framework and provide the results to the Energy Bureau and TPA.

C) In the event that the NWA screening framework identifies a potential for cost-effective use of a combination or portfolio of EE, DR, and/or other distributed energy resources to avoid or defer a transmission or distribution investment, the TDP/SO shall work collaboratively with the TPA to determine a plan of action that maintains reliability at least cost to ratepayers. The TDP/SO shall file that plan with the Energy Bureau, which may investigate it prior to approving a plan of action or directing the TPA to develop and implement geographically targeted programs.

Section 12.2 Geographically Targeted Resource Acquisition.

A) The TPA shall maintain capacity to assist the TDP/SO with evaluation of the potential contribution of EE and/or DR resources to the least cost design, construction, and operation of the Puerto Rico electric distribution or transmission networks.

1) This capacity shall include, at a minimum, the capacity to estimate the potential for EE and DR to relieve constraints associated with load growth within geographically limited areas.

2) The TDP/SO shall provide the TPA with information regarding the locational and temporal nature of the grid constraints or other drivers for grid investment, upon the TPA's request.

B) The TPA shall design and implement geographically targeted EE and DR programs

upon the Energy Bureau's approval and in areas where they would provide the greatest benefit, such as areas of grid congestion or where infrastructure investments may be deferred. Such approval may be provided as part of the approval of a Three-Year Plan or Annual Plan, or may be provided on a project or area-specific basis.

1) The costs of geographically targeted EE and DR programs shall be documented and budgeted separately from non-targeted programs.

    a) The costs of geographically targeted programs approved in Annual or Three-Year Plan shall be accounted for in the budgets approved at that time.

    b) The costs of geographically targeted programs approved on a project- or area-specific basis shall be accounted for in the manner determined by the Energy Bureau in the relevant proceeding.

2) The resources acquired through geographically-targeted programs shall be accounted for and reported separately from those of non-targeted programs.

3) The TPA and Energy Bureau shall amend the TPA's contract as necessary to effectuate approved targeted programs and provide performance incentives for the TPA to meet the objectives of the targeted programs.

4) The TPA shall use all reasonable effort to identify resources acquired in geographically targeted areas that are acquired through Puerto Rico-wide (that is, non-targeted) programs.

5) The TPA shall document the costs of geographically targeted programs and the resources acquired in the targeted areas in its quarterly report to the Energy Bureau.

6) The TPA shall cease geographically targeted programs upon Energy Bureau's request.

7) The TPA shall provide a final report of the costs and resources acquired by each geographically targeted EE or DR program after it has ceased.

ARTICLE 13. RECONSIDERATION AND JUDICIAL REVIEW

Section 13.1 Reconsideration

Any person who is not satisfied with a decision made by the Energy Bureau under this Regulation may file, within the term of twenty (20) days from the date copy of the notice of such decision is filed by the Energy Bureau's Clerk, a request for reconsideration before the Energy Bureau wherein the petitioner sets forth in detail the grounds that support the request and the decisions that, in the opinion of the petitioner, the Energy Bureau should reconsider.

Section 13.2 Judicial Review

Any person dissatisfied with a final decision of the Energy Bureau under this Regulation may, within thirty (30) days from the date copy of notice of a final decision addressing a request for reconsideration is filed by the Energy Bureau's Clerk, or within thirty (30) days from the date copy of the notice of an Energy Bureau final decision is filed by the Energy Bureau's Clerk, if a request for reconsideration has not been filed, appear before the Puerto Rico Court of Appeals by way of writ of judicial review, pursuant to Section 4.2 of LPAU and the applicable Rules of the Court of Appeals.