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

IN RE: REGULATION FOR ENERGY  
EFFICIENCY AND DEMAND  
RESPONSE

CASE NO.: NEPR-MI-2019-0015

SUBJECT: Notice of Proposed  
Regulation and Request for Public  
Comments

REPLY COMMENTS OF THE PUERTO RICO ELECTRIC POWER AUTHORITY

On September 4, 2019, the Puerto Rico Energy Bureau ("Bureau") set out a new proposal for regulations regarding Energy Efficiency ("EE") and Demand Response ("DR"). In its initial comments, the Puerto Rico Electric Power Authority ("PREPA") recommended that the Bureau revise its proposed rules to recognize that (1) EE and DR have materially different technical implementation issues; (2) the TPA selection process and mandatory coordination with PREPA must be strengthened; (3) opportunities for corruption in the TPA vendor selection process must be eliminated; and (4) other technical changes are required regarding implementation, revenue collection, rates and other issues.

PREPA does not repeat its initial comments here, but instead focuses on a few key issues raised in the initial comments of other parties.<sup>1</sup> Given the amount of technical and policy comments received to date, the Bureau should propose a revised draft of the

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<sup>1</sup> PREPA's lack of commentary on any stakeholder point represents neither support nor opposition for that point. PREPA reserves the right to supplement its comments.

EE and DR rules for further review and comment by interested stakeholders, including a description of what comments were accepted or rejected and why.<sup>2</sup>

### **REPLY COMMENTS**

*Defined Goals:* PREPA agrees with SunRun on several points. PREPA agrees that the main goal of EE programs is to reduce costs associated with energy consumption and to provide a stable and reliable electric service in Puerto Rico. It is critical to balance cost and energy consumption reduction goals with the impact each EE and DR program might have on the stability and reliability of the system.

Rocky Mountain Institute (“RMI”) comments that the Bureau can better define the goal of 30% EE by 2040, including clearly explaining the target, how the target can be quantified and against what baseline it will be measured. Natural Resources Defense Council (“NRDC”) makes a similar comment that the draft rules do not specific how savings are calculated or the 30% benchmark. PREPA agrees with these comments as explained in its initial comments. RMI comments further that there is not a stated goal or measurement of success for DR implementation, only for EE. If the Bureau establishes a separate goal for DR, then PREPA urges that it be included in that goal setting exercise to provide needed expertise regarding the system requirements and program implementation.

*TPA Oversight:* Regarding the TPA, SunRun is correct to point out that there needs to be “very close, independent oversight” of the TPA contract once granted.

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<sup>2</sup> PREPA in its initial comments calls for a more deliberate rulemaking and comment process.

PREPA urges close and independent oversight of not only the TPA contract, but also the TPA and vendor selection process, as explained in PREPA's initial comments. PREPA also agrees with RMI that the TPA structure, including the TPA proposing its own performance-based compensation structures and amounts, is not good policy and creates the possibility for abuse. ESPuR also remarks that monitoring of TPA performance and variations for agreed-to plans and budgets is critical. The Bureau must establish more stringent oversight guidelines for TPA bids and proposals, the TPA contract, adherence to TPA budgets and plans, and the TPA vendor selection process to ensure a viable process and avoid the potential for abuse.

NRDC supports stakeholder involvement in the three-year planning process. NRDC also recommends adoption in the final rules of a formal stakeholder process and the creation of a permanent oversight body with defined planning and program delivery roles and responsibilities. A collaborative stakeholder council could narrow areas of disagreement that are typically litigated and improve overall EE and DR implementation. The Bureau should consider this suggestion and ensure TDP/SO inclusion to improve oversight and program implementation.

*TPA/TDP/SO Roles:* PREPA also agrees with SunRun that oversight and management of the DR programs should be the TDP/SO's responsibility, not the TPA's, because the SO will be responsible for balancing power supply and demand. If the Bureau, however, wants the TPA to have this role, then there must be a clear and legally enforceable delegation of authority and obligations from the SO to the TPA on critical items involved in balancing the system, metering and customer access necessary to facilitate DR program implementation. PREPA also agrees overall that the draft rules



must clearly define the roles of the TDP/SO and the TPA with regards to EE and DR joint planning and TPA implementation to provide greater certainty going forward. Given its expertise and knowledge of the system, the default should be to include PREPA in all EE and DR planning discussions prior to and as part of the submission of plans for public comment.

This delineation of roles and responsibilities also includes critical implementation issues like EE and DR educational campaigns for residential, commercial and industrial customers, potential vendors, government, and other critical stakeholders. The TPA should be required to consult with the TDP and SO regarding how to implement the most effective educational campaign.

Vermont Energy Investment Corporation ("VEIC") suggests that the TPA should be empowered to provide comprehensive "demand-side management services" in an integrated way, without EPSCs creating market confusion. PREPA disagrees. EPSCs should also be allowed to provide EE and DR solutions. VEIC also suggests, regarding Proposed Rule Section 8.4, that the TPA conduct the dispatch on behalf of the TDP (at the TDP's discretion) so that the TPA is responsible for the customer-facing responsibility. PREPA disagrees. Coordinated, economic dispatch of generation and DR during all periods, whether normal or emergency, must be conducted by the TDP/SO given the critical requirement to maintain system reliability.

*Time-of-Use Rates:* As described in PREPA's initial comments, SunRun and RMI are correct that time-of-use ("TOU") rates should be a focus in this EE / DR rulemaking docket to encourage DR programs. Appropriately updated and designed TOU rates could be used to quickly implement effective DR programs, for example.

*Behind-the-Meter Storage Study:* PREPA agrees with SunRun and RMI that behind-the-meter battery storage program should be explored and that such programs not only provide load flexibility but also can act as a distributed generation resource to inject power into the grid when available and useful. Deployment of battery storage requires study to identify cost-effective programs and to account for potential impacts on the system. For example, Section 4.10 of Act 17-2019 (amending Act 82-2010, Section 2.12, Energy Storage Systems), indicates that (emphasis added):

On or before December 31, 2019, the Puerto Rico Energy Bureau with the assistance of the Program, ***shall conduct a study to determine the specific goals of the energy storage systems at all levels***, as a mechanism to facilitate the integration of sustainable and alternative renewable energy sources into the grid and achieve compliance with the Renewable Portfolio Standard. To conduct this study, the Bureau and the Program shall consider, without limitation, the following:

- a) the associated costs and long-term benefits,
- b) the stability and resilience of the grid resulting from energy storage,
- c) the type, useful life, and flexibility of the technology available to withstand changes in the grid's infrastructure;
- d) the capacity to be used as a generation resource by eliminating the need to build new infrastructure; and
- e) the efficiency in the use thereof to facilitate demand response programs.

*Integrated Resource Planning:* PREPA also agrees with RMI that EE and DR should be part of the IRP process. Indeed, PREPA and Siemens as part of its recent IRP submission incorporated a fixed amount of EE into its demand forecast and DR capacity target level.

*SBC Account:* Rather than the Bureau maintaining the SBC Account, VEIC suggests that a better practice would be to assign "fiscal agency" to the TPA – meaning pay the TPA directly. PREPA disagrees. The TPA should be paid through a Bureau-administered account to maintain appropriate control and oversight regarding payments to the TPA – an entity that must meet performance obligations and administer programs

appropriately. The concerns identified by VEIC are speculative. Many industries have predictable payment cycles that do not cause higher borrowing costs. Moreover, according to the proposed rules, the SBC Account is earmarked for the EE and DR programs, and thus VEIC's concern of the potential for fund diversion also appears speculative. RMI also points out that the timing of the SBC and SBC Account establishment is not spelled out, may be contradictory, and does not consider various impacts on the system. PREPA agrees.

*Implementation Timeline:* PREPA agrees with VEIC that EE and DR implementation success could be enhanced by a slightly longer start up and implementation timelines that would help address the steep learning curve for the TPA, vendors and consumers regarding the programs and grid operations and dispatch.

*Rate Design:* According to VEIC, Article 10 should provide for a formal role for the TPA in the rate design process. PREPA disagrees. The draft rules already contemplate a collaborative role for the TPA regarding possible rate design. However, the obligation and responsibility to design rates, including rates to promote EE and DR, should remain with PREPA as the TDP. This will help avoid balkanized rates focused on a single purpose of EE and DR incentives and, instead, ensure that the rates are fair and consistent with many other mandates and policies governing the development of just and reasonable rates for all consumers.

## **CONCLUSION**

For the benefit of the people of Puerto Rico, PREPA urges the Bureau to consider the comments and adopt the recommendations made by PREPA herein and in its Initial



Comments. PREPA looks forward to working with the Bureau to implement appropriate EE and DR regulations.

Respectfully submitted,

In San Juan, Puerto Rico, this 21st day of October 2019.

/s Katuska Bolaños

Katuska Bolaños

kbolanos@diazvaz.law

TSPR 18888

**DÍAZ & VÁZQUEZ LAW FIRM, P.S.C.**

290 Jesús T. Piñero Ave.

Scotiabank Tower, Suite 11-E

San Juan, PR 00918

PO Box 11689

San Juan, PR 00922-1689

Cel. (787) 458-8276

Tel. (787) 458-8276

Counsel for the Puerto Rico Electric  
Power Authority

### **CERTIFICATE OF SERVICE**

We hereby certify that on this same date we have filed the above document at in person at the office of the Clerk of the Puerto Rico Energy Bureau, via email to the following address: [comentarios@energia.pr.gov](mailto:comentarios@energia.pr.gov), and sent a courtesy copy of this filing via e-mail to [rgold@acee.org](mailto:rgold@acee.org), [javier.ruajovet@sunrun.com](mailto:javier.ruajovet@sunrun.com), [carlosalberto@espur.net](mailto:carlosalberto@espur.net), [Jmadej@veic.org](mailto:Jmadej@veic.org), [lmartinez@nrdc.org](mailto:lmartinez@nrdc.org), [thomas.quasius@aptim.com](mailto:thomas.quasius@aptim.com), and [nicolas@dexgrid.io](mailto:nicolas@dexgrid.io).

In San Juan, Puerto Rico, this 21<sup>st</sup> day of October 2019.

/s Katuska Bolaños

Katuska Bolaños