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Via E-Mail: comentarios@energia.pr.gov
Puerto Rico Energy Bureau
Public Service Regulatory Board
Government of Puerto Rico
268 Ave. Munoz Rivera, Nivel Plaza Suite 202
Hato Rey, PR 00918

Re: Reply Comments of VEIC on Regulation for Energy Efficiency and Demand Response

VEIC respectfully submits the following reply comments in response to the public comments on the Puerto Rico Energy Bureau (PREB) Proposed Regulation for Energy Efficiency and Demand Response (NEPR0MI-2019-0015; September 4, 2019). First and foremost, VEIC commends PREB for the proposal to develop effective energy efficiency (EE) and demand response (DR) programs with broad benefits. We strongly agree with Rocky Mountain Institute (RMI) that “EE and DR are valuable resources that can provide similar benefit to the energy system as power plants (e.g., energy, capacity, ramping, ancillary services), usually at lower cost and without risk of environmental degradation. Given the relatively high costs of energy generation in Puerto Rico, EE and DR are particularly promising resources to help meet Puerto Rico’s goals of 30% EE savings by 2040 and 100% renewable power generation by 2050.”

In response to the public comments on PREB’s proposed regulation for EE and DR, we offer the following comments to highlight areas where we agree or differ from other commenters.

Third-Party Administrator Model

1. **TPA model:** VEIC opposes PREPA’s recommendation that “PREPA secures directly a consultant to manage and oversee EE and DR programs.” We believe that a third-party administrator (TPA) model with an independent administrator overseen by PREB is the best approach for Puerto Rico. TPAs are a proven model for delivering successful energy efficiency programs with a 20-year track record of strong results in multiple jurisdictions. Two states in the top ten of ACEEE’s 2019 State Energy Scorecard, Vermont and Oregon, use the TPA model (Efficiency Vermont and Energy Trust of Oregon). Four additional states in the top 20 also use the TPA model: District of Columbia, Maine, Hawai’i, and New Jersey. In Canada, Efficiency Nova Scotia is a successful and long-standing TPA program.¹
2. **Customer focus:** Establishing a TPA creates an opportunity to establish positive relationships and trust with consumers. The TPA will have a singular focus on helping customers adopt EE and DR, and will be able to build a reputation as a trusted, neutral advisor on energy issues. Empowering the TPA to lead this effort, in close collaboration with PREPA and other key stakeholders, will rapidly advance Puerto Rico’s efforts on demand-side management while

¹ ACEEE State Energy Scorecard 2019, <https://database.aceee.org/state-scorecard-rank>.

allowing PREPA to focus on priority efforts to continue to rebuild and strengthen the island's electric grid.

3. **TPA oversight:** Oversight can be structured to provide appropriate checks and balances that ensure effective performance and prevent corruption. The use of competitive bidding processes for the TPA and program implementation vendors, the establishment of performance metrics that align with Puerto Rico priorities, and regular reporting on both an annual and quarterly basis will ensure a high degree of oversight. We concur with APTIM that “the TPA model consolidates performance management, financial oversight, and strategic planning so that the Energy Bureau will have a single point of accountability for overall program results.”
4. **Hawai'i Energy model:** VEIC agrees with Sunrun that Hawai'i Energy is a good model for Puerto Rico in many ways. VEIC is a member of the program administrator team, led by Leidos, for Hawai'i Energy and has been working to support design and implementation of energy efficiency programs in Hawai'i since 2016. As an island, Hawai'i shares with Puerto Rico both a heavy dependence on imported oil and the goal to move to 100% renewable energy through a mix of energy efficiency, demand response, renewable energy, and storage. The current Hawai'i Energy contract structure is a three-year contract with an option for two three-year extensions. Similar to the proposal in Puerto Rico, Hawai'i Energy is operated by a TPA and funded by a system benefit charge on electric ratepayers.
5. **Efficiency Vermont model:** Efficiency Vermont also provides a good model for a TPA with a longer-term focus. Efficiency Vermont is regulated as an Energy Efficiency Utility with a 12-year order of appointment and develops a 20-year planning forecast, as proposed in Puerto Rico. Longer time horizons for program planning and implementation allow for more effective coordination with utility resource planning as well as market engagement strategies. Informed by Vermont's experience, in our original comments on the Proposed Regulation, VEIC proposed a two-year Start-up Period and three-year Initial Program Implementation Period, followed by five-year Program Implementation Periods going forward, to enable longer-term program planning and implementation.

Coordination with the Utility on Data-Sharing and Demand Response

6. **Strong coordination:** VEIC strongly agrees with PREPA that “PREPA has critical technical information and know-how that must be brought to the EE and DR programs.” Close coordination with the utility will be required throughout planning and implementation of EE and DR programs, as well as rate design, resource and grid planning, and identification of non-wires alternatives.
7. **Aligned goals:** One way to strengthen collaboration between the TPA and PREPA is to establish aligned goals. For example, both the TPA and PREPA might contribute to an overarching goal of greenhouse gas or demand reduction but work towards the goals in distinct but complementary ways. For example, Rhode Island has an Annual MW Capacity Savings performance incentive mechanism for the utility, National Grid, that is comprised of demand response, behind-the-meter (BTM) solar, energy storage, and other NWAs.² The EE programs

² The Narragansett Electric Company d/b/a National Grid, Investigation as to the Propriety of Proposed Tariff Changes, Compliance Filing, August 16, 2018.

operated by National Grid also have a demand reduction goal. In another example, Hawaiian Electric Companies (HECO) has proposed a performance incentive mechanism for Distributed Energy Resource (DER) Asset utilization enabled via DER and DR programs, while Hawai'i Energy currently has a performance metric and incentive for Grid Service-Ready Technologies Installed / Customers Served.³

8. **DR coordination and roles:** Both PREPA and the TPA will have critical roles to play in coordinating effective demand response in Puerto Rico. Hawai'i provides a useful model for how a TPA and utility can work together. Hawai'i Energy focuses on supporting customer adoption of controllable, flexible resources, such as smart thermostats and grid-interactive water heaters, and is currently proposing to ramp up offerings related to electric vehicle (EV) charging and BTM storage. Once installed, HECO then leads the process of controlling the DERs to manage the grid. Hawai'i Energy and HECO coordinate closely throughout the planning and implementation stages. The Proposed Regulation is a bit unclear with respect to the roles of the TPA and transmission and distribution provider (TDP) in aggregating and controlling DR resources. Section 8.4.A. makes it clear that their intention is for the DR assets to be set up for dispatch by the TDP, yet Section 8.4.E. says that the TPA shall compensate customers who provide DR resources. VEIC believes that a similar division of responsibility to Hawai'i is appropriate in Puerto Rico, with the TPA focusing on accelerating customer adoption of flexible and controllable resources, while the TDP leads aggregation and control of the resources once installed. In certain cases, it could be appropriate for the TPA to conduct the dispatch on behalf of the TDP, so that all of the customer-facing responsibility lives with the TPA, but this would be at the TDP's discretion. VEIC recommends that Section 8.4 be clarified accordingly.
9. **Data-sharing.** Comments reflect a lack of clarity in Section 9 of the Proposed Regulation, which addresses privacy and customer data. VEIC agrees strongly with NRDC that the TPA should have access to customer usage data in as close to real-time as possible, without requiring individual customer permission. Such data is essential to implementation of effective EE and DR programs. Some commenters, including NRDC and the Oficina Independiente de Protección al Consumidor (OIPC), appear to be interpreting the Regulation to require the TDP to gain individual customer permission before sharing customer-specific information and usage data with the TPA. Section 9 should be revised to clarify that the TDP does not require individual customer permission to disclose private customer data to the TPA, and the TPA does not require individual customer permission to disclose private customer data to vendors and contractors, as long as the data is directly related to the EE and DR programs and services being provided. We further recommend that the Proposed Regulation distinguish the role of the TPA from the role of Electric Power Service Companies (ESPCs) with respect to managing customer data. As NRDC notes, the Regulation “delineates a very different role for the TPA than it does for the ESPCs, and yet, from a data perspective, the regulation than classifies the TPA as another ESPC.”

³ In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate Performance-Based Regulation, Docket No. 2018-0088, Initial Comprehensive Proposal of the Hawaiian Electric Companies, August 14, 2019.

Program Goals and Scope

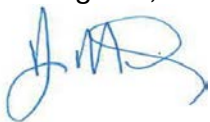
10. **Goal-setting.** VEIC agrees with PREPA, NRDC, and RMI that the baseline and method for achievement of the 30% energy efficiency by 2040 goal should be clarified. NRDC's specific recommendation has merit and should be considered: "We suggest the regulation state that savings targets are based on cumulative persistent savings in 2040, which represent the energy savings achieved by measures installed in a given year plus measures installed in previous years that are still providing savings. As energy efficiency measures reach the end of their useful lives, new savings would need to be generated to replace savings that have aged out. Further, the regulations should clarify what the 30% refers to and how this would be calculated. We recommend that the goal be specified to achieve a minimum 30% reduction in load in 2040 compared to a current baseline 2040 forecast of load." We also agree with NRDC and RMI that interim goals should be set to provide a pathway to achievement of the 2040 goal.
11. **All cost-effective energy efficiency.** We agree with NRDC and RMI that energy efficiency should not be limited to the level required to achieve the goals or constrained to available budgets. As NRDC states, "the Energy Bureau [should] not set a budget cap on energy efficiency programs, but rather focus on achieving all cost-effective energy efficiency savings." We further concur with RMI that "PREB could set an aspirational target to exceed the 30% goal established in policy, subject to cost-effectiveness, could direct the TPA to pursue all cost-effective EE and DR opportunities, and could provide guidance for performance incentives that encourages the TPA to exceed the official targets." This approach is consistent with leading states such as Massachusetts and Rhode Island.
12. **Scope of DR programs.** VEIC supports the recommendations of RMI and Sunrun that distributed, BTM battery storage should be in the scope of the DR programs operated by the TPA, particularly given the need to improve resilience in Puerto Rico. The TPA can and should play a key role in accelerating customer adoption of BTM storage, both through batteries and thermal storage (e.g., water heaters, ice storage). We further agree with Sunrun, APTIM, and RMI that the TPA should focus on next-generation demand flexibility that aligns customer demand with variable renewable energy generation. The National Grid Connected Solutions program, cited by Sunrun, is a good model for a bring-your-own-device (BYOD) program that empowers customers as "prosumers" to support grid management and resilience.
13. **Scope of EE programs.** VEIC agrees with NRDC, RMI, and Sunrun that the Regulation should explicitly allow "non-electric fossil fuel efficiency savings, as well as energy savings resulting from fuel switching opportunities from fossil fuels to electricity... The purpose of fuel switching is sometimes to improve energy efficiency, but more often it is to reduce greenhouse gas emissions by reducing direct fossil fuel use" (NRDC comments). Fossil fuel saving, such as switching customers from propane water heaters to solar or high-efficiency heat pump water heaters, will help achieve Puerto Rico's renewable energy goals and is consistent with the "energy optimization" approach being taken by leading EE programs in Massachusetts, Hawai'i, and Vermont. EE program goals should include metrics, such as GHG reduction, that encourage the TPA to help customers reduce their use of fossil fuels.

Program Start-up

14. **Energy education campaign.** VEIC agrees with ESPUR and Ruth Santiago of Earthjustice (via public hearing comments) that a robust energy conservation education campaign targeting all customer classes will be a critical component of successful rollout of EE and DR services, particularly in the first three years of the program. We further agree that all program educational resources should be provided in Spanish, including a Spanish-language program website. Given that energy efficiency programs are new to Puerto Rico, and there are barriers to overcome with respect to customers' trust in utility and government services, we concur with ESPUR that "the customer must hear in a clear message that this program will save them money on their consumption, that it will improve the reliability of PREPA in the mid to long term and will put in line with meeting our planetary responsibilities of reducing greenhouse gas emissions."
15. **Market data and potential study.** VEIC agrees with the comments of ESPUR and Ruth Santiago of Earthjustice that Puerto Rico-specific market data and stakeholder input will be critical to inform program plans and goals. Puerto Rico is starting EE and DR programs from scratch, and as an island still recovering from a major hurricane, represents a very different operating environment than other jurisdictions. While there are elements we can learn from places like Hawai'i, gathering accurate data on market penetrations and potential for energy-efficient products, equipment, and services will take time and require active outreach to local stakeholders and experts.
16. **Start-up timeline.** We reiterate our recommendation that the program launch timeline be extended to a two-year Start-up Period prior to the start of the Program Implementation Period. Particularly given the need and challenge in obtaining Puerto Rico-specific market data, as noted above, we strongly agree with PREPA that a longer initial planning period is warranted. As PREPA notes: "According to the proposed rules, it appears that the TPA must develop a Three-Year Plan and present a draft of it 210 days before the beginning of the Program Implementation for those three years. It therefore appears that the TPA has less than six months to familiarize itself with the idiosyncrasies of Puerto Rico and the Puerto Rican electrical system and develop a comprehensive DR and EE regime that must then be fully up and running the following year... PREPA is concerned that this timeline is compressed and could result in a rushed implementation of suboptimal programs."

Once again, VEIC appreciates the opportunity to submit reply comments on Puerto Rico's Proposed Regulation on EE and DR. We look forward to engaging further and supporting achievement of Puerto Rico's energy goals.

Kind Regards,



Jim Madej
Chief Executive Officer