

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



IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY RATE REVIEW

CASE NO.: CEPR-AP-2015-0001

SUBJECT: PREPA's Conditional Motion to  
Make an Offsetting Change in Base Rate  
Charges.

**RESOLUTION AND ORDER**

On May 27, 2016, the Puerto Rico Electric Power Authority ("PREPA") filed its initial rate review petition in the instant case. On January 10, 2017, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") approved PREPA's permanent rate and new transparent bill.<sup>1</sup> After multiple procedural developments, PREPA implemented the permanent rate and the transparent bill on May 1, 2019.<sup>2</sup>

On July 3, 2019, PREPA filed before the Energy Bureau a document titled *PREPA's Conditional Motion to Make an Offsetting Change in Base Rate Charges* ("July 3 Motion"). In the July 3 Motion, PREPA informed the Energy Bureau that on May 3, 2019, the Government of Puerto Rico, through the Governor and the Fiscal Agency and Financial Advisory Authority ("AAFAF", for its Spanish acronym), announced the execution of a Definitive Restructuring Support Agreement ("RSA") between PREPA, AAFAF, the Puerto Rico Financial Oversight and Management Board ("FOMB"), members of the *Ad Hoc* Group of PREPA Bondholders, the Undersigned Supporting Holders, and the Supporting Holders.<sup>3</sup>

In the July 3 Motion, PREPA stated that it is a debtor in Case No. 17-BK-4780-LTS before the United States District Court for the District of Puerto Rico ("Court"). PREPA also stated that, pursuant to the provisions of Title III of the Puerto Rico Oversight, Management,

<sup>1</sup> See Final Resolution and Order, In Re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, January 10, 2017; Resolution and Order, In Re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, May 31, 2017; and Final Resolution and Order, In Re: Transparent Bill, §6B(C) of Act 83, as amended, Case No.: CEPR-AP-2016-0002, January 10, 2017. Through the May 31, 2017 Resolution and Order, the Energy Bureau authorized PREPA to implement the approved permanent rate, as submitted by PREPA in its May 24, 2017 Compliance Filing in the instant case.

<sup>2</sup> See Final Resolution and Order, In Re: Puerto Rico Electric Power Authority Rate Review, Case No.: CEPR-AP-2015-0001, April 25, 2019.

<sup>3</sup> See July 3 Motion, p. 1, ¶ 1.

and Economic Stability Act<sup>4</sup> (“PROMESA”) the Court had to approve certain aspects of the RSA.<sup>5</sup>

PREPA alleged that “Section 1.a.c of the RSA contains the following definition: ‘Settlement Charge’ means a charge of 1¢/kWh to be implemented by PREPA and included in its customer bills by July 1, 2019.”<sup>6</sup> As such, PREPA stated that it was seeking to be in a position to implement the Settlement Charge promptly after the Court’s approval of the RSA, if such approval occurs.<sup>7</sup> Based on the foregoing, PREPA requested the Energy Bureau’s advance approval to change the customer bill format after the Court’s approval of the RSA to (i) reduce by \$0.01/kWh the applicable base rate charge billed; and (ii) add a \$0.01/kWh charge on a separate line item, to be identified as “Settlement Charge”.<sup>8</sup>

Upon review of the July 3 Motion, the Energy Bureau **DETERMINES** that PREPA’s request constitutes a petition to modify the existing rates. However, such petition does not comply with the provisions of paragraph (c) of Section 6.25 of Act 57-2014<sup>9</sup> nor with the provisions of Regulation 8720.<sup>10</sup> As such, PREPA has not placed the Energy Bureau in a position to grant the requested remedy. Furthermore, since the July 3 Motion did not include a provisional rate request, the provisions of Section 2.02 of Regulation 8720 and paragraph (g) of Section 6.25 of Act 57-2014 are not applicable to PREPA’s petition.<sup>11</sup>

<sup>4</sup> 48 U.S.C. §§ 2101-2241.

<sup>5</sup> See July 3 Motion, p. 2, ¶¶ 5 - 6.

<sup>6</sup> *Id.*, p. 2, ¶ 4. According to PREPA, (a) the “c” in the section numbering 1.a.c is the roman numeral c, meaning 100 (one hundred); (b) the “c” in the definition means cent, as in one one-hundredth of a United States Dollar; and (c) the “kWh in the definition means kilowatt-hour.

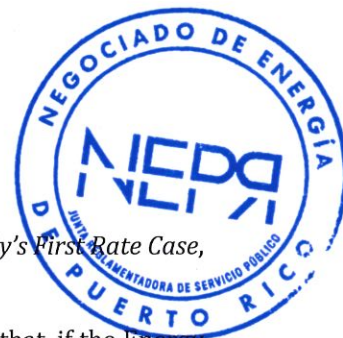
<sup>7</sup> *Id.*, p. 3, ¶ 10.

<sup>8</sup> *Id.*, ¶ 11.

<sup>9</sup> *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>10</sup> See *New Regulation of Rate Filing Requirements for the Puerto Rico Electric Power Authority's First Rate Case*, Regulation 8720, March 28, 2017.

<sup>11</sup> We must point out that, paragraph (g) of Section 6.25 of Act 57-2014 establishes in part that, if the Energy Bureau “fails to act on a rate review request within thirty (30) days after the filing thereof, the modified rate object of the request shall take effect immediately as a temporary rate, unless the Authority requests that a temporary rate should not be established due to the reasons stated in its request.” However, PREPA only requested a transfer of 1 cent/kWh from Base Rates into the proposed “Settlement Charge” line item or rider. This does not constitute a change in the amount PREPA was allowed to charge its customers. Therefore, even if someone could argue that the proposed change entered into effect as a provisional rate thirty (30) days after the day PREPA filed the July 3 Motion, any effect it might have had would have been reverted by today’s decision, pursuant to the reconciliation process described in paragraph (f) of Section 6.25 of Act 57-2014. However, since PREPA never implemented the proposed change as a provisional rate, such discussion is now academic.





For all of the above the Energy Bureau **DENIES** the July 3 Motion.

Any party affected by this determination may move for reconsideration of this Resolution before the Puerto Rico Energy Bureau under Section 11.01 of Regulation 8543, and Act 38-2017. The affected party shall move for reconsideration within the term of twenty (20) days from filing this Resolution. Such request must be presented to the Bureau Clerk's Office, at World Plaza Building, 268 Ave. Muñoz Rivera, Level Ste. 202, San Juan, P.R. 00918, or electronically in the Energy Bureau's digital platform at <https://radicacion.energia.pr.gov/>.

The Energy Bureau shall consider said motion within fifteen (15) days of its filing. Should the Energy Bureau reject it forthright or fail to act upon it within fifteen (15) days, the term to request review shall recommence from notice of such denial, or from the expiration of the fifteen (15)-day term. If a determination is made in its consideration, the term to petition for review shall commence from the date when a copy of the notice of the Energy Bureau's resolution definitively resolving the motion to reconsider is filed in the record. Such resolution shall be issued and filed in the record within ninety (90) days after the motion to reconsider has been filed. If the Energy Bureau accepts the motion to reconsider but takes no action regarding the motion within ninety (90) days of its filing, it shall lose jurisdiction on the motion and the term to file judicial review shall commence upon the expiration of the ninety (90)-day term, unless the Energy Bureau, for just cause and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.

Any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date the copy of the notice of this Resolution was filed in the record of the Energy Bureau. Under Section 11.03 of Regulation 8543, and Act 38-2017 and the Court of Appeals Regulation.

Be it notified and published.

  
\_\_\_\_\_  
Edison Avilés Deliz  
Chairman  
\_\_\_\_\_  
Ángel R. Rivera de la Cruz  
Associate Commissioner  
\_\_\_\_\_  
Lillian Mateo Santos  
Associate Commissioner  
\_\_\_\_\_  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on November 22, 2019. I also certify that on November 25, 2019 a copy of this Resolution and Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@prepa.com, n-ayala@prepa.com, c-aquino@prepa.com, j-morales@prepa.com, hriviera@oipc.pr.gov, maribel.cruz@acueductospr.com, pga@caribe.net, jfeliciano@constructorespr.net, nydinmarie.watlington@cemex.com, epenenergypr@gmail.com, aconer.pr@gmail.com, glenn.rippie@r3law.com, john.ratnaswamy@r3law.com, michael.guerra@r3law.com, pnieves@vnblegal.com, abogados@fuerteslaw.com, jorgehernandez@escopr.net, eandelaria@camarapr.net, agraitfe@agraitlawpr.com, francisco.rullan@aae.pr.gov, mgrpcorp@gmail.com, manuelgabrielfernandez@gmail.com, mmuntanerlaw@gmail.com, licenciadasferrer@gmail.com, kbolanos@diazvaz.law and wilma.lopez@aae.pr.gov. I also certify that today, November 25, 2019, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and I have sent a true and exact copy to the following:

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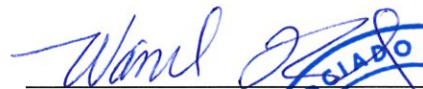
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For the record, I sign this in San Juan, Puerto Rico, today November 25, 2019.

  
Wanda I. Cordero Morales  
Clerk  
