



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: Request for feedback from
stakeholders.

RESOLUTION

On September 4, 2019, the Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") pursuant to the provisions of Act 17-2019¹, Act 57-2014², and Act 38-2017³, issued a Resolution commencing a regulatory proceeding for the adoption of a Regulation for Energy Efficiency and Demand Response.⁴ As part of the process, the Energy Bureau held a public hearing on October 8, 2019⁵ and received several comments from the general public and stakeholders.⁶

Subsequently, the Energy Bureau initiated a proceeding to hold a series of Stakeholder Workshops regarding Energy Efficiency under Case No. NEPR-2019-0019.⁷ The mentioned workshops were interrupted by the Covid-19 pandemic.

Given the importance of demand response programs and their potential benefit to help manage unforeseen generation incidents, the Energy Bureau determined it would be beneficial to split the original proposed regulation into two separate regulations: one to regulate Energy Efficiency and one to regulate Demand Response.⁸ As such, the Energy

¹ Known as the *Puerto Rico Energy Public Policy Act*.

² Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

³ Known as the *Administrative Procedure Act of the Government of Puerto Rico*, as amended.

⁴ See, Resolution, In Re: Regulation For Energy Efficiency and Demand Response, Case No. NEPR-MI-2019-0015, September 4, 2019.

⁵ See, Resolution, In Re: Regulation For Energy Efficiency and Demand Response, Case No. NEPR-MI-2019-0015, November 22, 2019.

⁶ The Energy Bureau deemed appropriate to extend the public commenting period until October 11, 2019 and the reply to commenting until October 21, 2019. See, Resolution and Order, In Re: Public Policy on Energy Efficiency, Case No. NEPR-MI-2019-0019, October 8, 2019.

⁷ See, Resolution and Order, In Re: Public Policy on Energy Efficiency, Case No. NEPR-MI-2019-0019, October 8, 2019.

⁸ The Energy Bureau will undertake the Energy Efficiency rulemaking procedure at a later date, once the mentioned stakeholder workshops have been completed.

Bureau developed a standalone draft for Demand Response ("Preliminary Draft") (See Attachment I to this Resolution).

Before initiating the rulemaking procedure established in Act 38-2018, the Energy Bureau deems appropriate to provide stakeholders and other interested persons with the opportunity to submit comments on the Preliminary Draft. The Energy Bureau's intention is to improve the Preliminary Draft, before the formal rulemaking process commences. As such, the Energy Bureau invites the stakeholders who submitted comments in the instant case, as well as any other person or groups who frequently appear before the Energy Bureau (See Attachment II) to provide their feedback on the Preliminary Draft.

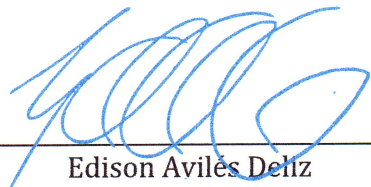
It is important to note, that this request for feedback shall not be interpreted, construed or deemed in any way as a rulemaking process under Act 38-2017. The Energy Bureau will evaluate and take into consideration the feedback it receives prior to publishing the final version of the Preliminary Draft that will be subject to the rulemaking process for a Demand Response regulation under Act 38-2017.

Therefore, the Energy Bureau hereby invites the stakeholders to provide their feedback to the Preliminary Draft **on or before August 2, 2020**.

You may file your feedback with the Energy Bureau as follows:

- a. By email to the following address: comentarios@energia.pr.gov;
- b. Online, using the Energy Bureau's Electronic Filing System, at the following address: <https://radicacion.energia.pr.gov>.
- c. By mail addressed to the Puerto Rico Energy Bureau's Clerk's Office, at World Plaza Building, 268 Muñoz Rivera Ave., Suite 202, San Juan, PR 00918; or

Be it hereby notified and published.



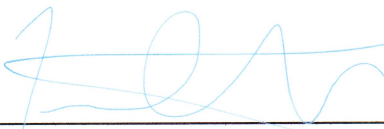
Edison Avilés Deliz
Chairman



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 July 2, 2020. I also certify that on July 2, 2020 a copy of this Resolution was notified by electronic mail to the following: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@aeepr.com, c-aquino@prepa.com, rgold@acee.org, acarbo@edf.org, pjcleanenergy@gmail.com, jmadej@veic.org, nicolas@dexgrid.io, javier.ruajovet@sunrun.com, lmartinez@nrhc.org, thomas.quasius@aptim.com, carlosalberto@espur.net, rtorbert@rmi.org, tjtorres@amscm.com, gmch@4@gmail.com, norywrivera@constructores.net, lionel.orama@upr.edu, mhernandez@cupr.com, nolozeus@gmail.com, aconer.pr@gmail.com, hriviera@oipc.pr.gov, dortiz@elpuente.us, yan.oquendo@ddec.pr.gov, ingridmvila@gmail.com, valvaros@gmail.com, malu.blazquez@reimagina.pr.org, rstgo@gmail.com, agc@agcpr.com, presidente@ciapr.org, cpsmith@unidosporutuado.org, jmenen6666@gmail.com, cpares@maximosolar.com, CESA@cleanegroup.org, aarpp@aarp.org, victorluisgonzalez@yahoo.com, acasepr@gmail.com, secretario@ddec.pr.gov, julia.mignuccisanchez@gmail.com, professoraviles@gmail.com, ramonluisnieves@rlnlegal.com, gmch24@gmail.com, ausubopr88@gmail.com, carlos.rodriguez@valairlines.com, acarbo@edf.org, amaneser2020@gmail.com, acasellas@amgprlaw.com, presidente@camarapr.net, jmarvel@marvelarchitects.com, amassol@gmail.com, jmartin@arcainc.com, and cathykunkel@gmail.com. I also certify that today, July 2, 2020, I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today July 2, 2020.


Wanda I. Cordero Morales
Clerk



ATTACHMENT I



**PRELIMINARY DRAFT – FOR DISCUSSION
PURPOSES ONLY**

GOVERNMENT OF PUERTO RICO
Public Service Regulatory Board
Puerto Rico Energy Bureau

REGULATION FOR DEMAND RESPONSE

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REGULATION FOR DEMAND RESPONSE

ARTICLE 1. GENERAL PROVISIONS

Section 1.01 Title.

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

Section 1.02 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 6.29A of Act 57-2014, as amended by Act 17-2019, requires the Energy Bureau to develop guidelines for demand response programs and requires electric power service companies to submit proposed plans on demand response in accordance with the established guidelines.

Section 1.03 Purpose and Executive Summary.

Demand response has a significant role to play in rebuilding a stronger energy system that is responsive to customers’ needs. The development of demand response programs can help reduce the cost of capacity, energy, and other energy services for all customers while increasing system flexibility and allowing for better integration of renewable resources. Customers participating in demand response programs will benefit through having opportunities to reduce their energy costs by better managing their usage.

Section 1.04 Applicability.

This Regulation shall apply to the following:

- A) PREPA, its successor and the operator of the Transmission and Distribution System;
- B) All Independent Power Producers engaged in Wheeling, as well as Independent Power Producers that intend to engage in Wheeling;
- C) Energy Cooperatives as defined in Regulation No. 9117.¹
- D) All Demand Response Aggregators that offer demand response service to customers and participate in demand response programs offered by PREPA, its successor or the operator of the Transmission and Distribution System, as well as companies that

¹ *Regulation on Energy Cooperatives in Puerto Rico.*

intend to operate as Demand Response Aggregators in Puerto Rico.

Section 1.05 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 1.06 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 1.07 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 1.08 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 1.09 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 or the content of any provision clearly indicates something else:
 - 1) “Annual Demand Response Plan” or “Annual DR Plan” means a plan filed by a DR Program Provider regarding its plans for programs and initiatives in the coming year. The Annual DR Plan includes and identifies any changes from the approved Three-Year DR Plan as applicable.
 - 2) “Annual Report” means a report filed annually by a DR Program Provider that includes information regarding the programs implemented in the immediately preceding year and the impacts of those programs.
 - 3) “Demand Response Aggregator” or “DR Aggregator” means any company authorized to act as an interface party between PREPA and end-use customers to deliver demand response resources to PREPA, its successor or the operator

of the Transmission and Distribution System. DR Aggregators are Electric Power Service Companies.

- 4) “Customer” means any Person who receives Electric Services.
- 5) “Customer Class” means the classification of a customer in accordance with PREPA’s tariff provisions that define applicability and rates.
- 6) “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.
- 7) “Demand Response Program Provider” or “DR Program Provider” means any Electric Power Service Company that offers demand response service to its customers. PREPA, its successor, the operator of the Transmission and Distribution System, and all DR Aggregators are Demand Response Program Providers.
- 8) “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.
- 9) “Distributed Generation” means an electric power generation facility in Puerto Rico connected to the distribution system and producing power for self-supply or sale.
- 10) “Electric Power Grid” means the electric power transmission and distribution system of Puerto Rico.
- 11) “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.
- 12) “Emergency Situation” refers to events such as blackouts for periods longer than 24 hours or prolonged interruptions of electric service caused by an atmospheric phenomenon, as well as any other event that has been declared an emergency situation by the Governor of Puerto Rico, through an Executive Order.
- 13) “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 57-2014

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.

- 14) “Energy Cooperative” means a cooperative organized in accordance with Act 258-2018; with the purpose of satisfying the individual and common needs of electric energy services of its members and/or their communities, through electric power generation, transmission, and distribution, in accordance with Energy Bureau Regulations, including Energy Bureau Regulation No. 9117.
- 15) “Energy Storage” means any resource that is capable of receiving electric energy from the Electric Power Grid or any other generation resource and storing it for later injection of electricity back to the Electric Power Grid or to serve any load.
- 16) “Independent Power Producer” or “IPP” means an Electric Power Generation Company that does not have a Provider of Last Resort obligation.
- 17) “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.
- 18) “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 that can connect and disconnect from the Electric Power Grid to enable it to operate in either grid-connected or off-the-grid (islanded) mode.
- 19) “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.
- 20) “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).
- 21) “Power Purchase Agreement” or “PPA” means any agreement or contract approved by the Energy Bureau, whereby an Electric Power Generation Company is bound to sell electric power, at a just and reasonable rate, to another natural or juridical person, and such other person is, in turn, bound to acquire said power.
- 22) “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.

- 23) “Provider of Last Resort” or “POLR” means the entity maintaining the primary responsibility for providing any of the generation, transmission, distribution, commercialization, and operating functions of the electrical system. The Provider of Last Resort shall be PREPA or its agent or successor.
- 24) “Puerto Rico Benefit Cost Test” or “PR Test” means a cost-effectiveness screening test developed in accordance with this Regulation, reflecting Puerto Rico public policy and used to evaluate whether proposed or actual DR programs or initiatives provide greater benefits than their costs.
- 25) “Three-Year DR Plan” means a plan filed by an Electric Power Service Company, and subject to review and approval by the Energy Bureau, that identifies the proposed DR programs and goals for a three-year period.
- 26) “Utility Cost Test” means a cost-effectiveness screening test used to evaluate whether proposed or actual DR programs or initiatives provide greater benefits than costs to the Puerto Rico electric system.
- 27) “Wheeling” means the transmission of electricity from an Independent Power Producer to a Wheeling Customer through the Electric Power Grid and which does not constitute distributed generation through any net metering mechanism.
- 28) “Wheeling Customer” means an Electric Power Service Company, Microgrid, Energy Cooperative, Municipal Venture, large scale industrial and commercial customer, or community solar and other demand aggregator that enters into a Power Purchase Agreement with an Independent Power Producer.

- 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. DEMAND RESPONSE SERVICES

Section 2.01 Demand Response Roles.

- A) PREPA, its successor or the operator of the Transmission and Distribution System shall develop and offer Demand Response programs.
- B) Customers may participate directly in PREPA's DR programs if the customer's DR resource has a capacity in excess of 50 kW.
- C) Demand Response Aggregators shall aggregate the Demand Response resources provided by one or more customers and enroll the aggregated resource or resources in the DR programs offered by PREPA, its successor or the operator of the Transmission and Distribution System.
- D) Companies that offer DR programs to Customers shall be referred to as "DR Program Providers". PREPA, its successor, the operator of the Transmission and Distribution System and all DR Aggregators are DR Program Providers.
- E) PREPA, its successor or the operator of the Transmission and Distribution System shall pursue all available cost-effective Demand Response resources, including diverse technologies and various services provided, through its own DR programs and rate designs, and through DR Aggregators.
- F) PREPA, its successor or the operator of the Transmission and Distribution System shall dispatch the DR resources that participate in its programs, whether directly or through DR Aggregators, in a manner that supports the least cost operation of the Puerto Rico electric system, when viewed from a total system perspective.
- G) An Independent Power Producer ("IPP") that engages in Wheeling shall either:
 - 1) develop and offer cost-effective, feasible Demand Response programs to its Wheeling Customers, and aggregate these resulting resources to participate in PREPA Demand Response programs (that is, become a DR Aggregator); or

- 2) facilitate the enrollment of its Wheeling Customers in the Demand Response programs offered by PREPA or DR Aggregators.

H) An Energy Cooperative shall either:

- 1) develop and offer cost-effective, feasible Demand Response programs to its customers, and aggregate these resulting resources to participate in PREPA, its successor or the operator of the Transmission and Distribution System Demand Response programs (that is, become a DR Aggregator); or
- 2) facilitate the enrollment of its Customers in the Demand Response programs offered by PREPA, its successor, the operator of the Transmission and Distribution System or DR Aggregators.

Section 2.02 Certification of Demand Response Aggregators.

- A) The Energy Bureau shall be the sole certifying entity for approved Demand Response Aggregators.
- B) Demand Response Aggregators shall be certified by the Energy Bureau under the processes established in Energy Bureau Regulation 8701², or its successor.
 - 1) As part of the operational report submitted to the Energy Bureau pursuant to Regulation 8701, the DR Aggregator shall include a copy of the Annual Report as specified in Section 5.01 of this Regulation.
 - 2) In its Request for Certification under Regulation 8701, a DR Aggregator shall, in addition to meeting the requirements of Regulation 8701:
 - a) describe the type of DR resources it seeks to develop and aggregate;
 - b) identify the DR program or programs offered by PREPA that it intends to utilize on behalf of its customers;
 - c) provide the privacy and data security policy required by Section 6.01 of this Regulation; and
 - d) if the DR Aggregator intends to serve residential or small commercial customers, provide the standard form letter or electronic communication and agreement to be submitted to each customer explaining the terms and conditions of participating in the DR service as required by Section 2.03 of this Regulation.

² *Amendment to Regulation No. 8618 on Certification, Annual Fees, and Operational Plans for Electric Service Companies in Puerto Rico.*

- C) PREPA need not accept DR resources offered by a DR Aggregator if the aggregate resources offered by the DR Aggregator have a capacity of less than 50 kW.
- D) The Energy Bureau shall maintain, and publish on its web site, a list of certified DR Aggregators, including contact information for each DR Aggregator.

Section 2.03 Customer Participation.

- A) Customers served by PREPA may choose to:
 - 1) participate in the DR programs offered by a DR Aggregator;
 - 2) participate directly in PREPA, its successor or the operator of the Transmission and Distribution System's DR programs, if the customer's DR resource has a capacity in excess of 50 kW; or
 - 3) not participate in DR programs.
- B) Each Wheeling Customer may choose to:
 - 1) if its IPP is a DR Aggregator, participate in the DR programs offered by its IPP;
 - 2) select a different DR Aggregator and participate in its programs;
 - 3) participate directly in PREPA, its successor or the operator of the Transmission and Distribution System's DR programs, if the customer's DR resource has a capacity in excess of 50 kW; or
 - 4) not participate in DR programs.
- C) Customers of Energy Cooperatives may choose to:
 - 1) if its Cooperative is a DR Aggregator, participate in the DR programs offered by its Energy Cooperative;
 - 2) if its Cooperative is not a DR Aggregator, select a different DR Aggregator and participate in its programs;
 - 3) participate directly in PREPA, its successor or the operator of the Transmission and Distribution System's DR programs, if the customer's DR resource has a capacity in excess of 50 kW; or
 - 4) not participate in DR programs.
- D) Each service account may participate in the programs of only one DR Program Provider.
 - 1) Each DR Program 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 PREPA, its successor or the operator of the Transmission and Distribution System at least once per quarter to ensure no double participation.

- 2) In the event that PREPA, its successor or the operator of the Transmission and Distribution System identifies that a service account is participating or requesting to participate in programs offered by more than one DR Program Provider, PREPA, its successor or the operator of the Transmission and Distribution System shall inform the DR Program Providers in question and the customer shall be required to select one DR Program Provider.
- E) DR Program Providers 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) PREPA, its successor or the operator of the Transmission and Distribution System shall provide any requested information it is obligated to provide under Section 6.02, in a timely fashion, to an inquiring DR Aggregator to facilitate a customer's enrollment or participation in a DR program. The DR Aggregator shall demonstrate that the customer authorizes this data request by either (i) providing the appropriate form under Section 6.02 with the customer's signature or (ii) demonstrating that the customer is enrolled in the DR Program Provider's DR program(s).
- F) PREPA, its successor or the operator of the Transmission and Distribution System may not disrupt, disturb, or interfere with any customer's relationship with any IPP or DR Aggregator regarding DR services.
- G) Prior to enrolling a customer in DR service, any DR Program 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 Program Provider's DR service during the term of its agreement with its DR Program Provider.
- H) PREPA, its successor, the operator of the Transmission and Distribution System and any DR Aggregators intending to enroll residential and small commercial customers in DR programs are required to meet the following additional requirements.
- 1) PREPA, its successor, the operator of the Transmission and Distribution System and such DR Aggregators must obtain approval from the Energy Bureau for a standard form letter or electronic communication and agreement to be submitted to each customer explaining the terms and conditions of participating in the DR service.
 - 2) PREPA, its successor, the operator of the Transmission and Distribution System and such DR Aggregators must transmit each standard letter or electronic communication to the customer within five (5) business days of the customer's agreement to participate in the DR service. PREPA, its successor,

the operator of the Transmission and Distribution System and such DR Aggregators shall then provide such customer five (5) business days to opt-out of such participation through written response or electronic communication.

- I) In the event that the Energy Bureau terminates or revokes a DR Program Provider's certification or orders the termination of a DR Program Provider's DR services, the DR Program Provider shall notify each affected customer and PREPA, its successor or the operator of the Transmission and Distribution System within five (5) business days.
- J) In the event of a discontinuation of a DR service or program by a DR Program Provider:
 - 1) The DR Program Provider must un-enroll the affected customer(s) from the DR program and inform PREPA, its successor or the operator of the Transmission and Distribution System.
 - 2) The customer shall thereafter be eligible and have the right at any time to enroll in another DR service or program(s) pursuant to this regulation, operated by any DR Program Provider. In the event of the discontinuance of a DR service, the DR Program 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 PREPA, its successor or the operator of the Transmission and Distribution System DR programs, approved DR Aggregators, and any other information the Energy Bureau requires in its Order on the discontinuance.
- K) A DR Program Provider shall not create any unlawful barriers to prevent a customer from leaving its DR programs or service.
- L) DR Program 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.
- M) Customer inquiries concerning a DR Program Provider's charges or services should be directed to the DR Program Provider.
- N) To the extent that a customer takes service from an IPP, Energy Cooperative, or DR Aggregator, PREPA, its successor or the operator of the Transmission and Distribution System shall have no obligations to the customer with respect to the DR services provided by the IPP, Energy Cooperative, or DR Aggregator.

Section 2.04 Dispatching Demand Response Resources.

- A) PREPA, its successor or the operator of the Transmission and Distribution System shall maintain the ability to dispatch DR resources made available by participants in

its programs, including DR Aggregators.

- B) When dispatching DR resources, PREPA, its successor or the operator of the Transmission and Distribution System shall not discriminate among the resources offered by any DR Program Provider (including itself), on any basis other than the cost to ratepayers for the performance (including any temporal or locational value) delivered.
- C) Each DR Aggregator shall make the demand response resources that it has acquired available to PREPA, its successor or the operator of the Transmission and Distribution System for dispatch in accordance with PREPA, its successor or the operator of the Transmission and Distribution System's operating procedures, as approved by the Energy Bureau.
- D) Each DR Program Provider shall verify, or facilitate the verification of, the reliability of each DR resource or aggregated collection of DR resources it enrolls in PREPA's programs in accordance with PREPA's operating procedures.
- E) DR Program Providers shall compensate the customers who provide DR resources based on the resources' performance, dispatch, and availability. Compensation mechanisms are subject to Energy Bureau review and approval.

ARTICLE 3. DEMAND RESPONSE PROGRAMS AND PLANS

Section 3.01 Demand Response Programs.

- A) PREPA, its successor, the operator of the Transmission and Distribution System and DR Aggregators (that is, DR Program Providers) shall develop demand response programs that seek to provide the most cost-effective Demand Response resources over time.
- B) PREPA, its successor or the operator of the Transmission and Distribution System shall develop and offer DR programs that offer standardized, cost-effective compensation in exchange for dispatchable DR. PREPA, its successor or the operator of the Transmission and Distribution System shall submit these programs to the Energy Bureau for approval, rejection, or modification.
 - 1) When considering PREPA, its successor or the operator of the Transmission and Distribution System's proposed programs, the Energy Bureau shall ensure the compensation offered to participating DR resources is based on the value of the DR resources to the Puerto Rico electric system.
- C) PREPA, its successor or the operator of the Transmission and Distribution System, in its operating procedures, and all DR Program Providers, in their 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.

- 1) PREPA, its successor or the operator of the Transmission and Distribution System shall, in the development of standardized DR programs, consider DR programs that dispatch with different frequency and which may be well suited to different technologies, including those which might dispatch daily (and are well suited to Energy Storage), those which dispatch occasionally (a few times per year), and those which dispatch only in Emergency Situations.
- D) PREPA, its successor or the operator of the Transmission and Distribution System shall develop and implement a process whereby an individual customer or a DR Aggregator may propose alternative custom-tailored arrangements to provide PREPA, its successor or the operator of the Transmission and Distribution System with a DR resource that does not fit well in PREPA, its successor or the operator of the Transmission and Distribution System's standardized DR programs.
- 1) Once PREPA, its successor or the operator of the Transmission and Distribution System and the customer or DR Aggregator have come to an agreement regarding the custom-tailored arrangement, PREPA and DR Aggregator shall jointly file the proposed plan with the Energy Bureau for approval, rejection, or modification.
 - 2) In the event that PREPA, its successor or the operator of the Transmission and Distribution System and the customer or DR Aggregator are not able to come to an agreement regarding a custom-tailored arrangement, the customer or DR Aggregator may request the Energy Bureau an appropriate process to resolve the differences between PREPA, its successor or the operator of the Transmission and Distribution System and the customer or DR Aggregator.
 - 3) For the purposes of this Regulation, such custom-tailored arrangements shall be considered to be a part of PREPA, its successor or the operator of the Transmission and Distribution System's DR programs.
- E) DR Aggregators shall aggregate DR resources from one or more customers and enroll the aggregate resource in PREPA's standardized programs or develop a custom program in association with PREPA.
- F) Fossil fueled backup generators may participate only in DR programs that call for dispatch only in power supply or grid contingency situations in which customers would lose electric service without the use of such resources.

Section 3.02 Demand Response Programs During Emergency Situations.

- A) In the event of an Emergency Situation that affects the provision of electric service from PREPA, its successor or the operator of the Transmission and Distribution System, to its customers, PREPA, its successor or the operator of the Transmission and Distribution System, *motu proprio* or pursuant to an Energy Bureau's order, may develop and offer DR programs to individual customers or members of a Customer Class, for the purposes of providing continuous and reliable electric service.

- B) PREPA, its successor or the operator of the Transmission and Distribution System, shall submit such programs to the Energy Bureau for approval, rejection, or modification. The Energy Bureau will review these programs in an expedited manner and issue any Resolution accordingly. However, the Energy Bureau shall ensure the compensation offered to participating DR resources is based on the value of the DR resources to the Puerto Rico electric system during the Emergency Situation.

Section 3.03 Demand Response Plans.

- A) DR Program Providers are required to file Three-Year DR Plans and Annual DR Plans in accordance with this Section.
- B) Each IPP and Energy Cooperative that is not a DR Aggregator must file annually a description of the process the IPP or Energy Cooperative uses to refer customers to DR programs offered by PREPA, its successor or the operator, the Transmission and Distribution System and/or DR Aggregators.
- C) A DR Program Provider may request to the Energy Bureau that some or all of its Three-Year DR Plan or Annual Plan be treated as confidential business information.
- D) The Energy Bureau shall publish the non-confidential version of each Three-Year DR Plan and Annual DR Plan on its website.
- E) Each Three-Year DR Plan filed by a DR Program Provider shall include, but need not be limited to:
 - 1) The Provider's targets 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 to the Puerto Rico energy system;
 - 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.
- F) The Three-Year DR Plan procedural schedule for PREPA, its successor or the operator of the Transmission and Distribution System shall be as follows.
 - 1) The Energy Bureau shall establish the filing deadline for PREPA, its successor or the operator of the Transmission and Distribution System's Three-Year DR Plan by order or resolution.

- 2) PREPA, its successor or the operator of the Transmission and Distribution System shall present its draft Three-Year Plan to an open meeting of interested stakeholders and members of the public no later than ninety (90) days before the filing deadline and make the written document publicly available at that time.
 - a) PREPA, its successor or the operator of the Transmission and Distribution System shall solicit feedback from stakeholders in meetings and via written comments.
 - b) PREPA, its successor or the operator of the Transmission and Distribution System 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;
 - xi. Other public interest organizations; and
 - xii. Certified or potential DR Aggregators.
 - c) PREPA, its successor or the operator of the Transmission and Distribution System shall prepare a summary of feedback received and a discussion of how the feedback has or has not been incorporated into the Three-Year DR Plan, and file this document as part of submission of the Three-Year DR Plan to the Energy Bureau.
- 3) Upon the filing of PREPA, its successor or the operator of the Transmission and Distribution System's Three-Year DR Plan:

- a) The Energy Bureau shall initiate a proceeding to evaluate the filed Three-Year DR Plan, along with its associated budget and performance objectives.
 - b) The Energy Bureau shall solicit comments on the filed Three-Year DR Plan from stakeholders and the public, and specifically invite the participation of stakeholders who provided feedback on the draft Three-Year DR Plan.
 - c) The Energy Bureau need not require formal testimony or an adjudicative 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.
- G) The Three-Year DR Plan procedural schedule for DR Aggregators shall be as follows.
- 1) Each DR Aggregator shall file its first Three-Year DR Plan within ninety (90) days of the company's certification under Regulation 8701.
 - 2) Upon the filing of an DR Aggregator's Three-Year DR Plan:
 - a) The Energy Bureau shall initiate a proceeding to evaluate the filed Three-Year DR Plan.
 - b) The Energy Bureau shall solicit comments on the filed Three-Year DR Plan from stakeholders and the public.
 - c) The Energy Bureau need not require formal testimony or adjudicative process, although it may use such processes at its discretion. The Energy Bureau may, at its discretion, provide an opportunity for interested parties to be heard in a public hearing.
- H) The Energy Bureau shall issue a decision on each filed Three-Year DR Plan. The Energy Bureau shall approve each Three-Year DR 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.
- I) Annual DR Plans.
- 1) In each of the first and second years of implementation of each Three-Year DR Plan, the DR Program Provider shall file an Annual DR Plan with the Energy Bureau on the schedule established by the Energy Bureau in its order or resolution approving the Three-Year DR Plan.
 - 2) The Annual DR Plan shall describe in detail changes that the DR Program Provider Aggregator proposes to make to the Three-Year DR Plan for implementation in the coming year (years two and/or three of the Three-Year

DR Plan).

- 3) PREPA, its successor or the operator of the Transmission and Distribution System shall publish a draft Annual DR Plan for stakeholder feedback no later than ninety (90) days before the filing deadline for the Annual DR Plan, and welcome stakeholder feedback within thirty (30) days to facilitate incorporation of responses to this feedback in PREPA's Annual DR Plan filing to the Energy Bureau.
- 4) In PREPA, its successor or the operator of the Transmission and Distribution System's Annual DR Plan:
 - a) PREPA, its successor or the operator of the Transmission and Distribution System may request changes to its DR programs' performance metrics or targets;
 - b) PREPA may make changes to the program offerings based on data evaluated from a program or other circumstances, with associated changes in the DR budget.
- 5) The Energy Bureau shall consider each filed Annual Plan.
 - a) The Energy Bureau shall solicit stakeholder comments on the filed Annual DR Plan to inform its decision.
 - b) The Energy Bureau may, at its discretion, open a proceeding for the purpose of evaluating any proposed Annual Plan.
- 6) The Energy Bureau shall approve each Annual DR 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. Each approved Three-Year DR Plan, as modified by any past approved Annual Plans, remains in effect until an order approving the Annual DR Plan is issued.

ARTICLE 4. COST EFFECTIVENESS

Section 4.01 Interim Cost Benefit Test

- A) The cost benefit test defined in this Section shall be used until the Energy Bureau establishes the Puerto Rico Test by order or resolution, as described in Section 4.02.
- B) DR Program Providers and the Energy Bureau shall assess the cost-effectiveness of DR programs according to the Utility Cost Test. The Utility Cost Test measures cost-effectiveness from the perspective of the Puerto Rico electric system.
- C) The costs included in this test shall be:
 - 1) Program costs

- 2) Incentive payments to participants
- D) The benefits included in this test shall be:
 - 1) Avoided energy costs
 - 2) Avoided generation capacity costs
 - 3) Avoided transmission and distribution capacity costs
 - 4) Avoided line losses
 - 5) Avoided environmental compliance costs
- E) In its Three-Year DR Plan, PREPA, its successor or the operator of the Transmission and Distribution System shall describe in detail the methodologies used to calculate the costs and benefits of its DR programs, and provide the underlying data.
- F) DR Aggregators may use the methodologies and data provided by PREPA in its most recent approved Three-Year DR Plan to conduct their cost-effectiveness analyses.
 - 1) A DR Aggregator that chooses to present different methodologies or data for the evaluation of costs and benefits shall describe in detail the methodologies used to calculate the costs and benefits of its DR programs, and provide the underlying data.

Section 4.02 Puerto Rico Test

- A) The Puerto Rico Test shall reflect the policy objectives of Puerto Rico with regard to energy, environmental, and societal impacts.
- B) The Energy Bureau shall develop the specific benefits and costs to be included in the Puerto Rico Test, informed by stakeholder input.
- C) The Energy Bureau shall include in the Puerto Rico 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.
- D) The Energy Bureau shall initiate a proceeding to define the Puerto Rico Test within twelve (12) months of the effective date of this Regulation.

ARTICLE 5. REPORTING, MEASUREMENT, EVALUATION, AND VERIFICATION

Section 5.01 Reporting.

- A) On an annual schedule established by the Energy Bureau, each DR Program Provider shall report to the Energy Bureau a description of the DR Program Provider's complete activities, as well as any other such information as the Energy Bureau shall determine by order or resolution.
- B) Each DR Program Provider shall provide quarterly public reports to the Energy Bureau. These reports shall be filed within thirty (30) days of the end of each quarter. In the case of PREPA, its successor, the operator of the Transmission and Distribution System or an IPP that is a DR Aggregator, the reports shall include a description of the Company's progress in implementing the Three-Year and Annual DR Plans. All DR Program Providers shall submit a summary of the DR resources acquired, the DR programs in which they are enrolled, performance of their resources during events when DR has been dispatched, and other such information as the Energy Bureau shall determine and establish by order or resolution.
- C) A DR Program Provider may request to the Energy Bureau that some or all of its annual or quarterly reports be treated as confidential business information.

Section 5.02 Measurement and Verification.

- A) PREPA, its successor or the operator of the Transmission and Distribution System shall adopt, subject to approval by the Energy Bureau, procedures to measure and verify the DR resources provided by all DR Program Providers (including PREPA, its successor or the operator of the Transmission and Distribution System itself). The Energy Bureau shall establish a deadline, by order or resolution, for the adoption of these procedures. PREPA 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 characteristics, or allow the customer's DR Program Provider or the customer providing the DR resource to select the methodology.
- B) PREPA, its successor or the operator of the Transmission and Distribution System's 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, for DR resources that do not include dispatchable electric Energy Storage;
 - 2) How to measure the performance of DR resources that include dispatchable electric Energy Storage; and
 - 3) A process to test the deployment of each DR resource or aggregated set of DR resources provided by a DR Program Provider on a regular basis (such as twice per year). Measured dispatch of the resource by PREPA, its successor or the

operator of the Transmission and Distribution System as part of standard grid operations shall be an allowed mechanism to verify the resource.

- C) Such procedures and baseline calculations shall be determined by PREPA, its successor or the operator of the Transmission and Distribution System and the Energy Bureau to be both reliable and feasible. Reliable procedures and calculations provide trust that reductions procured in the DR program are being delivered accurately. Feasible procedures and calculations are implementable by PREPA, its successor, the operator of the Transmission and Distribution System and DR Program Providers at reasonable cost using available technology that does not significantly disrupt customer operations.

ARTICLE 6. PRIVACY, CUSTOMER DATA, AND COMPLAINTS

Section 6.01 Customer Information.

- A) Each DR Program Provider 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 DR Program Provider's privacy and data security policy is subject to review and approval by the Energy Bureau.
- C) The Energy Bureau may audit each DR Program Provider's procedures and practices to ensure consistency with its privacy and data security policy.
- D) Each DR Program Provider'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 DR Program Provider shall be allowed to share customer information with its DR vendors, verifiers, and evaluators, with data sharing limited to that which is necessary for the effective operation of each vendor's DR program or programs or the verification or evaluation of such programs.
 - 3) The DR Program Provider 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 DR Program Provider 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;
 - c) A written acknowledgement signed by all employees of the affiliates, subsidiaries, or third parties who will have access to the Customer's private or proprietary information that it will not disclose such information to any other person or entity; and
 - d) 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 DR Program Provider to a third party with which the DR Program Provider has a contract where such contract is directly related to conduct of the DR Program Provider'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 DR Program Provider to a party that is not the DR Program Provider and not a party to the contract with the DR Program Provider.
- 6) A DR Program Provider may collect and release retail electric customer information in aggregate form if the aggregated information does not allow any specific customer to be identified.

Section 6.02 Sharing Customer Usage Data.

- A) PREPA, its successor or the operator of the Transmission and Distribution System 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 with a DR Aggregator, IPP, or Energy Cooperative. PREPA, its successor or the operator of the Transmission and Distribution System will

provide confidential customer-specific information and usage data to parties specified by the customer, if those parties have customer authorization using this form.

- B) PREPA, its successor or the operator of the Transmission and Distribution System shall ensure that the Meter data that it provides to IPPs, Energy Cooperatives, and DR Aggregators is accurate. PREPA, its successor or the operator of the Transmission and Distribution System must transfer the data required to evaluate DR event performance within a reasonable period of time (24 hours) following the event.
- 1) PREPA, its successor or the operator of the Transmission and Distribution System shall establish a simple process using the approved standardized form for requests of DR-relevant customer data by DR Program 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 Program Provider).
 - 2) If the customer is enrolled in a DR program provided by the DR Aggregator, PREPA, its successor or the operator of the Transmission and Distribution System shall further provide, upon request, ongoing usage data as required by the DR Aggregator for billing and settlement at a minimum of fifteen (15) minutes interval data, within twenty-four (24) hours from the time PREPA acquires the usage data, or as mutually agreed to by PREPA and DR Aggregator, or as frequently and at the interval ordered by the Energy Bureau.
- C) PREPA, its successor or the operator of the Transmission and Distribution System 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. PREPA, its successor or the operator of the Transmission and Distribution System may charge the customer or DR Program 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, a DR Program Provider may install and use a telemetry solution (e.g., a KYZ pulse device or metering incorporated in an inverter or other control electronics) that has the consent of PREPA, its successor or the operator of the Transmission and Distribution System. The data from the telemetry solution can be used by the DR Program Provider in measuring customer performance and meeting requirements of PREPA, its successor or the operator of the Transmission and Distribution System. The DR Program Provider shall be responsible for the installation cost of the telemetry solution.
 - 2) In the event that a Meter change is required (i.e. the existing Meter is not an appropriate interval Meter), if the customer has the option of a Meter that

would provide the appropriate interval information as part of a PREPA, its successor or the operator of the Transmission and Distribution System deployment of such metering, the customer and DR Program Provider can elect to begin DR services after the Meter installation date.

- D) 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 PREPA, its successor or the operator of the Transmission and Distribution System. PREPA, its successor or the operator of the Transmission and Distribution System shall charge the DR Program Provider for the cost of this equipment. Nothing in this regulation is intended to prevent a DR Program Provider and its customer from agreeing to allocate these costs between them.

Section 6.03 Complaint Procedure

- A) DR Program Providers shall develop and publish a procedure for addressing any complaints a Customer may have with regards to the DR services or compensation provided to the Customer. The procedure shall clearly describe the process through which a Customer may file any complaint or grievance with the DR Program Provider and the process through which the DR Program Provider will address said complaint or grievance, including the time period within which such complaints or grievances will be addressed.
- B) The procedure must include processes for investigation and resolution of complaints by a Customer whose private or proprietary information may have been sold by the DR Program Provider or disclosed by the DR Program Provider for the purposes of marketing services or product offerings in violation of this Article.
- C) Any Customer dissatisfied with a determination made by the DR Program Provider in relation to a complaint or grievance made pursuant to this Section may file a complaint with the Energy Bureau for review of such determination by the DR Program Provider. Such complain shall be filed pursuant to Regulation 8543.

ARTICLE 7. RATE DESIGN

Section 7.01 Rate Designs.

- A) PREPA, its successor or the operator of the Transmission and Distribution System shall develop for the Energy Bureau's approval, rate designs that are consistent with customer implementation of cost-effective DR resources.
- 1) PREPA, its successor or the operator of the Transmission and Distribution System 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) PREPA, its successor or the operator of the Transmission and Distribution System 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.

ARTICLE 8. RESOURCE AND GRID PLANNING

Section 8.01 Responsibilities of PREPA, its successor or the operator of the Transmission and Distribution System.

- A) As part of its responsibilities for planning for and developing a least cost reliable and efficient electric grid, PREPA, its successor or the operator of the Transmission and Distribution System shall include in all planning processes the changes in energy consumption and peak load that result from the activities of PREPA, its successor, the operator of the Transmission and Distribution System and DR Aggregators.
 - 1) In developing the IRP, PREPA, its successor or the operator of the Transmission and Distribution System shall include the projected 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 set of Three-Year Plans, Annual Plans, or other proceeding.
 - a) PREPA, its successor or the operator of the Transmission and Distribution System shall identify whether achievable increases in the projected DR resources, when considered alongside development of other Distributed Energy Resources, could avoid specific infrastructure investments (including generation investments) or other costs to ratepayers.
 - b) PREPA, its successor or the operator of the Transmission and Distribution System shall consider DR resources acquired by DR Aggregators. PREPA, its successor or the operator of the Transmission and Distribution System shall further consider the achievable potential for demand response identified in any relevant studies conducted in Puerto Rico on behalf of PREPA, its successor, the operator of the Transmission and Distribution System or the Energy Bureau.
 - 2) In developing transmission or distribution plans, PREPA, its successor or the operator of the Transmission and Distribution System shall include the potential for development and deployment of DR resources to avoid or defer the need for transmission or distribution investment.
 - a) In the event that PREPA, its successor or the operator of the Transmission and Distribution System identifies opportunities where DR resources may cost-effectively avoid or defer the need to construct

transmission or distribution infrastructure, PREPA, its successor or the operator of the Transmission and Distribution System shall develop a plan of action that maintains reliability at least cost to ratepayers and submit it to the Energy Bureau for approval, rejection, or modification. Such a plan may include the offering of geographically- and/or temporally-targeted DR programs.

- 3) PREPA, its successor or the operator of the Transmission and Distribution System shall request from the IPPs and DR Aggregators, and the IPPs and DR Aggregators 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 9. RECONSIDERATION AND JUDICIAL REVIEW

Section 9.01 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 9.02 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.

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