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to comentarios@energia.pr.gov, Corey, Juliana

In re: Regulation for Energy Efficiency and Demand Response
Case Number: NEPR-MI-2019-0015

August 3, 2020

VIA E-MAIL to comentarios@energia.pr.gov
Attention: Edison Avilés-Deliz, Chairman, Puerto Rico Energy Bureau

Dear Mr. Avilés-Deliz,

National Public Finance Guarantee Corporation ("National") hereby submits these comments regarding the Puerto Rico Energy Bureau's (the "Bureau") preliminary draft Regulation for Demand Response (the "Proposed Regulation"), in response to the Bureau's Request for Feedback from Stakeholders.[1] National is the single largest creditor of the Puerto Rico Electric Power Authority ("PREPA"), and holds or insures a significant amount of the outstanding bonds issued by other Commonwealth entities, and therefore has a significant stake in PREPA's energy efficiency and demand response initiatives.[2]

Background

On September 4, 2019, the Bureau promulgated a Proposed Regulation for Energy Efficiency and Demand Response (the "Prior Proposed Regulation") and requested public comments on that document.[3] The Prior Proposed Regulation covered both energy efficiency and demand response frameworks.[4] During the period from September 4 to October 21, 2019, various parties, including PREPA, submitted comments regarding the Prior Proposed Regulation.[5]

Around the same time, the Bureau attempted to establish a $13 million energy efficiency fund by means of an energy efficiency rate rider, which would have been collected during the period from October 1, 2019 to June 30, 2020.[6] The Bureau undertook this action in compliance with the energy public policy of Puerto Rico.[7] Ruling on a motion for reconsideration filed by PREPA, the Bureau further clarified that this energy efficiency rate rider was necessary and proper, and stated that it should be implemented in the amount of $0.001280/kWh during the

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[1] *See Request for Feedback from Stakeholders*, Case No. NEPR-MI-2019-0015 (July 2, 2020).

[2] Also, as the Bureau noted in Attachment II to the Request for Feedback from Stakeholders, National is an entity that "frequently appear[s] before the Energy Bureau." *Id.* at p.2.

[3] *Notice of Proposed Regulation and Request for Public Comments*, Case No. NEPR-MI-2019-0015 (Sept. 4, 2019).

[4] *See generally id.*

[5] *See* Docket of Case No. NEPR-MI-2019-0015, https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0015.

[6] *See Resolution and Order re: Determination on the Permanent Rates Rider Factors for the Period of Oct.-Dec. 2019*, Case No. NEPR-AP-2018-0003, at pp.7-10 (Sept. 27, 2019).

[7] *Id.* at pp.7-8.

period from November 1, 2019 to June 30, 2020.[8] However, due to certain intervening events, the Bureau later determined *sua sponte* to rescind both of its orders.[9] No further activity occurred on the instant docket until July 2020, over eight months later.

On July 2, 2020, the Bureau promulgated the Proposed Regulation and requested feedback from stakeholders on that document.[10] The Proposed Regulation only covers a demand response framework, and the Bureau stated that it will "undertake the Energy Efficiency rulemaking procedure at a later date."[11] National submits these comments in response.

Comments

The Proposed Regulation contemplates the use of demand response[12] to strengthen Puerto Rico's energy system; increase its flexibility; reduce the costs of capacity, energy, and services for all customers; and better integrate renewable resources. Proposed Regulation § 1.03. National agrees that, if implemented properly and fairly, demand response programs may be beneficial to customers, stakeholders, and the utility. National appreciates the Bureau's efforts to draft a regulation that would serve those ends.

National is concerned, however, that the Proposed Regulation does not appear to address any cost recovery mechanism for the implementation and administration of demand response initiatives by PREPA (or LUMA, as the case may be). Demand response initiatives may present long-term benefits, but they also present costs—particularly on the front end, when initiatives must be researched, evaluated, promoted to customers, and ultimately deployed. Thus, any demand response planning and regulation must consider how such costs will be recovered.

Aside from these front-end costs, a utility's use of demand response may result in reduced revenues due to reduced electricity demand during peak periods, as well as increased costs from offering incentives for customer participation. While these factors might be offset over time by the reduced need to construct and/or run peaking units, they should also be considered in cost recovery mechanisms. It is standard industry practice for utilities to recover

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[8] *See Resolution and Order re: PREPA's Motion for Reconsideration of the Timeline for the Implementation of the Energy Efficiency Rider*, Case No. NEPR-AP-2018-0003 (Sept. 30, 2019).

[9] *See Resolución: Implementación de Factor de Eficiencia Energética*, Case No. NEPR-AP-2018-0003 (October 24, 2019).

[10] *See Request for Feedback from Stakeholders*, Case No. NEPR-MI-2019-0015 (July 2, 2020).

[11] *Id.* at p.1 n.8.

[12] "Demand Response" is defined as "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." Proposed Regulation § 1.09(B)(6).

prudently incurred costs related to demand response initiatives through a charge, *e.g.* a rate rider.[13] Yet, the Proposed Regulation does not appear to set forth how (or if) this will occur.[14]

Based on the Bureau's past experience attempting to establish a $13 million energy efficiency fund by means of a rate rider,[15] it is particularly important to ensure—now rather than later—that demand response initiatives will be properly funded either through electric rates or otherwise by the Government of Puerto Rico. It bears noting that after the Bureau's attempt to fund energy efficiency initiatives failed, no activity occurred on the instant docket for more than eight months, and it now appears that the Bureau will not revisit energy efficiency initiatives until a still later date.[16] The benefits of demand response initiatives will not be realized in the near term, or perhaps ever, if they suffer the same fate.

For these reasons, National believes that the Proposed Regulation should explicitly address cost recovery mechanisms for the implementation and administration of demand response initiatives, consistent with standard industry practice.

Submitted by:

/s/ John Jordan

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[13] According to a report by Advanced Energy Economy, almost every U.S. state has a surcharge to fund demand response programs. *See* Advanced Energy Economy, "Peak Demand Reduction Strategy" at pp.45-47, § 5.4 (Regulatory Policies that Assure Cost Recovery), https://info.aee.net/hubfs/PDF/aee-peak-demand-reduction-strategy.pdf?t=1446657847375.

[14] While Article 7 of the Proposed Regulation briefly references possible "rate designs that are consistent with customer implementation of cost-effective DR resources," this appears to refer to a rate design that would incentivize customers to participate in demand response initiatives, as opposed to a rate rider that would recover costs of the same.

[15] *See supra* at pp.1-2.

[16] *See Request for Feedback from Stakeholders*, Case No. NEPR-MI-2019-0015, at p.1 n.8 (July 2, 2020).