

**COMMONWEALTH OF PUERTO RICO`**  
**Public Service Regulatory Board**  
**Energy Bureau**  
WORLD PLAZA BUILDING  
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IN RE: Review of the Puerto Rico Electric  
Power Authority's Integrated Resource Plan

Case Number: CEPR-AP-2018-0001

Subject: Final Resolution and Order on  
the Puerto Rico Electric Power Authority's  
Integrated Resource Plan.

### **Motion for Partial Reconsideration**

COMES NOW, PV Properties, Inc., Coto Laurel Solar Farm, Inc. and Windmar Renewable Energy, Inc. (collectively, "WindMar"), through the undersigned legal counsel, respectfully state and pray:

1. On August 24, 2020 the Honorable Puerto Rico Energy Bureau ("PREB") issued its Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan ("Final Resolution and Order").
2. As stated by the Final Resolution and Order pursuant to Section 11.01 of Regulation 8543, any party adversely affected by the Final Resolution and Order may file a motion for reconsideration before the PREB.
3. Windmar hereby files this Motion for Partial Reconsideration on the basis that certain determinations made in the Final Resolution and Order in relation to Puerto Rico's future energy generation and the renewable energy industry, if not clarified or restated, increment the uncertainty that surrounds the future of renewable energy on the island and therefore will be detrimental to Windmar and the industry as a whole.

4. In summary, Windmar hereby requests the Honorable Energy Bureau to clarify its position regarding the Renewable Portfolio Standard (“RPS”) of Act 17-2019 compliance vis a vis the costs of renewables, the role of Renewable Energy Certificates (“RECs”) of Act 82 and Act 83 as amended, the renewable energy installation goals for PREPA’s system and to what extent the Final Resolution and Order intends to bind or regulate future renewable energy contracts.

## **Discussion**

Puerto Rico has achieved a robust legal framework for the transformation of its energy needs through rare bipartisan supported laws over the past decade. Act 82 and 83 of 2010, Act 57 of 2014 and Act 17 of 2019 among others transformed our legal statutes completely over a decade by establishing concrete measures such as the RPS, creating the PREB, establishing deadlines for the transferring of PREPA’s operations or assets and even bluntly prohibiting coal plants among multiple other mandates. **The challenge, as occurs with most profound changes, has been its implementation.**

For purposes of this Partial Reconsideration request of the Final Resolution and Order we find no need to review the legal framework in detail as the Honorable PREB and its Commissioners know its details as well as Windmar knows the renewable energy market of Puerto Rico. **Following we will list specific paragraphs and recommendations of the Final Resolution and Order with the intention of convincing the Honorable Commissioners to reconsider and/or reword these matters in such a way that the PREB’s intentions cannot be misquoted or used to limit the integration of renewables on the island.**

- I. The first of the findings of our concern is in ***Paragraph 15 of Section A. Summary of Energy Bureau’s Findings and Orders (1) Determinations by the***

*Energy Bureau relating to PREPA's Proposed Preferred Resource Plan of the Final Resolution and Order states that PREB "... FINDS that increased deployment of solar PV and battery resources should be pursued if the results of procurement processes produce costs that reflect the parameters associated with Scenario S3S2...."*

This paragraph conditions the deployment of solar PV and battery storage to the cost assumptions of PV solar and energy storage of the PROPOSED IRP. It should either be stricken or amended to eliminate the condition of being "*pursued **if** the results of procurement processes produce costs that reflect the parameters associated with Scenario S3S2*". This condition cannot be correct for it excludes the possibility of contracting PV installations if the market price does not meet the cost assumptions of the Proposed IRP. This clearly is not Puerto Rico's Public Policy nor is it rational to declare the RPS should not be met if market price falls short of the Proposed IRP assumption of price.

- II. The PREB then in its **Paragraph 16** of the Final Resolution and Order FINDS "*that a Modified Preferred Resource Plan for the purpose of initial procurement planning includes the solar PV and battery energy storage quantities contained in Scenario S3S2B for the first five years of the Action Plan period.*"

As can be seen the Modified Preferred Resource Plan requires procurement planning for the quantities contained in Scenario S3S2B without any conditioning.

- III. Next, **Paragraph 17** of *Section I Introduction (A) Summary of Energy Bureau's Findings and Orders (1) Determinations by the Energy Bureau relating to*

*PREPA's Proposed Preferred Resource Plan Paragraph of PREB's Final Resolution and Order "FINDS that for the purpose of determining the overall renewable energy resource installation goals for the PREPA system, the modified Preferred Resource Plan included the level of **DG directly modeled** as an input in all of PREPA's resource scenarios. The Energy Bureau FINDS that these quantities in total reflect the overall installation goals for PREPA's system, to be met through a **combination of direct procurement**, described herein through competitive request for proposals (RFP) process, **existing power purchase agreements, and through customers provision** under the different options available to customers to provide their own energy." [emphasis provided]*

Here PREB conditions the amount of DG to be installed to the PREPA system to the level modeled in all of PREPA's Modified Resource Plan. Yet, PREB goes on to find that the renewable energy installation goals - percentages required by Laws to be achieved by given years, the RPS - can be met by a combination of direct procurement of utility-scale PV solar, by existing PPOAs and by customer's DG options. Current PPOAs have a cost for energy and a cost for RECs. **The PREB should clarify and emphasize that the level modeled is not a limitation on the amount of DG that prosumers may deploy.**

To meet the RPS established in Law 82-2010 as amended, a mechanism was created by Law 83- 2010, the Renewable Energy Certificates "RECs". The PREPA system can achieve the renewable energy installation goals by procuring the RECs from utility-scale PV solar systems or from prosumers. **The Proposed IRP fails to acknowledge that Act 82, Act 83 and Act 17 instituted a methodology or mechanism- the cancellation of**

**REC's from utility-scale and from prosumers DG- to ascertain compliance with the percentages of renewables integrated to PREPA's system by specific dates and avoid non-compliance fines.** Consequently, prices for operating PPOAs should continue to reflect the price for energy and the price for RECs and the pricing for any new PPOA whether renegotiated non-operating PPOAs or new procured (RFP) utility-scale PPOAs should have a distinct price for the energy and a distinct price for the RECs. **This should be made explicitly clear in the Final Resolution and Order to ensure compliance with our legal framework.**

IV. *Paragraphs 43 and 44 of the same Section, supra, of the Final Resolution and Order FINDS that the utility-scale battery energy storage costs and the utility-scale solar PV costs “presented in the Proposed IRP for the purpose of planning are reasonable”.*

V. Then, *Paragraph 47 ORDERS “PREPA to use market pricing both to acquire solar PV, and to develop prices for use in its next IRP analysis”.*

Historically PREPA has been reluctant to procure renewable energy through a competitive bidding process that will do away with price uncertainties, it has preferred to rely on assume costs provided by its consultants and planning department. Furthermore, even though the prices for planning purposes were “deemed” by PREB to be reasonable, they are no substitute for market prices. **We insist that this Bureau should find and explicitly state that a reasonable price is not necessarily a market price and that the preferred price option is the market price.**

VI. Later in *Paragraph 60 of Section I. Introduction A. Summary of Energy Bureau's Findings and Orders (2) Determinations relating to PREPA's*

*Proposed IRP Filing (g) Resource plan development documentation and analysis of the Final Resolution and Order ORDERS “PREPA to develop solar PV and battery storage resources at the S3S2B level in accordance with competitive procurement protocols as specified in the Modified Action Plan.”*

Unfortunately, Paragraph 15 cast doubts on the ORDER of paragraph 60. **The conditionality previously discussed of Paragraph 15 should be eliminated.**

VII. Following **Paragraph 61** of PREB’s Final Resolution and Order “*ORDERS that planned competitive procurement action as included in PREPA’s Action Plan must be undertaken to resolve the uncertainties regarding the likely actual costs for solar PV and battery storage resources.*”

The PREB agrees that action “must be undertaken” to “resolve the uncertainties regarding the likely actual costs”. That action is a competitive procurement that will establish the real market costs for solar PV. Unfortunately, that procurement is for utility-scale systems that tied or bundle the energy cost and the “environmental and social attributes”, the REC’s, as one. Furthermore, no procurement for RECs is established thus depriving the prosumers DG system from participating in the Modified Action Plan renewable energy goals. **The Honorable PREB should ORDER that procurement for utility-scale renewable systems include distinct prices for energy and for RECs; and that procurement for prosumers DG RECs should be implemented in accordance with Law 17.**

VIII. **Paragraph 124** of the Final Resolution and Order’s **Section B. Statutory Goals and Requirements (2) Act 83-2010, known as the Puerto Rico Green**

*Energy Incentives Act, as amended* informs that “Act 82, as amended, created Renewable Energy Certificates (RECs) that encompassed all the **environmental and social attributes** of one megawatt-hour (MWh) of electricity and that could be traded **beyond** the borders of Puerto Rico” [emphasis provided]

- IX. Following **Paragraph 125** of the same Section, supra, informs that “Act 83-2010, as amended, (Act 83) was established to among other things achieve the diversification of energy sources; reduce the dependency on fossil fuels; reduce and stabilize energy costs; reduce the flight of capital caused by the import of fossil fuels; and preserve and improve the environment.”

Clearly RECs can also be traded in Puerto Rico as a matter of Law, PREPA is legally required to cancel RECs bought from both operating PPOAs and from prosumers DG up to the annual percentage required by the RPS. PREPA has failed to do so and as it has had no consequence to PREPA it continues and will continue to undermine Puerto Rico’s public policy regarding renewable energy. **The Proposed IRP and its Modified Action Plan should address this issue, its failure to do so is detrimental to achieving the mandate of Act 82 and Act 83. The PREB should add in its “inform” that Act 83 also establishes that utility-scale and prosumers DG of Puerto Rican generators can be traded in Puerto Rico and that Act 82 obligates PREPA to acquire RECs from both sources. Furthermore, PREPA should buy the less expensive available RECs up to the percentage needed to comply with the established RPS for that year.**

- X. In **Paragraph 150** of *Section I. Introduction E. Background and Context of Changes since 2015 IRP 2. Technological and economic change (costs of*

resources) the Final Resolution and Order informs that *“in this IRP PREPA assumes the same 2021 solar PV (of the 2015 IRP) would cost \$64/MWh (Proposed IRP, Exhibit 6-31).<sup>1</sup>”*

In addition to this pricing signal **PREB should inform that the market price established through a competitive procurement process, whether higher or lower than the assumed Proposed IRP PREPA price, is more relevant. Furthermore, it should clarify that this cost is ONLY for energy and that the REC or the “social and environmental attributes” of the renewable energy are not included in the assume cost.**

- XI. The Final Resolution and Order’s **Paragraph 281** of *Section III. ANALYSIS AND FINDINGS BY TOPIC AREA (C) Existing Resource Options Description and Documentation (2) PREPA Filing (b) Existing resources included in IRP* informs that *“for the existing solar PPOA’s, the Proposed IRP assumes a 22% capacity factor based on the low-end of historical capacity factors. The PPOA contract prices for these and other operational or pre-operational PPOAs assumed in the PROSED IRP are shown in Exhibit 4-19 of the Proposed IRP. The contract prices are \$150/MWh for solar \$125/MWh for wind and \$100/MWh for landfill gas. The Proposed IRP assumes that the **contract price includes RECs and does not have escalation clauses.**” [emphasis provided]*

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<sup>1</sup> “The IRP assumes utility scale solar for new builds of renewable resources.” Page 6-19 PROPOSED IRP June 7, 2019. “For the IRP modeling, the levelized cost of energy (LCOE) is calculated as the net present value of the unit-cost of energy over the lifetime of the solar PV asset. The LCOE is then used as a proxy for the average price that the solar PV project could break even over its lifetime. Exhibit 6-30 shows the LCOE of solar PV under Mid case and Low case. Exhibit 6-31 shows the other assumptions used in deriving the LCOE. Exhibit 6-32 shows graphically the cost trend, and Exhibit 6-33 and Exhibit 6-34 show the LCOE calculation for the base case and low case separately.” Page 6-22 PROPOSED IRP, June 7 2019.



This assumption is not correct. In order to comply with Act 82 and Act 83 operating PPOAs have separate prices for energy and for RECs. They also as a matter of fact have escalation clauses as variable cost are impacted by inflation. PREB should inform the price of the RECs and of the escalation clauses. **Furthermore, PREB should clarify these costs given that by claiming that operating PPOAs contract prices include the RECs it is both misleading the public and bundling or tying two separate values.**

XII. In the Final Resolution and Order PREB describes the approved Modified Action Plan. In *Section IV. Action Plan (D) Discussion (4) Supply Resources Paragraph 847* PREB ORDERS “PREPA to issue a series of new RFP’s for provision of renewable energy in support of ACT 82’s RPS goals...” then further states in *Paragraph 855* of its Final Resolution and Order “*FURTHER FINDS in favor of this (installation of renewable energy and battery storage) “no regrets” action and ORDERS that the goal of maximizing the rate of solar PV installations and battery storage in PUERTO RICO be achieved as part of the Modified Action Plan.*”

Actions such as excluding RECs from prosumers to count toward the RPS and issuing RFPs for provisions of renewable energy that bundle the energy price and the REC price don’t maximize the rate of solar PV installations and only serve to reinforce PREPA’s monopolistic control of the grid. Furthermore, PREPA’s blatant failure to achieve the RPS and to purchase the RECs that CAN be traded in Puerto Rico has not resulted in any fines to PREPA. Why this impunity to PREPA? True, any fine leveled to PREPA will be passed on to the consumers, raising the cost of electricity; but Laws need to be obeyed and public policy should not be circumvented. If CHEAP and CLEAN renewable energy

can't be had, should we continue with DIRTY fossil fuel derived energy. The Laws were passed to secure renewable energy, not to have renewable energy only if it is CHEAP. The market should determine what is the cost of compliance with the public policy calling for renewable energy. The PREB should ORDER that the price for renewable energy and the price for RECs should continue to be separate items; that PREPA has to purchase locally available RECs from prosumers DG or pay a fine, and that prices for renewable energy and for RECs should be determined by the market through competitive procurement process and not be assumed or determined by PREPA, FOMB or the PREB.

## **Conclusion**

Windmar has provided a set of recommended clarifications and changes to specific paragraphs of the Final Resolution and Order for the Honorable PREB to reconsider. These recommendations will eliminate uncertainty and support the renewable energy industry. Furthermore, they will enforce the RPS compliance.

Windmar respectfully prays the Honorable Commission to modify these issues within the Final Resolution and Order.

Respectfully submitted in San Juan, Puerto Rico, on September 10, 2020.

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## CERTIFICATE OF SERVICE

We hereby certify to have notified copy of this document to the following people:

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In San Juan, Puerto Rico, on September 10, 2020.