

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



IN RE: THE UNBUNDLING OF THE ASSETS
OF THE PUERTO RICO ELECTRIC POWER
AUTHORITY

CASE NO.: NEPR-AP-2018-0004

SUBJECT: Procedures for the Development
of an Interim Unbundling Rate and Full
Unbundling

RESOLUTION AND ORDER

I. INTRODUCTION

On December 11, 2019, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued Regulation 9138 on Electric Energy Wheeling. Regulation 9138 sets the legal and regulatory framework required to develop a process for electric energy wheeling in Puerto Rico, that will enable eligible entities to exercise choice and control over their electric service, protect non-subscribers from being affected by wheeling, and spur the transformation of the power system in Puerto Rico.

The Energy Bureau adopted Regulation 9138 pursuant to Act 57-2014,¹ Act 17-2019,² and Act 38-2017,³ which provides the Energy Bureau with the authority to implement wheeling. Act 57-2014, as recently affirmed by Act 17-2019, states that the Energy Bureau has the power and duty to "regulate the wheeling mechanism in Puerto Rico in accordance with the applicable laws."⁴ Moreover, the Energy Bureau has the power and duty to "oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico."⁵ The Energy Bureau also has "all those additional, implicit, and incidental powers that are pertinent and necessary to enforce and carry out, perform, and exercise the powers granted by law and to achieve the energy public policy."⁶

Regulation 9138 has the purpose of establishing rules and conditions to implement a process that allows an exempt business described in Section 2(d)(1)(H) of Article 1 of Act

¹ *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

² *The Puerto Rico Energy Public Policy Act*.

³ *The Uniform Administrative Procedure Act of the Government of Puerto Rico* ("LPAU" for its Spanish acronym), as amended.

⁴ Section 6.3(g) of Act 57-2014, as amended.

⁵ Section 6.3(a) of Act 57-2014, as amended.

⁶ Section 6.3 of Act 57-2014, as amended.

No. 73-2008,⁷ or similar provisions in other incentive laws, as well as electric power service companies, microgrids, energy cooperatives, municipal ventures, large scale industrial and commercial consumers and community solar and other demand aggregators, to purchase electric power from other entities through wheeling services. Regulation 9138 is also designed to ensure that wheeling does not affect in any way whatsoever nonsubscribers of wheeling services.

On December 28, 2018, the Energy Bureau issued an Order commencing this proceeding with the initial purpose of obtaining the information that would be necessary for the unbundling of rates. The Energy Bureau noted the importance of this proceeding and the need to develop an updated cost of service study (COSS).

On September 4, 2020, the Energy Bureau issued an Order in which it requested comments on the draft Cost of Service Study and included data requests to PREPA. Comments were received by multiple parties, and they are under review.

II. PROCEDURE FOR UNBUNDLING OF RATES

A. Overview of Process

The Energy Bureau has determined that it is in the public interest to bifurcate this case into two proceedings. The first proceeding will be the establishment of an interim wheeling rate so that the wheeling process may begin for wheeling customers⁸ who are eager to finalize Purchase Power Agreements for the development of sources of generation to serve their load. The second proceeding will be a more comprehensive proceeding that will address the full unbundling of PREPA's rates by function and customer class as well as stranded costs and transition charges.

B. Legal Authority of the Energy Bureau

Section 1.7 of Act 17-2019 states, "... the Bureau shall prescribe the rules that shall apply to the wheeling of such power through the Electrical System, and the rates applicable to consumers and independent power producers for such services." In accordance with this mandate, the Energy Bureau created Regulation 9138. Section 7.02 of Regulation 9138 states:

The Energy Bureau will establish through Order the procedure to determine the Wheeling Rates, in accordance with applicable Regulations. Such procedure will require the unbundling of the costs associated with the generation, transmission and distribution functions of the PREPA system. In establishing the Wheeling Rates procedure, the Energy Bureau

⁷ *Economic Incentives Act for the Development of Puerto Rico*, as amended.

⁸ See Regulation 9128, Section 1.8(B)(30) for the definition of "wheeling customer."



shall ensure that the costs associated with wheeling do not affect in any way whatsoever nonsubscribers of wheeling services.

Specifically, as noted in Section 1.02 of Regulation 9138, the Energy Bureau "has the authority to implement wheeling." Act 57-2014, as recently affirmed by Act 17-2019, states that the Energy Bureau has the power and duty to "regulate the wheeling mechanism in Puerto Rico in accordance with applicable law".⁹ Moreover, the Energy Bureau has the power and duty to "oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico." The Energy Bureau also has "all those additional, implicit, and incidental powers that are pertinent and necessary to enforce and carry out, perform, and exercise the powers granted by law and to achieve the energy public policy".¹⁰

C. Interim Unbundling Proceeding

In order to facilitate a more rapid transition to wheeling, the Energy Bureau will bifurcate this proceeding to include an Interim Unbundled Rate for Wheeling ("Interim Unbundled Rate"). Attached as Appendix A to this Resolution and Order is the Interim Unbundled Rate proposed by the Energy Bureau. Comments from PREPA and other interested stakeholders regarding the proposed Interim Unbundled Rate shall be due on **October 30, 2020** and reply comments shall be due on **November 13, 2020**.

The Energy Bureau **ORDERS** PREPA to attend a virtual Technical Conference with on October 22, 2020, at 1:00 p.m., with the purpose of discussing PREPA's fuel and purchased power costs as well as any potential credit for the wheeling customer for avoided generation capacity. Further, PREPA shall provide information and recommendations for a charge to cover its costs associated with the implementation of wheeling. All PREPA personnel with knowledge regarding the aforementioned matters is required to attend the virtual Technical Conference.

Additionally, in order to implement wheeling and allow the seamless transmission of power from any Electric Power Service Company ("EPSC") to the wheeling customer using PREPA's transmission and distribution network, there are a number of technical and operational issues that need to be resolved. Attached as Appendix B to this Resolution and Order is a list of issues governing the interactions between PREPA and the EPSC. The Energy Bureau invites stakeholders to comment on these proposed issues along with the information needed to determine the operating procedures that will govern these wheeling transactions. Comments to the issues listed in Appendix B shall be due on **October 30, 2020**. The Energy Bureau will hold a virtual Technical Conference on November 4, 2020, at 9:30 a.m., with the purpose of discussing the operational and technical issues that need to be resolved in order to implement wheeling. The Energy Bureau will issue a subsequent order

⁹ Section 6.3(g) of Act 57-2014, as amended by Section 5.10 of Act 17-2019.

¹⁰ Section 6.2 of Act 57-2014, as amended by Section 5.10 of Act 17-2019.



with a list of issues to be discussed during the Technical Conference, after it has reviewed the comments received from PREPA and stakeholders.

Furthermore, Appendix C to this Resolution and Order provides a list of questions for the commenters to answer in addition to providing comments on the proposed rate.

D. Proposed Interim Unbundled Rate

The formula for the Interim Unbundled Rate rate for wheeling is attached as Appendix A. The proposed charge that a wheeling customer would pay PREPA would be the full retail rate minus the fuel and purchased power costs. The customer would also be eligible for a credit if it can demonstrate that it will result in PREPA avoiding capacity for a period of not less than five years. Finally, the proposed Interim Unbundled rate for wheeling shall include a component to recover PREPA's administrative costs in facilitating wheeling.

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JH
ABN
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This interim rate is designed to balance the legislative requirement that nonwheeling customers not subsidize wheeling customers while also providing an opportunity for savings for wheeling customers during the interim period. In developing this rate, the Energy Bureau has acted conservatively to only discount those costs (such as purchased power and fuel) that it is uncontroverted that a wheeling customer would avoid.

E. The Unbundling Proceeding

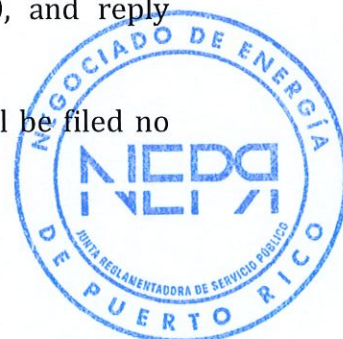
The full unbundling proceeding shall continue in parallel with the interim unbundled rate proceeding. As noted above, the Energy Bureau is in the process of reviewing the comments and the reply comments filed by stakeholders on the Cost of Service Study. Once that review is completed, the Energy Bureau will issue an Order setting forth the next steps which will include updating the COSS to the extent possible based on the data available, a filing by PREPA to unbundle rates, a procedure for intervention and discovery to be followed by an evidentiary hearing. The order will also set forth dates for at least one technical conference for PREPA to answer questions regarding its unbundling filing.

The unbundling rate established in this unbundling proceeding shall replace the interim rate.

III. CONCLUSION

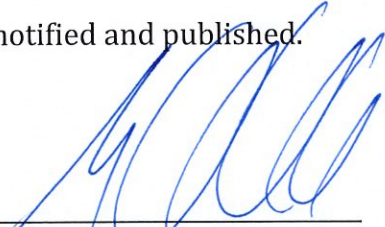
Based on the above, the Energy Bureau **ORDERS** the following:

1. PREPA and interested stakeholders shall file comments on the proposed Interim Unbundled Rate no later than October 30, 2020, and reply comments no later than November 13, 2020.
2. Comments to Appendix B to this Resolution and Order shall be filed no later than October 30, 2020.




3. PREPA shall respond to the data requests set forth in Appendix C to this Resolution and Order, no later than October 30, 2020. Interested stakeholders shall answer the questions presented in Appendix C by the same date.

Be it notified and published.



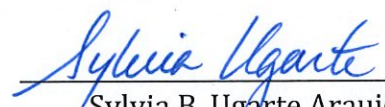
Edison Aviles Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner




Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on October 14, 2020. Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. I also certify that on October 14, 2020 a copy of this Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@aeopr.com, c-aquino@prepa.com, kbolanos@diazvaz.law and jmarrero@diazvaz.law. I also certify that today, October 14, 2020, I have proceeded with the filing of the Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today October 14, 2020.



Wanda I. Cordero Morales
Clerk





APPENDIX A – PROPOSED INTERIM UNBUNDLED RATE

Preamble

This rider is intended to create a fair rate for delivery and other relevant services provided by PREPA for customers that elect to choose an alternative source of supply for their energy supply, where that energy is delivered by PREPA. The Rider is designed to avoid any increase in costs to the full-service customers who do not opt or are not eligible for wheeling service, while providing a substantial opportunity for low-cost Suppliers to reduce the bills of wheeling customers, to provide greener power to those customers, or both.

Eligibility

This Rider is available to any customer (1) with interval metering (or) who can demonstrate its load shape to PREPA's satisfaction.

Each wheeling customer must designate a Supplier, who will be responsible for delivering to PREPA sufficient energy to cover the customer's annual consumption and estimated losses.

Wheeling Credit

The wheeling energy credit shall equal the sum of the Fuel Cost Adjustment (FCA) and the Purchased Power Cost Adjustment (PPCA) applicable to the billing month. As a result, the wheeling customer will not be charged for these adjustments.

[In addition, any customer contracting for wheeling service for more than 60 months will receive a wheeling capacity credit of \$___ per kWh in the hours of ___ to ___, to reflect PREPA's near-term avoided generation capital and O&M costs.]

Balancing charges and credits

For each hour [or other interval], PREPA shall determine the difference between the energy provided by the Supplier, and the sum of the customer's load and estimated losses.

In hours with a negative load differential (load plus losses exceeds supplier generation), the balancing charge shall be the estimated variable cost per kilowatt-hour of the most expensive power plant operating at that hour. In hours with a positive load differential (load plus losses is less than supplier generation), the balancing credit shall be [95% of] the estimated variable cost per kilowatt-hour of the most expensive power plant operating at that hour.

PREPA shall bill or credit the Supplier for the cumulative billing charge at the end of each billing month, or such other timing as agreed by PREPA and the Supplier.

Imbalance charge

At the end of each fiscal year [or such other annual period as PREPA may specify for each Supplier], PREPA shall determine the Supplier's cumulative load differential (CLD) for the year. If that load differential (positive or negative) exceeds [10%] of the cumulative annual

load (sum of energy use and allocated losses) of the Supplier's customers [or of the Supplier's generation] for the year, PREPA shall bill and the Supplier shall pay an imbalance charge (IBC) at for the absolute value of the load differential minus [10%] equal to [10%] of the average FCA and the PPCA per kWh for the customer's class over the year.

If $|CLD| > 0.1 \times (\text{annual load})$, $IBC = 0.1 \times (FCA + PPCA) \times (|CLD| - 0.1 \times (\text{annual load}))$

If $|CLD| \leq 0.1 \times (\text{annual load})$, $IBC = 0$.

Administrative Charge

Each Supplier shall pay PREPA [] per month to maintain and bill its account, plus [\$_] per month for each wheeling customer served by the Supplier.

Supplier Credit Requirements

The Supplier shall post a credit equal to [] month(s) of its customers' estimated Fuel Cost Adjustment and the Purchased Power Adjustment bills, to compensate PREPA for any costs incurred and not recovered from the wheeling customers, related to the failure of the supplier to provide at least 80% of its customers' energy and loss requirements over a period of [three] consecutive billing months. PREPA shall request approval of the PREB before drawing on the posted credit.

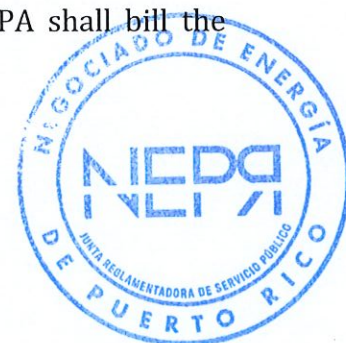
Such credit may be in the form of a letter of credit from a bank or other financial institution, a corporate guarantee, or such other credit as PREPA finds acceptable.

Billing

Unless other arrangements are made, PREPA will bill the wheeling customer for all normal retail charges (net of the FCA and PPCA) on the normal schedule and report the meter readings to the Supplier, to allow billing of the customer by the Supplier. By mutual agreement, PREPA may include the Supplier charge on the customer's bill and remit to the Supplier payment as received from the customer. In the latter case, PREPA and the Supplier shall agree on the payment by Supplier to compensate PREPA for additional labor and other costs.

PREPA shall bill or credit the Supplier as soon after the end of the billing month as administratively feasible. Credits shall be applied to any outstanding balance and any surplus banked to offset future charges. PREPA shall remit to Supplier any net credit when it ceases to serve wheeling customers[, redeploys part of its capacity to serve a contract with PREPA,] or when the balance exceeds [_]. The Supplier shall pay PREPA for any outstanding charges [net of applied credits] within [30] days of billing.

In the event of Supplier default on outstanding balancing charges, PREPA shall bill the Supplier's customers for the outstanding balancing charges.



APPENDIX B – OPERATIONAL ISSUES

1. Should PREPA develop a uniform service agreement form that will be used with each EPSC that provides wheeling services?
2. Who should be responsible for metering and billing, PREPA (or LUMA as operator) or the Electric Power Service Provider?
 - a. Should the EPSC provide separate metering and billing for the generation services they provide?
 - b. If PREPA provides metering and billing services, would PREPA provide consumption use to the EPSC who in turn would provide the generation costs to be included in the bill?
 - c. How should partial payments by a wheeling customer be allocated between PREPA and the EPSC if PREPA does the metering and billing?
 - d. What are the costs associated with PREPA providing these services and how should they be compensated?
 - e. Does the cost vary based on whether the wheeling customers are a few large customers or if those customers have a large number of subaccounts.
3. To address the potential situation in which an EPSC defaults, how should payment guarantees be structured?
 - a. What instruments of security should be acceptable? Surety bonds, letters of credit, others?
 - b. Is there a threshold of creditworthiness in which such instruments would not be required?
 - c. How should the amount of the security be determined?
4. For an EPSC who cannot guarantee full service 24/7 to its wheeling customer, what should the standby rate be and what terms and conditions are required.
5. In the event of complete default by an nonwheeling customer's EPSC, if the nonwheeling customer or the defaulting EPSC cannot find an alternative vendor, should the nonwheeling customer return to PREPA under the same rate schedule on which it was previously served?
6. How will the balancing function operate to either credit or debit the EPSC for providing more or less energy than needed to serve its customers?
7. Are there other issues not on this list that should be included for discussion in the technical conference on operational issues?



APPENDIX C – REQUIREMENTS FOR INFORMATION FOR THE INTERIM RATE

A. Question for PREPA:

1. What are the costs to PREPA to provide billing services to EPSC? Please provide a detailed breakdown as to how PREPA arrived at the costs.

B. Questions for all Commenters:

2. How should wheeling work for customers without interval meters? Should average class profiles be used?
3. Please comment on the appropriate supplier credit requirements.
4. Please comment on the triggering event that constitutes a default. When should the supplier be considered to be in default?
5. Is the sum of the FCA and PPCA a reasonable approximation of the variable fuel, O&M, and purchased-power cost avoided over the course of the month by a wheeling customer whose supply exactly matches load on an hourly basis?
6. Should the wheeling energy credit instead be computed by scaling up the FCA to represent 100% displacement of fossil fuel in PREPA plants?
7. Would some other metric, such as the average cost per kWh of heavy fuel oil burned in the steam plants, or the average cost of oil across all PREPA plants, be more appropriate?
8. Is it possible to confidently estimate any avoidable capacity-related cost, representing the saving from retiring obsolete units early, reducing maintenance and capital expenditures on existing units, or avoiding fossil-fueled replacements for retiring units?
9. If so, what are those costs?
10. Which hours should be used in determining the reduction in contribution to capacity-related generation costs?
11. How much should PREPA charge for administration of the wheeling rate, per Supplier and per wheeling customer?
12. Should the balancing interval be hourly or some other period?
13. Should the balancing credit for excess generation be less than the balancing charge?
14. If so, why and by how much?
15. Which loss factor should be applied to gross up customer load for comparison with generation supply?
16. Should that be the loss factor applied by voltage level in setting the FCA and PPCA?



17. Is an imbalance charge appropriate, in addition to the balancing charges, if the Supplier provides much less energy than its customers use over an extended period? If so:
18. How long a period should be used for this computation (a quarter, a year, or some other period)?
19. How large a shortfall should trigger the charge?
20. How should the charge be computed?
21. Is an imbalance charge appropriate, in addition to the balancing charges, if the Supplier provides much more energy than its customers use over an extended period?
22. Are full-service customers disadvantaged if the Supplier effectively sells energy to PREPA at or near the sum of the FCA and the PPCA?
23. If an imbalance charge for over-delivery is appropriate, should it be structured in the same manner as the imbalance charge for under-delivery? If not, why?
24. Is it appropriate for Suppliers to bill customers directly for their service, or should the default be that PREPA does all billing?
25. Should the Energy Bureau set fees for PREPA billing of Supplier charges?
26. In the event of a Supplier's default on outstanding balancing charges, is it appropriate to collect the shortfall from the Supplier's customers?
27. If so, how should the shortfall be allocated among the customers?