

**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 Unbundling Rate

RESOLUTION AND ORDER

I. INTRODUCTION

On December 11, 2019, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued Regulation 9138¹ on Electric Energy Wheeling, which sets the legal and regulatory framework and process for electric energy wheeling in Puerto Rico. This will enable eligible entities such as Electric Power Service Companies ("EPSC"), Microgrids, Energy Cooperatives, Municipal Ventures, large scale industrial and commercial consumers, community solar and demand aggregators to exercise choice and control over their electric service, protect non-subscribers from being adversely impacted by wheeling, and spur the transformation of the power system in Puerto Rico.

On October 14, 2020, the Energy Bureau issued a Resolution and Order ("October 14 Resolution") in this proceeding that contained three Appendices:

- Appendix A set forth a proposed interim unbundled rate for wheeling that consisted generally of the current rate minus fuel and purchase power costs.
- Appendix B contained a list of questions regarding the operational issues that would need to be addressed to enable wheeling.
- Appendix C covered data requests with respect to elements of the Puerto Rico Electric Power Authority's ("PREPA") rates and costs.

The October 14 Resolution also set forth a schedule for two virtual technical conferences. The first, took place on October 22, 2020, and was for the purpose of discussing PREPA's fuel and purchased power costs; any potential credit for the wheeling customer for avoided generation capacity; and PREPA's recommendations for a charge to cover its costs associated with the implementation of wheeling. The second technical conference took place on November 4, 2020 and addressed the operational and technical issues that need to be resolved in order to implement wheeling.

¹ Regulation on Electric Energy Wheeling, December 11, 2019.



II. RESPONSE TO COMMENTS

On October 30, 2020, the Energy Bureau received comments from PREPA and the National Public Finance Guarantee Corporation ("NPFGC"). The Energy Bureau received reply comments from those same parties on November 13, 2020. The Energy Bureau appreciates PREPA and NPFGC's participation, and, in particular, the close attention to the issues pointed out by NPFGC. The Energy Bureau understands the importance of maintaining PREPA's creditworthiness during a complex regulatory transition in the coming years and has no intention of allowing a default by PREPA or any other event that would significantly impact NPFGC's interests.

A First, the Energy Bureau agrees with the need for additional process, with appropriate participation by all parties. The process, which includes an evidentiary hearing, is described below in Section III of this Order.

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Second, the Energy Bureau has determined that there does not need to be a distinction between an "interim" unbundled rate for wheeling customers and a "full" unbundled rate. The issues raised in the Resource Insight Report on Cost Allocation Methods and Unbundling Issues ("Unbundling Report")² cover a wide range of potential reforms, many of which may be desirable in their own right but not strictly necessary for unbundling. However, the Energy Bureau determines that these reforms can be implemented over time, and that does not prevent the approval of an unbundled rate for wheeling in the shorter term, so long as the unbundled rate meets the relevant legal requirements.

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Third, Act 17-2019³ notes the urgency in transforming PREPA's electric system and catalogs a list of issues that must be addressed. Among them is the establishment of wheeling rates that are just and reasonable and consistent with the public interest.⁴

Fourth, it is important to recognize that current rate structures, including the fuel cost adjustment ("FCA") and purchased-power cost adjustment ("PPCA") are based on average costs. However, the fair and efficient compensation to a wheeling customer using non-PREPA generation, as well as the impacts on non-participating customers, are determined by the marginal costs imposed or avoided. The cost avoided by a customer replacing PREPA supply with third-party generation would normally be higher than the FCA, since the FCA represents the cost of serving only a fraction of the load (with the rest served by purchased power), and since a reduction in PREPA's load should allow it to turn down the most expensive plants operating in each hour, not just the average mix of plants.

² Order, Report on Cost Allocation Methods and Unbundling; Requirements for Information and Production of Documents, Case No. NEPR-AP-2018-0004, September 4, 2020.

³ Act 17-2019, known as *The Puerto Rico Energy Policy Act*.

⁴ Act 17-2019, §1.5(2)(f), §5.10 amending §6.3(f) of Act 57-2014, as amended, known as *The Puerto Rico Energy Transformation and RELIEF Act*.



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From a review of the historical value of the FCA and PPCA and the marginal fuel and variable operation and maintenance ("O&M") costs of the fossil plants most likely to be marginal, it appears that the sum of the FCA and PPCA is a reasonable administrative proxy for marginal costs that are variable in the short run. The fact that the PPCA includes purchased capacity is not necessarily germane to that analysis, so long as a fair analysis shows that the sum of FCA and PPCA reasonably follow PREPA's short-term marginal costs, and do not overstate PREPA's savings or burden non-wheeling customers.

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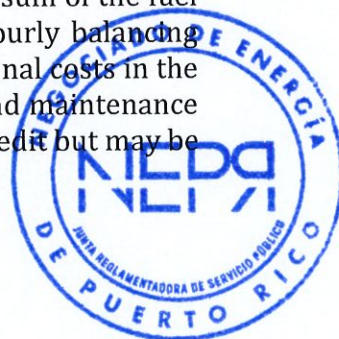
Finally, while we appreciate concerns about the need for up-to-date utility data, we must continue to exercise the Energy Bureau's regulatory responsibilities with the data and information that we have available today. The Energy Bureau will consider steps to require PREPA, LUMA Energy, LLC ("LUMA"), and other entities to collect, track, disclose and utilize all of the data that a modern utility should collect, track, disclose and utilize. However, those processes will take time. Current rates are built on the data that is available now and there is no evidence thus far to demonstrate that using that data now for the purpose of unbundling rates and establishing a wheeling rate will adversely impact PREPA or its wheeling and non-wheeling customers. For the purposes of setting a wheeling rate that does not increase costs to non-wheeling customers, the unbundling of costs among distribution, transmission and stranded generation costs is not critical, so long as the avoidable costs are reasonably estimated. Nevertheless, this is an issue that can be explored in the evidentiary proceeding discussed below.

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III. PROCEDURE FOR UNBUNDLING OF RATES

The Energy Bureau has determined that it is in the public interest to proceed to the unbundling of PREPA's rates as expeditiously as possible so that eligible wheeling customers can purchase their power from a certified EPSC or other eligible independent power producers. Therefore, the Energy Bureau is ordering PREPA to file, no later than February 1, 2021, one or more proposals for an unbundled rate for wheeling, along with a uniform wheeling service agreement between PREPA and the independent power producer and any other pertinent policy details. Each proposal must include the rate that wheeling customers should continue to pay PREPA for transmission, distribution, billing, and any other relevant costs, such as stranded costs. The rate should also include the credit that the PREPA customer who engages in wheeling will have deducted from their otherwise applicable rate.

Although PREPA may choose to file more than one proposal, PREPA must file a proposal based upon the tariff structure discussed in this docket to date, originally set forth by the Energy Bureau in Appendix A of the October 14 Resolution as modified and described further below, henceforth the "default unbundling tariff and structure". Based on preliminary analysis, the Energy Bureau believes that avoided short-run generation costs from new independent power producers is conservatively estimated by the sum of the fuel cost adjustment and purchased-power cost adjustment, as adjusted for hourly balancing between load and supply. Independent power producers likely avoid additional costs in the longer term, including costs related to capital investments and operation and maintenance costs for generation capacity, which could be fairly included in a wheeling credit but may be



more difficult to estimate. However, these estimates can and should be examined in a thorough manner.

The Energy Bureau intends to determine the appropriate rates for unbundling through an evidentiary proceeding. That proceeding will explore at a minimum the following issues:

- The unbundled rate proposal or proposals filed by PREPA, including the default unbundled tariff and structure;
- Whether a capacity credit is appropriate and the level at which it should be set;
- Whether the unbundled rate is fair and reasonable for all customers and avoids subsidies of wheeling customers by non-wheeling customers;
- The uniform wheeling services agreement for PREPA's services to EPSC who wish to participate in wheeling;
- The charges by PREPA to the EPSC for wheeling services rendered;
- Non-discriminatory access and fair and reasonable interconnection protocols for EPSCs;
- Any proposals offered in testimony by the intervenors;
- Compliance with Act 57-2014, Act 17-2019, and Regulation 9138; and
- Any other issues that the Energy Bureau determines should be addressed in the proceeding.

The discovery process shall begin with the filing of PREPA's proposals and supporting documents on February 1, 2021 and intervenors shall be granted sixty days to conduct discovery. A technical conference to discuss PREPA's filing shall be scheduled for February 9, 2021 and shall be open to all intervenors. The Energy Bureau will issue an Order close to the date of February 9, setting forth the details for the technical hearing. Once the Energy Bureau determines that the filing is complete, it will establish the rest of the procedural calendar, including due dates for pre-filed testimony and the evidentiary hearing date.

Any interested party may file a petition to intervene in this proceeding on or before Monday, January 25, 2021 at 5:30 p.m. All petitions to intervene must be filed in accordance with the requirements of Regulation 8543⁵.

IV. PREPA FILING REQUIREMENTS FOR FEBRUARY 1, 2021




The Energy Bureau **ORDERS** PREPA to file the following proposed studies and proposals **on or before February 1, 2021**:


- A. A fully unbundled cost of service study based upon the general techniques used in the Unbundling Report, with updated data as feasible and an explanation of any

⁵ Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings, December 18, 2014.




different methodologies used. This study shall allocate revenues among classes, and within each class, allocate revenues among at least the following three categories:

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1. All non-generation costs, not subject to competition from wheeling;
 2. Generation costs avoidable by wheeling-related reduction in PREPA generation requirements;
 3. All other generation costs that will be stranded by reduction in sales;
- B. A proposed unbundled tariff and structure consistent with the default unbundling tariff and structure, as originally set forth in Appendix A of the Energy Bureau's October 14 Resolution and further modified below; and
- C. Any other proposed unbundling tariffs and structures, containing unbundled rates based on the cost of service study.



With respect to item A, if PREPA cannot provide the fully unbundled cost of service study by February 1, the Energy Bureau **ORDERS** PREPA to explain why it is unable to do so, given the ample notice that the Energy Bureau has provided to PREPA of the necessity of providing a fully unbundled cost of service study. Further, if PREPA is unable to provide this study by February 1, then PREPA shall provide the Energy Bureau with a list of the analyses and data collection tasks necessary to complete the study, and a proposed schedule for completion of those tasks and the study.

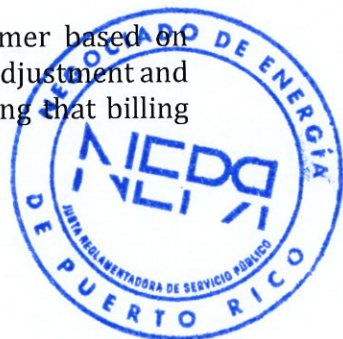


With respect to item C above, PREPA may file one or more additional proposals. While these proposals need not conform to the structure for the default unbundled tariff and structure, all proposals, including subsequent ones from intervening parties, shall be evaluated on the ratemaking principles of simplicity, feasibility, equitable allocation of costs, and efficient pricing.

Finally, with respect to item B, the Energy Bureau does believe, based upon the initial investigation, including comments and the two technical sessions, that the basic outline and structure of the proposal outlined in Appendix A of the October 14 Resolution is reasonable. The Energy Bureau believes that based on the conservative nature of that proposal, it is likely that the unbundled credit for customers engaged in wheeling will be no less than the sum of the FCA and the PPCA. However, based on those comments, the technical sessions, and further consideration of the relevant issues, the following modifications and clarifications are warranted for the default unbundled tariff and structure:

A. Metering, billing, and rates for wheeling customers

1. PREPA will continue to meter and bill each wheeling customer based on current rate classes, with a credit set at the sum of the fuel cost adjustment and the purchased power cost adjustment for that customer during that billing period.



2. The unbundled rate for wheeling shall be available to:

- i. Customer meters with existing hourly metering;
- ii. Customers who pay PREPA to install the proper metering; and,
- iii. Customers whose hourly loads can be estimated from other data.

B. Uniform wheeling services agreement between PREPA and EPSCs

- 1. Provision of meter data from PREPA to the EPSC to allow separate billing from the EPSC to the wheeling customer for their supply;
- 2. An initial fee per EPSC to set up a new wheeling account and an annual fee for ongoing account maintenance;
- 3. An initial charge for each meter transferred and an ongoing monthly fee per meter per month for the costs of transferring billing data;
- 4. A process for transfer of customers to the unbundled rate for wheeling, including customer approval and verification of the relevant accounts and meters;
- 5. Hourly energy balancing provisions shall include:
 - i. Computation on an hourly basis from the fuel and variable O&M rate for the marginal generation unit, which would be turned up if PREPA's load were higher or turned down if PREPA's load were lower. If PREPA cannot identify the marginal generation unit or its costs, the marginal generation cost in a given hour will be deemed to be the average cost per MWh of fuel and variable O&M for steam oil plants operating at that hour.
 - ii. If the hourly metered load and line losses of an EPSC's wheeling customers exceeds the output of its generation sources, the EPSC shall be charged for excess load at the marginal hourly generation cost as computed above.
 - iii. If the hourly output of an EPSC's generation sources exceeds the metered load and line losses of its wheeling customers, the Independent Power Producer ("IPP") shall be credited for excess generation at 95% of the marginal hourly generation cost as computed above.
- 6. An annual imbalance charge provision shall include:
 - i. Calculation of the total annual imbalance as the absolute value of difference between the generation delivered to PREPA by the EPSC and the metered load and line losses of its wheeling customers;



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- ii. An imbalance dead zone which shall be defined as 60% of the metered load and line losses of an EPSC's wheeling customers in the first year following interconnection, 50% in the subsequent year, 40% in the third year, 30% in the fourth year, and 20% thereafter.
 - iii. If the total annual imbalance exceeds the calculated imbalance dead zone for the given year, the EPSC shall pay an annual imbalance charge defined as the (a) difference between the total annual imbalance and the calculated imbalance dead zone, multiplied by (b) 10% of the average fuel cost adjustment and purchased-power cost adjustment for the IPP's customers in the given year.

7. For the purposes of both the hourly energy balancing provisions and the annual imbalance charge, line loss adders shall be set at the values used in the Cost of Service Study filed in Case No. CEPR-AP-2015-0001,⁶ or any updated values available.

8. IPP credit requirement

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- i. Letter of credit for an estimate of one month of an IPP's customers' avoided fuel cost adjustment and purchased-power cost adjustment.

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C. Interconnection requirements and processes

- 1. PREPA shall not require more stringent or expensive interconnection processes than would apply to other generation facilities that are not owned and operated by PREPA.
- 2. PREPA shall respond to requests for interconnection for EPSCs who file a uniform wheeling services agreement within 60 days, with relevant requirements and estimated costs to interconnect. After an agreement following such an interconnection request, PREPA shall complete interconnection within 180 days, unless the Energy Bureau authorizes a different schedule.

Where this default proposal does not specify a value or specific number, such as the administrative fees for EPSC account setup and transfer of billing data, PREPA shall estimate an appropriate value based on available data.

V. CONCLUSION

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

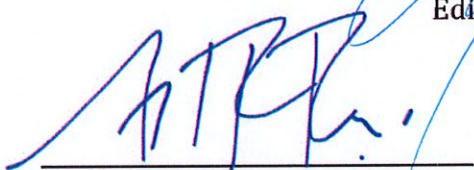
⁶ PREPA Ex. 8.0, Case No. CEPR-AP-2015-0001, In Re: Puerto Rico Electric Power Authority Rate Review, May 27, 2016.



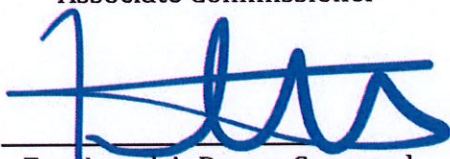
1. PREPA shall file one or more proposals for unbundled rates for wheeling as set forth in Section IV of this Order no later than February 1, 2021.
2. A technical conference shall be held on February 9, 2021. The Energy Bureau will provide additional information regarding the technical conference in a future date.
3. Any interested party may file a petition to intervene in this proceeding on or before Monday, January 25, 2021 at 5:30 p.m. All petitions to intervene must be filed in accordance with the requirements of Regulation 8543.

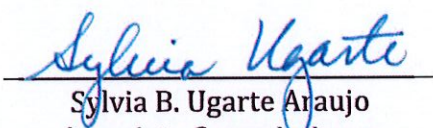
Be it notified and published.


Edison Avilés Deliz
Chairman


Ángel R. Rivera de la Cruz
Associate Commissioner


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner

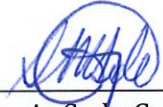

Sylvia B. Ugarte Araujo
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 23, 2020. I also certify that on December 23, 2020 a copy of this Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, n-vazquez@aepr.com, c-aquino@prepa.com, kbolanos@diazvaz.law and jmarrero@diazvaz.law. I also certify that today, December 23, 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 December 23, 2020.



Sonia Seda Gaztambide
Interim Clerk

