

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

IN RE: REGULATION FOR EVALUATION AND APPROVAL OF AGREEMENTS BETWEEN ELECTRIC SERVICE COMPANIES	CASE NO.: NEPR-MI-2020-0014 Subject: Notice of Proposed Regulation and Request for Public Comments
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**Motion to Submit AES Puerto Rico, LP, Initial Comments to the Notice
of Proposed Regulation for Evaluation and Approval of Agreements Between Electric Service
Companies**

COMES NOW, AES Puerto Rico, LP (“**AES-PR**”) through its Legal Consultant, and respectfully states and prays:

1. On October 19, 2020, the Puerto Rico Energy Bureau (“**Energy Bureau**”) through a Resolution requested Public Comments to the Notice of Proposed Regulation for Evaluation and Approval of Agreements Between Electric Service Companies to be filed on or before November 18, 2020.
2. On November 18, 2020, the Puerto Rico Energy Bureau (“**Energy Bureau**”) through an Electronic Notification via Email communicated an extension of the period to submit Public Comments to the Notice of Proposed Regulation for Evaluation and Approval of Agreements Between Electric Service Companies. The determined Deadline on Public Comments is December 3, 2020.
3. The contact information for Mr. Arnaldo Bisono Serrano, AES’s Marketing & Origination Manager for Puerto Rico, whom files these comments, is the following:

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4. After review of the Notice of Proposed Regulation for Evaluation and Approval of Agreements Between Electric Service Companies and in accordance with the filing requirements established by the correspondent Resolution; please find enclosed comments of AES-PR to this regard.

Initial Comments

On section 2.01 – Contracts Subject to Energy Bureau’s Review and Approval, specifically on point A - 4, it is stated that contracts and agreements of 1MW or greater capacity between large scale industrial and commercial customers, energy cooperatives, or other demand aggregator structure that enters into power purchase agreements directly with an independent power producer must be submitted by the Applicant to the Energy Bureau for review and approval before their execution. AES PR respectfully understands that the level of review and approval requirements established on the Proposed Regulation should not apply to contracts and agreements between large scale industrial and commercial customers entering into power purchase agreements with independent power producers.

We base the aforementioned position on the following concerns:

- a. **Intervention on negotiations for contract and agreements between third parties (large scale industrial and commercial clients) associated with behind the meter energy generation solutions.** Based on the benchmark and our experience on other energy markets worldwide, it is not customary for the regulator to intervene by means of establishing contract requirements, evaluating and approving proposed agreements between large scale industrial and commercial clients with independent power producers. Regulator reviews financial information of electrical service companies with the sole purpose of confirming financial capabilities and approving their participation on electrical markets. These agreements are performed between the commercial and legal

teams of the parties and have certain elements of confidentiality. Also, the responsibility for the review and determination on whether the proposed cost per kilowatt-hour is just and reasonable, as well as financial capabilities of independent power producers, should be the responsibility of the client utilizing its expertise, criteria or hiring external consultants. Furthermore, a behind the meter energy generation solution interconnected with the PREPA grid under the requirements established on Rule 8916 for Generation Interconnection with PREPA Transmission or Sub-Transmission System and Participation on the Net Metering program will comply with all requirements on providing the required capacity in a reliable, safe, and efficient manner satisfying the client expected and agreed rate with no impact to the public interest. Finally, the Energy Bureau already has a process in place to evaluate and certify Electric Service Companies which covers most of the objectives established on the Proposed Regulation.

- b. **Possible cost increase and delays on behind the meter energy generation solution agreements.** We understand that the required documentation is not customary, and it will represent additional work which in turn will result on costs for the clients. Also, the documentation submittal/application, review of application for completeness, and subsequent approval process by the Energy Bureau will represent at least sixty (60) days (under the best case scenario) of time that the client and independent power producer will have to incorporate into a typical development & implementation timeline for behind the meter energy generation solution project. This represents delays on the commercial operation date (COD) for the project and in turn delays the capture of benefits from the solution by the clients.

- c. **Possible breach of confidentiality on agreements due to publication of power purchase agreements (PPA's) approved by the Energy Bureau on its website.** Under section 7.01 (C) it is stated that the Energy Bureau must publish on its website power purchase agreements that it approves. We understand that this is a required practice for power purchase agreements between independent power producers and the Puerto Rico Electric Power Authority due to the nature of the contracts and their impact to the public interest. However, it does not seem reasonable to publish power purchase agreements

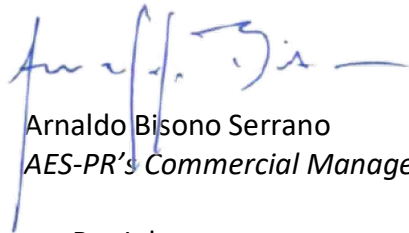
between independent power producers and large scale industrial and commercial clients due to the inherent nature of confidentiality that exists in these contracts.

In conclusion, AES PR appreciates the opportunity to submit its comments and suggestions and urges the Energy Bureau (NEPR) to exclude contracts and agreements between large scale industrial and commercial customers entering into power purchase agreements with independent power producers from the applicability of the Proposed Regulation. As well as, we reiterate our desire and intent to participate actively in any other "Proceeding(s)" that the Energy Bureau could held for this matter.

CERTIFICATION

I certify that today, December 03, 2020, I have proceeded with the filing of this Motion before the Puerto Rico Energy Bureau and also I certify that on this date a copy of this motion regarding the case No. NEPR-MI-2020-0014 was notified by electronic mail to the following: Astrid I. Rodríguez: astrid.rodriguez@prepa.com, Jorge R. Ruiz Pabón: Jorge.ruiz@prepa.com and Nitza D. Vázquez Rodríguez: n-vazquez@prepa.com

RESPECTFULLY SUBMITTED, in San Juan, Puerto Rico, today December 03, 2020.



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