

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

NEPR Received: Feb 19, 2021 12:00 PM

IN RE: THE PERFORMANCE OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY

CASE NO.: NEPR-MI-2019-0007

SUBJECT: Performance Baseline and
Compliance Benchmarks.

**REPLY COMMENTS OF THE PUERTO RICO ELECTRIC POWER AUTHORITY
REGARDING THE ESTABLISHMENT OF PERFORMANCE BASELINE AND
COMPLIANCE BENCHMARKS FOR ELECTRIC SERVICE COMPANIES**

COMES NOW, the Puerto Rico Electric Power Authority (PREPA) through the undersigned legal representation and respectfully submits the following reply comments in compliance with the *Resolution and Order* entered on December 23, 2020 (“December 23 Order”)¹:

I. INTRODUCTION

On December 23, 2020, the Energy Bureau of the Public Service Regulatory Board (the “Energy Bureau”) ordered PREPA and LUMA Energy, LLC as ManagementCo, LUMA Energy ServeCo, LLC as ServCo (collectively, LUMA) to provide their comments and inputs regarding performance baseline, compliance benchmarks and also, their opinion on which specific performance metrics should be targeted as performance metrics to be applied to electric service companies. The Energy Bureau also invited the general public to submit comments. Comments from PREPA, LUMA and the public were due on January 29, 2021.

¹ Amended by the *Resolution Nuc Pro Tunc* of December 24, 2020 (to include the time of the Technical Conferences); *Resolution and Order* of February 1, 2021 (to extend the time in which comments may be submitted, and modify the event calendar accordingly), and *Resolution and Order* of February 11, 2021 (to extend the due date to submit replies and modified the calendar accordingly).

In compliance with the December 23 Order, on January 29, 2021, PREPA filed *Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies*.² On the same date, the Independent Consumer Protection Office (OICP) presented the *Re: Comentarios a Métricas de Desempeño de la Autoridad de Energía Eléctrica Bajo el Caso Número NEPR-MI-2019-0007 / The Performance of the Puerto Rico Electric Power Authority*, LUMA filed the *Motion Submitting LUMA's Comments on Performance Metrics Data Presented on January 19th, 2020, by the Energy Bureau and Submitting Proposed Performance Metrics and Baselines*, and the Solar and Energy Storage Association (SESA) submitted the *RE: In the Performance of PREPA, NEPR-MI-2019-0007; Performance Targets for LUMA Energy ServCo, LLC[,] case no. NEPR-AP-2020-0025*.

On February 1, 2021, the Energy Bureau notified a *Resolution and Order* amending the procedural calendar. Pursuant to this *Resolution and Order*, the Energy Bureau determined that it was prudent to extend the deadline for interested parties to file comments regarding the information the Energy Bureau presented during the January 19, 2021 Technical Conference. The new deadline to file any such supplemental comments was February 5, 2021, with a related extension, until February 12, 2021, to file any replies to comments that had been previously presented.

Pursuant to the revised schedule for submittal of comments in the captioned docket, on February 5, 2021, PREPA submitted *Supplemental Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies*. Also, LUMA filed *Motion Resubmitting LUMA's Comments on Performance*

² On January 30, 2021, PREPA substituted the comments originally filed with a revised version to exclude a formatting error. The comments did not change.

Baselines and Metrics Based on Data Presented on January 19th, 2020 by the Energy Bureau, and Resubmitting Proposed Performance Metrics and Baselines, and the Rocky Mountains Institute (RMI) submitted *Comments Filed by the Rocky Mountain Institute Related to Performance Based Mechanism Targets*.

On February 11, 2021, the Energy Bureau issued and notified, per LUMA's request, a *Resolution and Order* amending the procedural calendar and extending until February 19, 2021 the period for filing replies to comments. Further, and pursuant to the amendments to the procedural calendar, the Technical Conference will now be held on February 22, 2021 and, should any party have comments to the information discussed during the conference, those must be presented in writing for the consideration of the Energy Bureau on or before March 3, 2021.³

After reviewing the comments presented by OICP, LUMA, SESA and RMI, PREPA hereby submits these supplemental comments with the purpose of contributing with the Energy Bureau's efforts to: 1) establish a baseline and a uniform understanding of the current level of PREPA's performance on every aspect of PREPA's operations; 2) optimize the Energy Bureau's ability to measure PREPA's reliability and stability with the critical data gathered; and 3) identify those areas of lower performance within the PREPA system that may need more attention.

II. COMMENTS

A. Preamble

The privatization of PREPA's Transmission and Distribution (T&D) system as well as related administrative functions, like customer service, has been planned since the enactment of Act 120-2018, known as the *Puerto Rico Electric Power System Transformation Act*, and Act 17-2019, known as the *Puerto Rico Energy Public Policy Act* (Act. 17-2019). As a matter of public

³ *Resolution and Order* of February 11, 2021.

record, the current ongoing privatization, effected in June 2020, was supposed to take place the prior year. PREPA and the Federal Oversight and Management Board (FOMB) fully expected that with the privatization, the fundamental PREPA information technology systems (IT) would be migrated to the information technology systems of the future operator. Therefore, given other priorities for manpower and time, it made little sense to invest heavily in a new IT system overall to address the IT system deficiencies as those resources and efforts would have been largely lost.

Similarly, and based on extensive data, PREPA understands that a full review of every transmission line, circuit and substation is highly desirable for management of the system. From a practical perspective, the time and manpower needed for such task were better served by addressing the projects intended to remediate the system from hurricanes Irma and María and the 2020 earthquakes, given that Federal Emergency Management Agency (FEMA) funds were made available to restore the system. Indeed, PREPA has not been able to program inspections for assets and properly document its findings for the last 3 to 4 years due to the compounding effect of employee attrition, lack of consistent employee attendance and a focus on working through the natural emergencies that have impacted the system. While incidental inspections are performed, PREPA recognizes that programmed inspections are an important task to be undertaken. Thus, a pragmatic decision was made to use a sampling approach to gain insights into the health of the grid assets and ensure focus was maintained on executing the projects to fix the grid where federal dollars will be available to do so.

PREPA reiterates that it supports the transition of functions and services to LUMA and other electric services providers. However, this should not be construed as implying that it believes

the performance metrics similar to those included in Annex IX of the O&M Agreement⁴ should become *Performance Incentive Mechanisms* (PIMs) for any and all electric service companies, as most of them do not meet the criteria for PIMs proposed by the Energy Bureau in its order.

B. Comments to LUMA's testimony in general

LUMA's comments⁵ asserts there are three types of major deficiencies in the baseline performance metrics established by PREPA: (1) Deficiencies in data collection due to poor Operating Management System (OMS), customer information systems, hand entry of codes/events, lack of system integration between the PREPA IT systems; (2) Deficiencies in coding the Occupational Safety and Health Administration (OSHA) and reliability events that are not consistent with national standards, and (3) that PREPA made miscalculations in terms of using the data. The majority of the deficiencies relate to the proposed metrics in Annex IX of the O&M Agreement and in this regard PREPA believes it is important to provide a pragmatic operational context for some of the deficiencies mentioned by LUMA and other intervenors regarding the information systems, data, and methodology used for the baseline performance metrics.⁶

PREPA acknowledges that the IT systems for customer service, the OMS for the grid and the generation infrastructure are not upgraded and functioning at the desired level of performance. As a result, PREPA employees must manually input data to specific fields and/or are unable to track certain metrics with the degree of accuracy and timeliness other utilities enjoy. PREPA's

⁴ The *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement*, AFFAF, [executed-consolidated-om-agreement-td.pdf \(pr.gov\)](#) (last visited on Feb. 17, 2021).

⁵ LUMA, *Motion Submitting LUMA's Comments on Performance Metrics Data Presented on January 19th, 2020, by the Energy Bureau and Submitting Proposed Performance Metrics and Baselines and Motion Resubmitting LUMA's Comments on Performance Baselines and Metrics Based on Data Presented on January 19th, 2020 by the Energy Bureau, and Resubmitting Proposed Performance Metrics and Baselines*. (Jointly referred as "LUMAS's comments").

⁶ *See Id.*

management is aware of the IT system deficiencies, has addressed some issues and at times has had to prioritize resource allocation for events that warranted immediate response. However, as applicable to the safety comments provided by LUMA, PREPA does not agree with the deficiencies identified concerning OSHA coding and reliability events, as will be discussed below.

1. Safety metrics

PREPA concurs that the success of performance metrics depends largely on the continuous, consistent, and reliable flow of data available at the time of conducting the corresponding evaluation, taking into consideration that in this process PREPA will be the main source of data regarding its own performance. It is vital that the Energy Bureau and all parties involved in the transition obtain information from other sources and comparable industries to carry out the corresponding and impartial evaluations. This methodology will allow the Energy Bureau to complete and validate the data provided to approve the best performance metrics for electric service companies.

As for the metrics related to occupational health and safety indicators (such as the Incidence Rate (IR), Long Term Care (LTC), DART⁷ and “Severity Rate” incidents rate), these are based on the formulas provided by OSHA. PREPA understand that the Energy Bureau considers incidents that have recently occurred in the electrical system and within the corporation after the hurricanes, earthquakes, and the current COVID-19 pandemic, which directly affects these metrics. During the presentation made by consultants from the Energy Bureau on this issue, PREPA’s performance was compared with industry standards and the performance of Hawaii Electric Company

⁷ This stands for “Days Away from work, days of Restricted work activity, and/or days of job Transfer rate” (Bold supplied. Capitalization in the original). American Public Power Authority (APPA), *Evaluation of Data Submitted to American Public power Association’s 2019 Safety Awards of Excellence*, 2019, p. 19, [2019 Safety Awards of Excellence Annual Report FINAL.pdf \(publicpower.org\)](#) (last visited on Feb. 12, 2021).

(HECO).⁸ In turn LUMA, is recommending the comparison of its possible performance with the Edison Electric Institute (EEI) association, which represents the private electric utility companies in the Mainland.⁹

Notwithstanding, understanding that the American Public Power Authority (APPA) association metrics are more appropriate for PREPA, since it groups together the public electric utilities, PREPA disagrees with LUMA's recommendation on this front.¹⁰ A fair comparison, requires a base with greater uniformity in terms of profits, scale and infrastructure; as in generation, transmission and distribution, number of employees, customers, hours worked, and megawatts produced.

PREPA's Occupational Safety Office traditionally only uses the IR metric, while, in the O&M Agreement, the performance baseline for the IR is 11.3 with the target set to 6.28, for fatalities the goal is 0, for DART the goal is 4.0., while the "Severity Rate" is undetermined.¹¹ As of 2014, DuPont Sustainable Solutions ("DuPont"), PREPA's advisor, provided the Occupational Safety Program Assessment Services, which included tools, training, and reports introducing the IR, LTC, DART and Severity Rate occupational safety performance indicators and others

⁸ See Puerto Rico Energy Bureau, *Presentation of PREPA performance metrics. Docket NE[-]JMI-2019-0007*, p.9, at https://energia.pr.gov/wp-content/uploads/sites/7/2021/01/Technical-Conference-Slides_1_19_2021_Final.pdf (Last visited on Feb. 12, 2021).

⁹ See LUMA, *supra* note 8, Exh. 1, *OSHA Incident Rate/Safety Recordable Rate*.

¹⁰ See American Public Power Authority (APPA), *Evaluation of Data Submitted to American Public power Association's 2019 Safety Awards of Excellence*, 2019, [2019 Safety Awards of Excellence Annual Report FINAL.pdf \(publicpower.org\)](#) (last visited on Feb. 17, 2021).

¹¹ See Ap. IX, 11-14, of the *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement*, AFFAF, [executed-consolidated-om-agreement-td.pdf \(pr.gov\)](#) (last visited on Feb. 17, 2021).

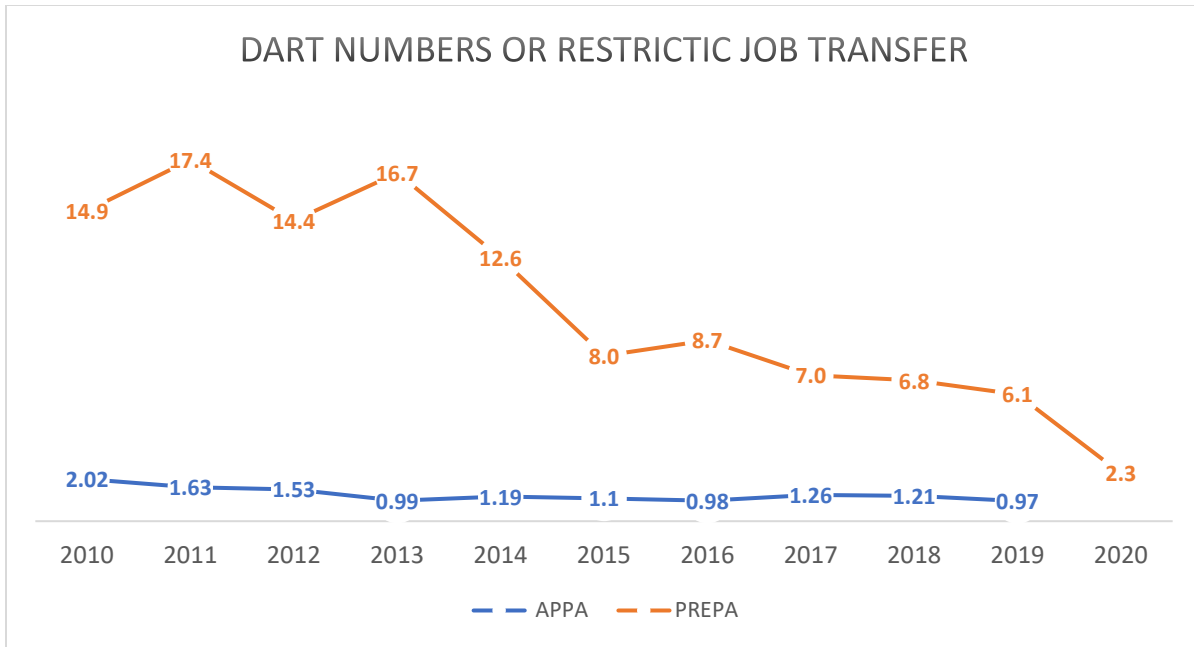
matters.¹² Since then, PREPA has implemented DuPont's recommendations, as well as adopted leading indicators and best practices in the industry.

Despite PREPA's implementation of Dupont's metrics, LUMA does not see PREPA's safety indicators as reliable. For example, LUMA shows concern with an indicator denominated "casi casi" ("near miss"). Nonetheless, near miss ("casi casi") is an acceptable indicator defined by OSHA as an incident in which no property was damaged and no personal injury was sustained, but where, given a slight shift in time or position, a damage or injury could have easily occurred.¹³ When the goal is to prevent accidents, getting a very high number of near misses instead of accidents is part of the goal towards prevention.

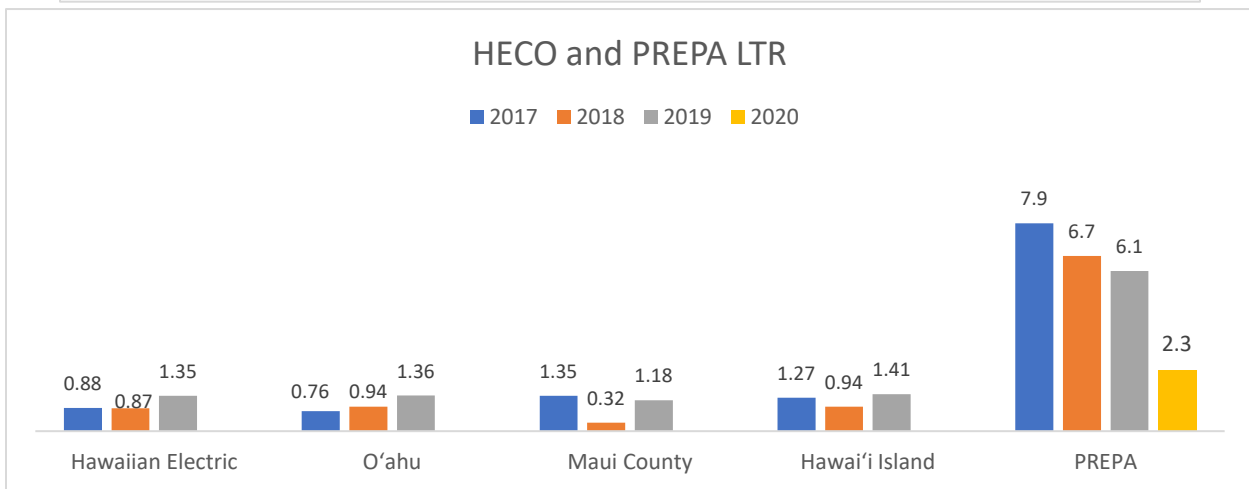
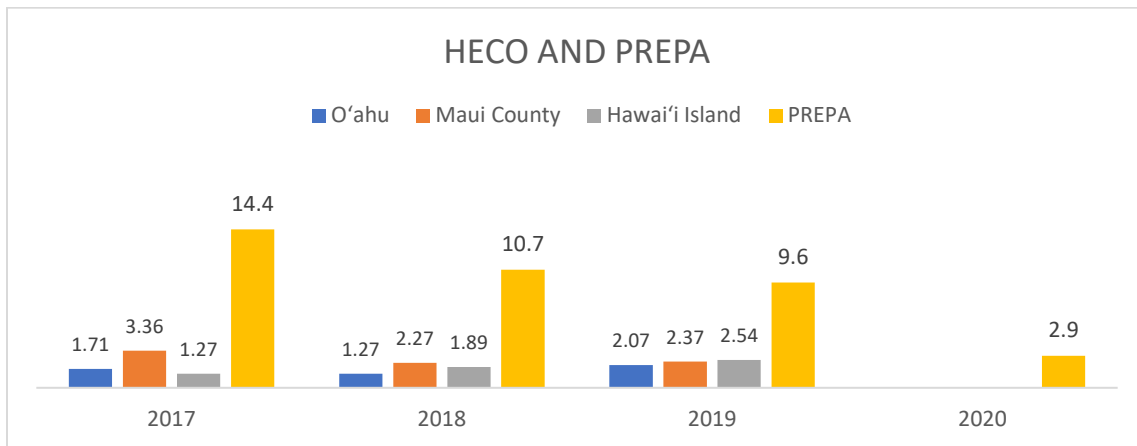
The following figures show the APPA-PREPA performance comparison until 2019. APPA has not yet published the information for 2020. PREPA belongs to group H where the parameter of number of hours worked in the region is 10.

¹² Puerto Rico Electric Power Authority, *Professional Services Agreement*, PREPA, [2015-P00049, E. I. du Pont de Nemours and Company.pdf \(acepr.com\)](#) (last visited on Feb. 17, 2021).

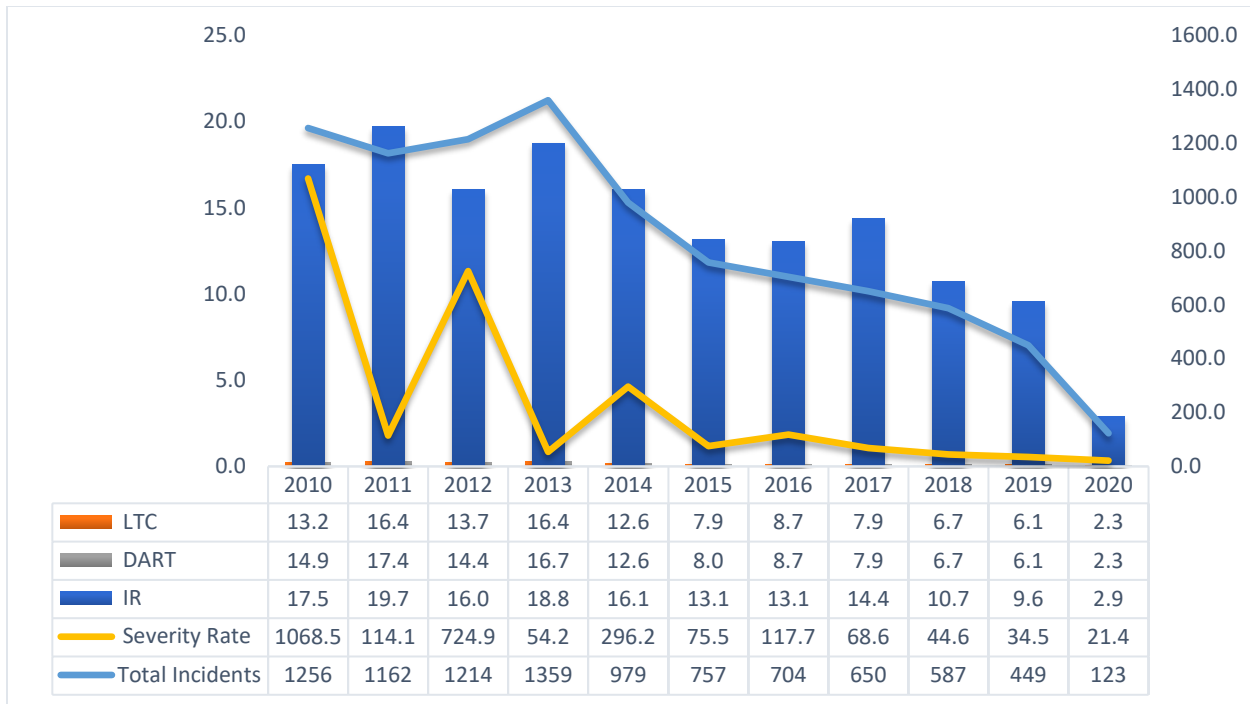
¹³ *See, as examples:* Occupational Safety and Health Administration (OSHA) Fact Sheet, *The Importance of Root Cause Analysis During incident Investigation*, [The Importance of Root Cause Analysis During Incident Investigation \(osha.gov\)](#) (last visited on Feb. 17, 2021) Occupational Safety and Health Administration (OSHA), *Incident [Accident] Investigation: A Guide for Employers*, [Microsoft Word - IncInvGuide4Empl_Dec2015.docx \(osha.gov\)](#) (last visited on Feb. 17, 2021).



HECO vs PREPA



PREPA Safety Historical Data



2. Customer service

PREPA acknowledges opportunity areas and that it can better improve in the customer service metrics data collection. For example, the Abandonment Rate (AB) is currently measured with PREPA and third-party vendor data, using three (3) different IT systems: Avaya, Approach and Connect. This situation creates a challenge to calculate accurate data as well as consistency issues as measured by industry standards. Another example is that PREPA tracks only the calls that escalate to a supervisor level, and not the First Resolution Contacts (FRC), or the calls that get resolved in that first contact level. LUMA notes that PREPA has not used JD Power Customer Satisfaction Surveys “so there is nothing to baseline prior to this submission.” Indeed, PREPA has never used the services of this provider and, as of today, has not received the results of the JD Power Customer Satisfaction Survey commissioned by LUMA.

Concerning the Average Speed of Answer (ASA), Cortelco -the company that administers the Avaya systems at PREPA's call centers- has neither engaged in effective communication with the IT Directorate, nor provided precise data about the call overflow. This situation limits PREPA's ability to provide the requested call overflow information requested by LUMA. Also, the utilization of three (3) separate technologies in each of the three (3) call centers, does not allow PREPA to ascertain accurate calculations of ASA. Nonetheless, PREPA has favorably implemented a rerouting plan with personnel training to comply with service needs during holidays, strikes and other events. This process allows for internal and external personnel to be trained to manage the service request calls -normally only processed in the internal call center- resulting in a reduction of call overflow.

Finally, PREPA recognizes customers rights to take their claims within all levels allowed by applicable laws and regulations and that the Energy Bureau is the appropriate forum for such claims.¹⁴ However, it is important to note that PREPA's claims records only reflect the number of complaints received each day, without consideration to the final merits of such claims.

3. *Transmission and distribution operations*

PREPA agrees that a thorough and complete inspection of all the T&D assets is not only appropriate but necessary and that LUMA is the entity to undertake such endeavor. That said, implementing such action is not, in and of itself, a *performance metric*, it is simply a description

¹⁴ See, for example, Arts. 6.26 & 6.27 of Act No. 57-2014, as amended, known as *Puerto Rico Energy Transformation and RELIEF act* (in which a billing grievance procedure is requested to producers, and a review of electricity bills and rules for service suspension is described). See also Puerto Rico Energy Bureau, *Regulation on Adjudicate, Notice of Noncompliance, Rate Review and investigation Proceedings*, Regulation No. 8543, as emended, approved on May 22, 2015; Puerto Rico Energy Bureau, *Regulation on the Procedure for Bill Review and Suspension of Electric Service Due to Failure to Pay*, Regulation No. 8863, as amended, approved on Dec. 1, 2016 (approved in Spanish), chpts. 4 & 5; Negociado de Energía de Puerto Rico, *Reglamento sobre el Procedimiento para la Revisión de Facturas emitidas por la Autoridad de Energía Eléctrica de Puerto Rico Durante Situaciones de Emergencia*, Regulation No. 9009, as amended, approved on Jan. 25, 2018 (approved in Spanish), Chpts. 3 & 4. (The before-mentioned regulation provide a variety of adjudicative proceedings for different situations and controversies).

of a task to be performed by an electric service company as part of its operation responsibilities. While an operator can report to the Energy Bureau the progress it makes, the actual performance metric is, in fact, the results of the inspections, namely the baseline condition of the system. Asset conditions will benefit from the \$10.7 billion FEMA allocation and LUMA is expected to execute the infrastructure projects in accordance with the FEMA 10-Year Plan and the LUMA System Remediation plan.

Concerning LUMA's comments on PREPA's transmission lines, PREPA takes exception to LUMA's observations. PREPA schedules line patrols using its aerial fleet weekly. The results of these patrols are divided in two major tasks: vegetation management and structural deficiencies. The aerial information is delivered to the corresponding area through digital communications. Given the rugged terrain of the transmission lines, aerial reconnaissance and reporting is done as best practice by many utilities facing similar situations. PREPA understands that deeper assessments might be useful to schedule line maintenance in a better way. These inspections would need be done by a professional directly (on foot) on every transmission structure. Such task represents a considerable expenditure of manpower and time.

LUMA states that PREPA did not produce data on actual spending compared to the non-federally funded budget for 2020. T&D has a Budget and Costs Control Office where spending data is gathered from the different areas, compiled to be available for further actions, and stored. PREPA has never been served with a request for that information or notice of the lack of it. However, PREPA will coordinate with LUMA to share this information.

In terms of the measurement of System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI), PREPA offers the following observations. PREPA's data tracking on reliability indicators are related solely to distribution interruptions

information. For interruptions, the only database used to calculate reliability indexes and track information is the Distribution Dispatch Office which accurately analyzes the data on the events and restoration process including step by step reestablishment of service interruptions. PREPA Distribution Indices are intended to apply to Distribution System as specified in IEEE 1366 IEEE Guide for Electric Power Distribution Reliability Indices. Accordingly, that is the reason why the transmission and substation events, along with the codes for these events, are not included as part of the metrics used.

C. Reply regarding other intervenors' comments.

PREPA generally agrees with the testimony of RMI and the idea of "[encouraging] a collaborative stakeholder process."¹⁵ PREPA also notes that RMI has played an active role as a neutral entity for such collaborative processes in other jurisdictions, and that such a role would be welcomed in this docket. PREPA also agrees that this is the correct time to assess the current regulatory incentives, "[...] and align all stakeholders to the critical gaps, [to] help reduce the risk of new incentive mechanisms not addressing the most important gaps, or even producing any perverse incentives."¹⁶ Additionally, PREPA concurs with SESA's testimony that performance metrics are important to accelerate the transition to renewable energy sources.

Finally, the OIPC takes a customer centered approach offering the Energy Bureau information about the number of claims by customers in two main areas: billing and technical

¹⁵ *In the matter of Public Utilities Commission Instituting a Proceeding to Investigate Performance Based Regulation*, Docket No. 2018-0088, *Decision and Order No. 36326*, p. 4, [DO-36326.05-23-2019.pdf \(hawaii.gov\)](#) (last visited on Feb. 17, 2021)(mentioned as reference on Rocky Mountains Institute (RMI), *Comments Filed by the Rocky Mountain Institute Related to Performance Based Mechanism Targets*, p. 1).

¹⁶ RMI, *supra* note 18, p. 4.

matters.¹⁷ In regards to billing, OICP refers to aspects such as over-billing, billing objections, estimate consumption billing, billing corrections and net metering.¹⁸ Regarding technical matters, the comments are directed to public lighting, service connection requests, electric service suspension and interruption, light meters and distributed generation system interconnection.¹⁹ Also, OICP requests the Energy Bureau to consider the actual state of the electric system after the recent hurricanes and earthquakes and proposes that it also include feedback from consumers and their representatives, such as electric engineers and expert electricians. PREPA agrees that reliable metrics and a client-centered approach, based on client satisfaction and accountability, are necessary to create an effective business model for the future of Puerto Rico's electric system. To achieve this, the feedback of the customer and their representatives' (like OICP) is essential.

III. CONCLUSION

PREPA acknowledges that the purpose of these proceedings is to undertake a transparent data gathering process with relevant stakeholders to assist the Energy Bureau in setting the standard of PREPA's performance in order to subsequently support the development of effective PIM for certified electric service companies.²⁰ PREPA presents these comments and trusts that the collective actions of all stakeholders in this proceeding will be collaborative and transparent, to

¹⁷ Independent Consumer Protection Office (OICP), *Re: Comentarios a Métricas de Desempeño de la Autoridad de Energía Eléctrica Bajo el Caso Número NEPR-MI-2019-0007 / The Performance of the Puerto Rico Electric Power Authority*; LUMA filed the *Motion Submitting LUMA's Comments on Performance Metrics Data Presented on January 19th, 2020, by the Energy Bureau and Submitting Proposed Performance Metrics and Baselines*, p. 2.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Puerto Rico Electric Power Authority (PREPA), *Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies*, p. 9.

provide all parties - and specially the general public - the ability to know and understand the challenges and progress towards such objectives over time. To further this progress, PREPA respectfully suggests that additional technical meetings, framed as collaborative working sessions, be structured around specific issues that may not be resolved in the upcoming technical meeting.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 19th day of February 2021.

/s Katuska Bolaños-Lugo
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CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Clerk of the Energy Bureau using the Energy Bureau's Electronic Filing System, at the following address: <http://radicacion.energia.pr.gov> It is further certified that I have sent a copy to margarita.mercado@us.dlapiper.com and mmercado@mercado-echegaray-law.com.

In San Juan, Puerto Rico, this 19th day of February 2021.

s/ Katuska Bolaños-Lugo
Katuska Bolaños-Lugo