

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

IN RE: REGULATION ON WHEELING

CASE NO.: CEPR-MI-2018-0010

SUBJECT: Notice of Proposed Amendment to Regulation and Request for Public Comments.

RESOLUTION

On December 11, 2019, after a broad process of public participation, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") adopted the *Regulation on Electric Energy Wheeling* ("Regulation 9138"). The Energy Bureau adopted and published Regulation 9138 under its regulatory power under Act 57-2014,¹ Act 17-2019,² and Act 38-2017.³

Upon further review of Regulation 9138, the Energy Bureau has determined that it is in the public interest to amend certain provisions of the aforementioned Regulation. Therefore, the Energy Bureau, exercising its rulemaking discretion, issues a Proposed Amendment to the Regulation on Electric Energy Wheeling ("Proposed Amendment"). The goal of the Proposed Amendment is to make Regulation 9138 more flexible to provide the contracting parties options which result in making wheeling feasible for stakeholders. The Proposed Amendment is included as Attachment I of this Resolution. Further, Attachment II of this Resolution provides a redline version which highlights the proposed changes to further facilitate the public's review of the mentioned changes.

Pursuant to Act 38-2017, the Energy Bureau will publish a notice on the rulemaking process in a newspaper of general circulation. Under Section 2.2 of Act 38-2017, the general public may present its comments regarding the Proposed Amendment within thirty (30) days following the publication of the notice. A copy of the Proposed Amendment is available for public scrutiny at the Energy Bureau's Clerk Office and at the Energy Bureau's website, www.energia.pr.gov.

Comments may be filed as follows:

- a. By email to the following address: comentarios@jrsp.pr.gov;

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

² Known as *Puerto Rico Energy Public Policy Act*.

³ Known as *Uniform Administrative Procedures Act of the Government of Puerto Rico*, as amended.



- b. Online, using the Energy Bureau's Electronic Filing System, at the following address: <https://radicacion.energia.pr.gov>.
- c. By mail addressed to the Puerto Rico Energy Bureau's Clerk's Office, at World Plaza Building, 268 Muñoz Rivera Ave., Suite 202, San Juan, PR 00918; or
- d. In person at the Energy Bureau's Clerk's Office, at the address set forth above.

Be it notified and published.

 <hr/> Ángel R. Rivera de la Cruz Associate Commissioner	 <hr/> Edison Avilés Dehiz Chairman	 <hr/> Lillian Mateo Santos Associate Commissioner
 <hr/> Ferdinand A. Ramos Soegaard Associate Commissioner	 <hr/> Sylvia B. Ugarte Araujo Associate Commissioner	

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on April 23, 2021. I also certify that on April 23, 2021, a copy of this Resolution was notified by electronic mail to: astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, mmercado@mercado-echagaray-law.com, margarita.mercado@us.dlapiper.com, carlos.reyes@ecoelectrica.com, Legal@lumamc.com, wayne.stensby@lumamc.com, mario.hurtado@lumamc.com, Ashley.engbloom@lumamc.com, Elias.sostre@aes.com; jesus.bolinaga@aes.com; cfl@mcvpr.com; ivc@mcvpr.com; notices@sonnedix.com; leslie@sonnedix.com; victorluisgonzalez@yahoo.com; tax@sunnova.com; jcmendez@reichardescalera.com; r.martinez@fonroche.fr; gonzalo.rodriguez@gestampren.com; kevin.devlin@patternenergy.com; fortiz@reichardescalera.com; jeff.lewis@terraform.com; mperez@prrenewables.com; coterol@landfillpr.com; geoff.biddick@radiangen.com; hjcruz@urielrenewables.com; carlos.reyes@ecoelectrica.com; brent.miller@longroadenergy.com; tracy.deguise@everstreamcapital.com; agraitfe@agraillawpr.com; h.bobea@fonrochepr.com; ramonluisnieves@rlnlegal.com; hrivera@oia.pr.gov; info@sesapr.org; yan.oquendo@ddec.pr.gov; acarbo@edf.org; pjcleanenergy@gmail.com;



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auriarte@newenergypr.com; Jeanna.steele@sunrun.com; mildred@liga.coop;
rodrigomasses@gmail.com; presidencia-secretarias@seguros multiples.com. I also certify
that today, April 23, 2021, I have filed the Resolution issued by the Puerto Rico Energy
Bureau.

I sign this in San Juan, Puerto Rico, today April 23, 2021.



Sonia Seda Gaztambide
Clerk





GOVERNMENT OF PUERTO RICO

Public Service Regulatory Board
Puerto Rico Energy Bureau

REGULATION ON ELECTRIC ENERGY WHEELING

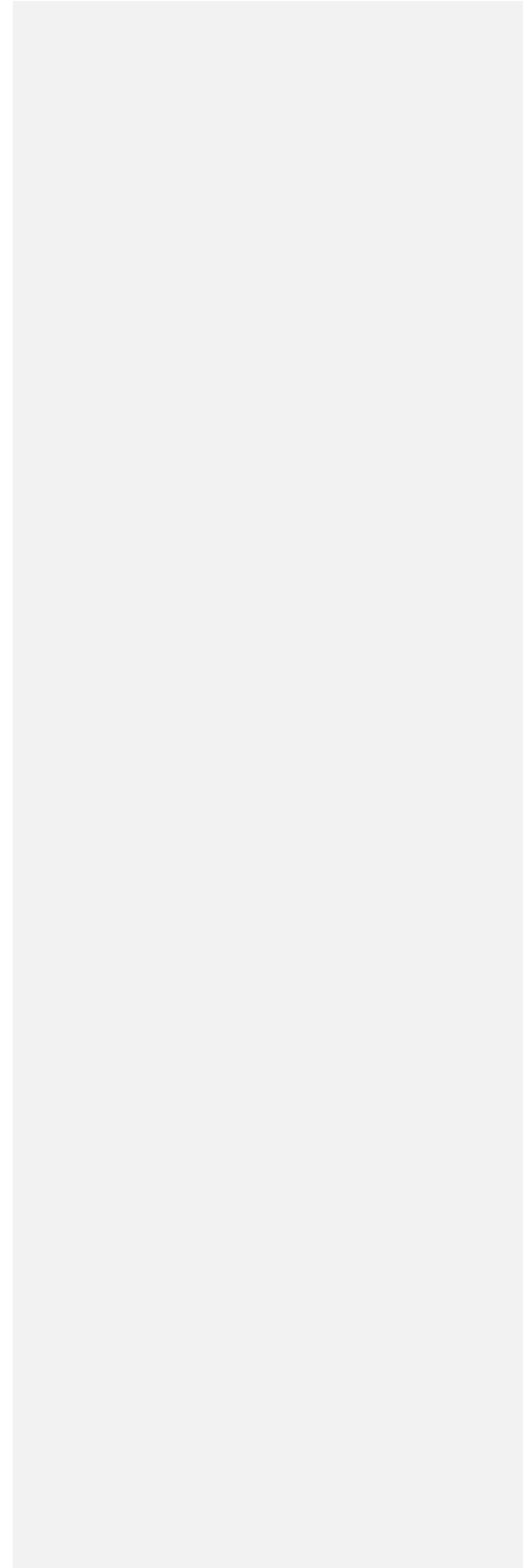


TABLE OF CONTENTS

ARTICLE 1.- GENERAL PROVISIONS	4
Section 1.01.- Title.....	4
Section 1.02.- Legal Basis and Authority.....	4
Section 1.03.- Purpose.....	4
Section 1.04.- Applicability.....	4
Section 1.05.- Interpretation.....	5
Section 1.06.- Provisions of Other Regulations.....	5
Section 1.07.- Unforeseen Proceedings.....	5
Section 1.08.- Dates and Time Periods.....	5
Section 1.09.- Definitions.....	5
Section 1.10.- Controlling Version.....	9
Section 1.11.- Severability.....	9
Section 1.12.- Forms.....	9
Section 1.13.- Mode of Submission.....	10
Section 1.14.- Effect of Submission.....	10
Section 1.15.- Confidential Information.....	10
Section 1.16.- Validity.....	10
Section 1.17.- Penalties for Non-Compliance.....	10
Section 1.18.- Compliance with Other Applicable Legal Requirements.....	11
ARTICLE 2.- RESPONSIBILITIES OF THE PROVIDER OF LAST RESORT	11
Section 2.01.- Applicability.....	11
Section 2.02.- Interconnection.....	12
Section 2.03.- Wheeling Tariffs.....	12
ARTICLE 3.- RESPONSIBILITIES OF RETAIL ENERGY SUPPLIERS.....	13
Section 3.01.- Applicability.....	13
Section 3.02.- Wheeling Services Agreement Requirement.....	13
Section 3.03.- Certification.....	13
Section 3.04.- Metering and Billing.....	14
Section 3.05.- Default.....	14
ARTICLE 4.- WHEELING SERVICES AGREEMENT.....	14
Section 4.01.- Applicability.....	14
Section 4.02.- Stakeholders Input Process.....	14
Section 4.03.- Wheeling Services Agreement Draft.....	15
Section 4.04.- Wheeling Services Agreement Application Form.....	15
Section 4.05.- Nonrefundable Fee.....	16
Section 4.06.- Energy Bureau Review.....	16
ARTICLE 5.- POWER PURCHASE AGREEMENTS.....	16
Section 5.01.- Development of a Standard Power Purchase Agreement.....	16
Section 5.02.- Standard Power Purchase Agreement.....	17

ARTICLE 6.- WHEELING SERVICES AGREEMENT APPLICATION PROCESS..... 17
Section 6.01.- Applicability.....17
Section 6.02.- Wheeling Services Agreement Application Review Process.....17
Section 6.03.- Appeal to the Energy Bureau.18

ARTICLE 7.- WHEELING RATES 18
Section 7.01.- Wheeling Rates.....18
Section 7.02.- Wheeling Rates Procedure.....18

ARTICLE 8.- RECONSIDERATION AND JUDICIAL REVIEW 18
Section 8.01.- Reconsideration.18
Section 8.02.- Judicial Review.18

REGULATION ON ELECTRIC ENERGY WHEELING

ARTICLE 1.- GENERAL PROVISIONS

Section 1.01.- Title.

This Regulation shall be known as the *Regulation on Electric Energy Wheeling*.

Section 1.02.- Legal Basis and Authority.

This Regulation is adopted under Act 57-2014, as amended, known as the *Puerto Rico Energy Transformation and RELIEF Act* ("Act 57-2014"); Act 17-2019, known as the *Puerto Rico Energy Public Policy Act* ("Act 17-2019"); and Act 38-2017, as amended, known as the *Uniform Administrative Procedure Act of the Government of Puerto Rico* ("LPAU" for its Spanish acronym). Specifically, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("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 the applicable laws."¹ 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."²

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Section 1.03.- Purpose.

The Energy Bureau adopts and enacts this Regulation to implement the energy wheeling mechanism in Puerto Rico, under applicable legislative mandates. To implement a system that allows an exempt business, dedicated to the production of energy, as described in Section 2(d)(1)(H) of Article 1 of Act No. 73-2008, as amended, known as the *Economic Incentives Act for the Development of Puerto Rico*, or similar provisions in other incentive laws, as well as Electric Power Service Companies, Microgrids, Energy Cooperatives, Municipal Ventures, Large Industrial and Commercial consumers, and Community Solar and other demand aggregators, to participate in the energy wheeling mechanism in Puerto Rico.

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Section 1.04.- Applicability.

This Regulation shall apply to all companies offering electric service, operating in Puerto Rico when this Regulation enters into effect, as well as to all companies that intend to operate or offer electric services in Puerto Rico now or in the future.

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¹ Section 6.3(g) of Act 57-2014, as amended by Section 5.10 of Act 17-2019.

² Section 6.3 of Act 57-2014, as amended by Section 5.10 of Act 17-2019.

Section 1.05.- Interpretation.

This Regulation shall be interpreted so it promotes the highest public good and the protection of the interests of all electric service customers of Puerto Rico, and in such a way that proceedings are carried out rapidly, justly, and economically.

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Section 1.06.- Provisions of Other Regulations.

This Regulation may be supplemented by other regulations of the Puerto Rico Energy Bureau compatible with this Regulation.

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Section 1.07.- Unforeseen Proceedings.

When a specific proceeding has not been planned for in this Regulation, the Energy Bureau may attend to it in any way that is consistent with Act 57-2014 and other applicable laws.

Section 1.08.- Dates and Time Periods.

In computing any time period established in this Regulation, or by order of the Energy Bureau, the day of the act, event, or noncompliance that triggers the period shall not be counted, and the established period shall elapse on the following day. Whenever a due date falls on a Saturday, Sunday, or legal holiday, said due date shall be extended until the next workday.

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Section 1.09.- Definitions.

A) These definitions are to be used for this Regulation and are not intended to modify the definitions used in any other Energy Bureau regulation or order.

B) For this Regulation, these terms will have the meaning established below, unless the context of the content of any provision indicates something else:

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1) "Application" means the document submitted by an Independent Power Producer to the Provider of Last Resort requesting to execute a Wheeling Services Agreement.

2) "Balancing Charge" means a tariffed rate that reflects the net cost or benefit to the Provider of Last Resort of differences between the customer's energy requirements and Retail Energy Supplier power supply, as approved by the Energy Bureau. Such tariff may reflect the timing and quantity of deliveries and consumption, as well as line losses computed in the same manner as line losses attributed to similar full-service customers.

Deleted: "Certification" means the process by which an Electric Power Service Company seeks approval by the Energy Bureau to operate or offer services in Puerto Rico pursuant to Regulation 8701³ or any subsequent regulation to those effects.

- 3) "Community Solar" means a program whereby local solar facilities are shared by multiple customers who receive credit on their electricity bills for their share of the power produced.
- 4) "Customer" means any Person who receives Electric Services.
- 5) "Distributed Generation" means an electric power generation facility in Puerto Rico connected to the Distribution System and producing power for self-supply or sale.
- 6) "Distribution System" means the physical equipment used to distribute electric power at voltages of less than 38,000 volts, including but not limited to poles, primary lines, secondary lines, service drops, transformers, and Meters.
- 7) "Electric Power Grid" means the electric power Transmission System and Distribution System of Puerto Rico.
- 8) "Electric Service" means the provision of generation, distribution and/or transmission service to a customer; it may include ancillary services.
- 9) "Electric Power Generation Company" or "EPGC" means any natural or juridical person engaged in the production or generation of electric power in Puerto Rico. This term shall include cogenerators already established in Puerto Rico that supply energy to PREPA through a Power Purchase Agreement, and renewable energy producers. All Electric Power Generation Companies shall be deemed to be Electric Power Service Companies.
- 10) "Electric Power Service Company" or "EPSC" means any natural or juridical person or entity including Energy Cooperatives, engaged in the rendering of energy generation, transmission and distribution services, billing, wheeling, grid services, energy storage, and/or the resale of electric power.
- 11) "Energy Bureau" means the Energy Bureau of the Puerto Rico Public Service Regulatory Board, established by virtue of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board, and Act 211-2018, formerly the Puerto Rico Energy Commission, created under Act 57-2014, which is a specialized independent entity in charge of regulating, overseeing, and enforcing the public policy on energy of the Government of Puerto Rico.
- 12) "Energy Cooperative" means a cooperative organized under Act 239-2004, known as the *General Cooperative Associations Act of 2004*, as amended, mainly to meet individual and common electric power needs of their cooperative members, affiliated consumers and/or communities through electric power generation, transmission and/or distribution systems. "Cooperative

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Microgrids” as defined in Regulation 9028,⁴ shall not be considered Energy Cooperatives, as defined in this Regulation.

13) “Independent Power Producer” means an Electric Power Generation Company without a Provider of Last Resort obligation. An Independent Power Producer may, but is not required to, be qualified as an exempt business described in Section 2(d)(1)(H) of Article 1 of Act No. 73-2008, as amended, known as the *Economic Incentives Act for the Development of Puerto Rico*.

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“Industrial Consumer” means any customer receiving Electric Service from the Provider of Last Resort under an industrial rate schedule.

14) “Interconnection” means the connection of an electric power generation facility to Puerto Rico’s Electric Power Grid.

15) “Large Industrial or Commercial Consumer” means any customer receiving Electric Service from the Provider of Last Resort under a commercial rate, whose maximum monthly demand is at least 250 kVA.

16) “Meter” means the equipment used to measure consumption and/or generation of energy at the point of connection between an individual Customer and the Electric Power Grid as well as associated communications and control capabilities.

17) “Microgrid” means a group of interconnected loads and Distributed Energy Resources within clearly defined electrical boundaries that acts as a single controllable entity that can connect and disconnect from the Electric Power Grid to enable it to operate in either grid-connected or off-the-grid (islanded) mode.

18) “Municipality” means the local government legal entity organized and existing under Article VI, §1 of the Puerto Rico Constitution and Act No. 81 of August 30, 1991, as amended, known as *the Autonomous Municipality Act of the Commonwealth of Puerto Rico*.

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19) “Municipal Venture” means an enterprise undertaken by a municipality to provide electric services to its citizens under applicable laws.

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20) “Partial Requirements Power Tariff” means a rate authorized by the Energy Bureau to be paid by a Wheeling Customer to the Provider of Last Resort for generation services not provided by the Retail Energy Supplier under a Power Purchase Agreement that provides the Wheeling Customer with less than 100% of its generation services.

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21) “Person” means a natural person, or a legal entity created, organized, or existing under the laws of Puerto Rico, the United States of America, any state

⁴ Regulation on Microgrid Development, May 18, 2018.

of the union, or any foreign state or country; a Municipality or a consortium of Municipalities; or any other government entity, including PREPA.

22) "Power Purchase Agreement" or "PPA" means any agreement or contract approved by the Energy Bureau, whereby an Electric Power Generation Company is bound to sell electric power, at a just and reasonable rate, to another natural or juridical person, and such other person is, in turn, bound to acquire said electric power.

23) "PREPA" means the Puerto Rico Electric Power Authority, a corporate entity created by Act No. 83 of May 2, 1941, as amended, and any successor entity.

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24) "Provider of Last Resort" or "POLR" means the entity maintaining the primary responsibility for providing for any of the generation, transmission, distribution, commercialization, and operating functions of the Electrical System. The Provider of Last Resort shall be PREPA or its agent or successor.

25) "Retail Energy Supplier" or "RES" means a certified Electric Power Service Company, Microgrid, Energy Cooperative, Municipal Venture, Independent Power Producer or Community Solar enterprise that produces or acquires generation services from one or more Electric Power Generation Company to be supplied to one or more Customers or a demand aggregator that provides energy services to end-use customers.

26) "Stand-by Power Tariff" means an optional rate authorized by the Energy Bureau to compensate the Provider of Last Resort for providing power if a Retail Energy Supplier that has contracted through a Power Purchase Agreement to provide one or more Wheeling Customers with power fails to meet the terms and conditions of that Power Purchase Agreement and the Wheeling Customer is desirous of having continual service. The standby compensation may be paid by the Retail Energy Supplier or the Wheeling Customer, and may be included in the Wheeling Charge or separately stated.

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27) "Transmission" or "Transmission System" means the physical equipment used to transmit electric power at voltages of at least 38,000 volts, including but not limited to towers, poles, lines, and transformers.

28) "Wheeling" means the transmission of electricity from one or more Independent Power Producers through a Retail Energy Supplier to a Wheeling Customer through the Electric Power Grid. Wheeling includes no form of distributed generation to which net-metering is applied.

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29) "Wheeling Charge" means the charge the POLR will bill the Retail Energy Supplier and/or its Wheeling Customers as a result of applying the Wheeling Rate to the wheeling services provided.

30)“Wheeling Customer” means Electric Power Service Companies, Microgrids, Energy Cooperatives, Municipal Ventures, large scale industrial and commercial consumers and community solar and other demand aggregators that enters into a Power Purchase Agreement with a Retail Energy Supplier or an Independent Power Producer.

31)“Wheeling Rate” means a set of just and reasonable prices, as approved by the Energy Bureau, that shall be charged to an Independent Power Producer, Retail Energy Supplier, or to a Wheeling Customer, for the use of the Electric Power Grid for the delivery of energy to a Wheeling Customer.

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32)“Wheeling Service Agreement” means the contract executed between an Independent Power Producer or Retail Energy Supplier and the Provider of Last Resort to establish the functions and obligations of these two parties, before commencing the supply of power to a Wheeling Customer under a Power Purchase Agreement.

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C) Every word used in the singular in this Regulation shall be understood to also include the plural unless the context indicates otherwise.

Section 1.10.- Controlling Version.

Should any discrepancy between the Spanish version and the English version of this Regulation arise, the English version shall prevail.

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Section 1.11.- Severability.

If any article, provision, word, sentence, paragraph, subsection, or section of this Regulation is disputed, for any reason, before a court and declared unconstitutional or null and void, such ruling shall not affect, damage, or invalidate the remaining provisions of this Regulation, rather the effect shall be limited to the article, provision, word, sentence, paragraph, subsection, or section, declared unconstitutional or null and void. The nullity or invalidity of any article, word, sentence, paragraph, subsection, or section, in any specific case, shall not affect or jeopardize in any way its application or validity in any other case, unless it has been specifically and expressly invalidated for all cases.

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Section 1.12.- Forms.

The Energy Bureau shall establish the forms it deems necessary to conduct the proceedings under this Regulation and shall inform the public via its website. The fact that the Energy Bureau has not adopted one or more forms, is in the process of reviewing them, or the Internet website is out of service, shall relieve no party of its obligation to comply with the provisions stated, provide the information required by this Regulation, or otherwise comply with any applicable Energy Bureau order.

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Section 1.13.- Mode of Submission.

The forms, documents, and appearances required by this Regulation or any order of the Energy Bureau must be submitted before the Energy Bureau in electronic format according to the instructions which, from time to time, the Energy Bureau establishes through an order in relation to the electronic filing system.

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If the electronic filing system is temporarily not operating or functioning, the forms, documents, and appearances required by this Regulation or by any order of the Energy Bureau shall be submitted before the Energy Bureau under any instructions that the Energy Bureau shall provide at that time through an order.

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Section 1.14.- Effect of Submission.

In filing any document before the Energy Bureau, the party undersigning such document shall be deemed to have certified that the content of said document is true and that, according to the signer’s best knowledge, information, and belief, formed after reasonable inquiry, the document is based on reliable and trustworthy facts, arguments, judicial sources, and information.

Section 1.15.- Confidential Information.

If in compliance with this Regulation or any of the Energy Bureau’s orders, a Person must disclose information to the Energy Bureau considered privileged, under applicable evidentiary privileges, said Person shall identify the alleged privileged information and request in writing for the Energy Bureau to treat such information as confidential, under Article 6.15 of Act 57-2014. In identifying privileged information and requesting confidential treatment by the Energy Bureau, the requesting party shall follow the rules and procedures established by the Energy Bureau in Resolution CEPR-MI-2016-0009, as such resolution may be amended from time to time, for the filing, handling, and treatment of confidential information. Except in the case of information protected under the attorney-client privilege, the claim of confidential treatment shall, under no circumstances, be grounds for denying such information from being filed with the Energy Bureau.

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Section 1.16.- Validity.

Under Section 2.8 of the LPAU, this Regulation shall enter into effect thirty (30) days after its submission to the Department of State and the Legislative Library of the Office of Legislative Services.

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Section 1.17.- Penalties for Non-Compliance.

Any Person who fails to comply with any of the requirements set forth in this Regulation may be subject to the impositions of penalties under Act 57-2014, Section 3.05 and 3.06 of

Regulation 8701, and under the procedures established in Regulation 8543⁵.

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Section 1.18.- Compliance with Other Applicable Legal Requirements.

Compliance with this Regulation shall relieve no party affected by this Regulation from fully complying with other applicable legal and regulatory requirements enforced by any other government entity.

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ARTICLE 2.- RESPONSIBILITIES OF THE PROVIDER OF LAST RESORT

Section 2.01.- Applicability.

This section establishes the responsibilities of the Provider of Last Resort ("POLR") regarding the implementation of Wheeling. The POLR shall ensure transparent, open access on non-discriminatory terms to the Electric Power Grid for Retail Energy Suppliers serving or intending to serve Wheeling Customers; ensure the reliability and adequacy of the Electric Power Grid; ensure adequate power for all customers; ensure efficient economic dispatch and scheduling of resources to serve loads; and ensure that electricity delivery is accurately accounted for to the Retail Energy Suppliers. The POLR shall:

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- A) Maintain the reliability and security of the Electric Power Grid, including the instantaneous balancing of generation and load, and assuring the adequacy of resources to meet demand;
- B) Provide for transparent, non-discriminatory and open access to the Electric Power Grid, consistent with this Regulation, Energy Bureau orders, PPAs and approved Wheeling Services Agreements;
- C) Process expeditiously all requests for interconnection by Independent Power Producers seeking to provide energy to Retail Energy Suppliers or directly to a Wheeling Customers and provide interconnection under the same pricing and other conditions as that provided for Independent Power Producers selling energy to the POLR;
- D) Process all requests for wheeling services from Retail Energy Suppliers seeking to serve Wheeling Customers in accordance with the procedures established by the Energy Bureau to those effects;
- E) Provide billing and metering services to Customers not engaged in wheeling. In the case of Wheeling Customers, the POLR shall bill the Retail Energy Suppliers and/or

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

the Wheeling Customers, under the Wheeling Rate and the terms and conditions of the Wheeling Service Agreement with each Retail Energy Suppliers.

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F) Have a continuing obligation to provide adequate power to any Customer;

G) Administer settlement and billing for wheeling services provided to the Retail Energy Suppliers; and

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H) Perform any additional duties required under this Regulation, Energy Bureau orders, and Wheeling Services Agreements.

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Section 2.02.- Interconnection.

The POLR shall be responsible for complying with interconnection regulations and protocols subject to approval by the Energy Bureau, for the interconnection of generating facilities, Microgrids and Distributed Generators as applicable, that use the Transmission and Distribution System.

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Section 2.03.- Wheeling Tariffs.

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A) The POLR is directed to develop and offer, subject to Energy Bureau review and approval, the following wheeling tariffs:

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(1) A delivery rate for any Wheeling Customer opting to enter into Power Purchase Agreements with a Retail Energy Supplier. That delivery rate shall cover all costs for transmission, delivery and customer service, as well as any generation-related costs to the POLR not avoided by the wheeling arrangement or covered by the charges to the customer's Retail Energy Supplier.

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(2) A schedule of charges to Retail Energy Suppliers for the account administration, sharing metering and other customer data, and any other non-volumetric customer-related services provided by the POLR to the Retail Energy Supplier in excess of the costs of serving full-service customers.

(3) Stand-by Power Tariff. A Stand-by Power Tariff shall be available to any Wheeling Customer purchasing their full electric power from a Retail Energy Supplier Retail Energy Supplier fails to meet the Wheeling Customer's load for any given period.

Deleted: an Independent Power Producer when (a) the Independent Power Producer fails to meet the Wheeling Customer's load for any given period; or (b) the Wheeling Customer draws power from the Electric Power System in excess of the established quantity in the Power Purchase Agreement. The Stand-by Power Tariff shall include the formula by which stand-by charges are calculated among other relevant terms that the Energy Bureau may specify in an order...

(4) A balancing tariff to reflect the net cost or benefit to the POLR of differences between customer energy requirements and Retail Energy Supplier power supply, as approved by the Energy Bureau. Such tariff may reflect the timing

and quantity of deliveries and consumption, as well as line losses computed in the same manner as line losses attributed to similar full-service customers.

(5) A Standby Power Tariff, if the POLR's costs of maintaining the ability to serve the Wheeling Customers' generation requirements are not otherwise covered by other terms and provisions of the Wheeling Tariffs.

(6) Partial Requirements Power Tariff. The Partial Requirements Power Tariff shall be available to any Wheeling Customer purchasing less than their full electric power requirements from an Independent Power Producer. Tariffs shall specify proposed rates including any minimum or maximum purchase requirements among other relevant terms that the Energy Bureau may specify in an Order.

(7) Such other tariffs or charges as the Energy Bureau may specify in an Order.

B) The terms and conditions of the delivery rate tariffs shall specify when the Wheeling Customer may opt to return to the then existing applicable tariff available to customers served directly by the POLR, as well as how long any Wheeling Customer that returns to the POLR shall be required to stay with the POLR.

C) The POLR shall file the wheeling tariffs setting forth the terms and conditions for service for the Energy Bureau's approval. In establishing the tariffs, the Energy Bureau will ensure that costs associated with wheeling do adversely affect the costs and reliability to full-service customers.

ARTICLE 3.- RESPONSIBILITIES OF RETAIL ENERGY SUPPLIERS

Section 3.01.- Applicability.

This section establishes the responsibilities of any Retail Energy Supplier seeking to supply power to a Wheeling Customer through a Power Purchase Agreement.

Section 3.02.- Wheeling Services Agreement Requirement.

A Retail Energy Supplier must have an approved Wheeling Services Agreement with the POLR prior to delivering power to a Wheeling Customer pursuant to a Power Purchase Agreement.

Section 3.03.- Certification.

Any Independent Power Producer who intends to sell power through a Power Purchase Agreement to a Wheeling Customer shall file a certification application that must be

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approved by the Energy Bureau, under Regulation 8701, or any subsequent regulation to those effects, before providing any such services.

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Section 3.04.- Metering and Billing.

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A) If no other arrangements are made, the POLR shall be responsible for metering, for billing of delivery and other charges, and for providing the metering data to the Retail Energy Supplier on a timely basis at the incremental cost of such service. The Retail Energy Supplier shall be responsible for billing its customer based on the metering data received.

Deleted: The Independent Power Producer shall offer metering and billing services

B) The Retail Energy Supplier may provide its own metering for the power usage of a Wheeling Customer with which they have a Power Purchase Agreement, consistent with the terms and conditions of such Power Purchase Agreement.

Deleted: The Wheeling Charge will appear in the Wheeling Customer's bill as a pass-through charge.

C) The Retail Energy Supplier may also contract with PREPA for joint billing, either by PREPA or by the Retail Energy Supplier. In such event, the contract shall specify how nonpayment or partial payments shall be handled. If the Retail Energy Supplier is responsible for billing, the Wheeling Charge shall appear in the Wheeling Customer's bill as a pass-through charge.

Section 3.05.- Default.

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In the event that the Retail Energy Supplier defaults on the delivery of power committed in a Power Purchase Agreement by failing to provide power consistent with the terms and conditions of the Power Purchase Agreement and/or the Wheeling Service Agreement for any given period, the Retail Energy Supplier shall be responsible for compensating the Wheeling Customer to account for any additional charges to the Wheeling Customer from the POLR, in excess of the rates and terms of the Power Purchase Agreement.

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ARTICLE 4.- WHEELING SERVICES AGREEMENT

Section 4.01.- Applicability.

The POLR and the Retail Energy Supplier with an approved Wheeling Services Agreement Application shall enter a Wheeling Service Agreement prior to commencing wheeling services.

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Section 4.02.- Stakeholders Input Process.

The Energy Bureau shall conduct stakeholder technical workshops or solicit comments from stakeholders as needed to ensure that a Standard Service Agreement is developed between the POLR Resort and the Retail Energy Supplier.

Deleted: Within forty five (45) days of the adoption of this Regulation, the Energy Bureau shall convene a stakeholder technical workshop or series of workshops for purposes of requesting input on the development of the standard Wheeling Services Agreement. Upon completing the stakeholder input process, the Energy Bureau will issue an Order establishing the parameters the Provider of Last Resort will use in the development of a draft standard Wheeling Services Agreement, in accordance with Section 4.03 of this Regulation.¶

Section 4.03.- Wheeling Services Agreement Draft.

A) In accordance with an Order by the Energy Bureau, the POLR shall propose, for Energy Bureau approval, a standard Wheeling Services Agreement. Besides the parameters established in the Order described in Section 4.02 of this Regulation, the Standard Wheeling Services Agreement shall cover standard electric industry wheeling terms and conditions and shall explicitly address at least;

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- (1) Terms, conditions, and charges for wheeling service;
- (2) Authorized form of wheeling instruction;
- (3) A description of the settlement process for under- and over-deliveries on either a daily or monthly basis or based the wheeling instruction;

(4) The arrangements for metering, data exchange and billing, and charges, therefor;

(5) The process for addressing any default in the provision of energy to a Wheeling Customer; and

Deleted: an end-use customer

(6) Any other parameter established by the Energy Bureau through Order.

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B) The POLR shall provide the Retail Energy Supplier with the Standard Wheeling Services Agreement and shall inform the Retail Energy Supplier that it may negotiate different terms if the Standard Wheeling Services Agreement is not suitable to its needs.

Section 4.04.- Wheeling Services Agreement Application Form.

A) In accordance with an Order by the Energy Bureau, the POLR shall submit, for Energy Bureau approval, a draft of the proposed Standard Wheeling Service Agreement application form. Such draft shall contain, but not be limited to, these requirements:

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1) Geographic location of the Independent Power Producer generation facilities serving the Retail Energy Supplier;

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2) Estimated quantity of energy and peak demand to be wheeled;

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3) The injection point and delivery points for the power on the Electric Power System;

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4) Anticipated Wheeling Customer locations to be served under a Power Purchase Agreement, to the extent available;

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5) Proposed commencement date and anticipated duration of the wheeling agreement;

Deleted: <#>Proposed interconnection point;¶
¶

6) Any other information necessary for the implementation of this Wheeling Regulation; and

7) Any other information required by the Energy Bureau through Order.

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B) The draft proposed form shall specify that, upon request from the Retail Energy Supplier, the POLR will designate, handle and treat as confidential the information included in the application which was specifically identified by the Retail Energy Supplier to that effect.

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Section 4.05.- Nonrefundable Fee.

Upon submission of the Standard Wheeling Services Agreement, the POLR shall propose, for Energy Bureau approval, a nonrefundable fee to be paid by the applying Retail Energy Supplier upon submission of a Wheeling Services Agreement application form. Such fee shall be set by the Energy Bureau for no more than is necessary to ensure that costs associated with processing the application do not affect in any way whatsoever nonsubscribers of wheeling services.

Deleted: Within sixty (60) days of issuance

Deleted: Energy Bureau Order described in Section 4.02 of this Regulation

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Section 4.06.- Energy Bureau Review.

The Energy Bureau shall approve, disapprove, or modify the proposed standard Wheeling Services Agreement, the proposed Wheeling Agreement Application Form and the proposed Nonrefundable Fee. In its evaluation process, the Energy Bureau will consider any comments provided by the public. In considering any term or condition, the Energy Bureau will ensure that costs associated with wheeling do not affect in any way whatsoever nonsubscribers of wheeling services.

ARTICLE 5.- POWER PURCHASE AGREEMENTS

Section 5.01.- Development of a Standard Power Purchase Agreement.

Within forty-five (45) days of the adoption of this Regulation, the Energy Bureau shall convene a stakeholder technical workshop or series of workshops to request input on developing a standard Power Purchase Agreement. Upon completing the stakeholder input process, the Energy Bureau will issue an order establishing the parameters the Retail Energy Suppliers will use for the drafting of Power Purchase Agreements. The Energy Bureau will consider any comments provided by the public regarding the standard Power Purchase Agreement. In considering any term or condition, the Energy Bureau will ensure that costs

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associated with wheeling do not affect in any way whatsoever nonsubscribers of wheeling services.

Section 5.02.- Standard Power Purchase Agreement.

All Power Purchase Agreements must contain, at a minimum, the clauses and provisions, as well as comply with the parameters and instructions, established by the Energy Bureau through order.

ARTICLE 6.- WHEELING SERVICES AGREEMENT APPLICATION PROCESS

Section 6.01.- Applicability.

Any certified Retail Energy Supplier connected, or intending to interconnect, to the Electric Power Grid to wheel power to a Wheeling Customer pursuant to a Purchase Power Agreement, must submit a Wheeling Service Agreement application before the POLR, using the application form approved by the Energy Bureau. Such application must be approved by the POLR prior to commencing the supply of power to a Wheeling Customer pursuant to a Power Purchase Agreement.

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Section 6.02.- Wheeling Services Agreement Application Review Process.

- A) Within thirty (30) calendar days of the filing of the Wheeling Services Agreement Application by the Retail Energy Supplier, the POLR shall determine if it is complete. A Wheeling Services Agreement Application shall be deemed complete by the POLR if it includes all the information required in the corresponding application form. If the POLR does not respond to the Application within thirty (30) calendar days of the filing, the Wheeling Services Agreement Application shall be deemed complete.
- B) If the POLR deems a Wheeling Services Agreement Application incomplete, the POLR shall notify the Retail Energy Supplier in writing of the specific areas in which the filing is deficient and the information required to correct such deficiencies.
- C) Within thirty (30) days of the filing of the corrected documents, the POLR shall evaluate them for completeness. The POLR shall notify its determination in writing to Retail Energy Supplier within the same 30-day period.
- D) The POLR shall evaluate the Wheeling Services Agreement application within a term of thirty (30) days from the date it determined the Wheeling Services Agreement application is deemed complete. The POLR shall notify the Retail Energy Supplier of its final determination in writing to the Retail Energy Supplier within the same 30-day period. If the Application is not accepted, then the POLR shall provide a detailed explanation of the basis for rejecting the application.

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Section 6.03.- Appeal to the Energy Bureau.

If a Retail Energy Supplier is not satisfied with the POLR's determination with respect to its Wheeling Services Agreement application, the Retail Energy Supplier may appeal such determination before the Energy Bureau within thirty (30) days of the date the determination was notified to the Retail Energy Supplier.

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ARTICLE 7.- WHEELING RATES

Section 7.01.- Wheeling Rates.

The Energy Bureau shall review and approve the rates that the POLR may charge Retail Energy Supplier or Wheeling Customers for the use of the transmission and/or distribution system to deliver power pursuant to a Purchase Power Agreement to a Wheeling Customer.

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Section 7.02.- Wheeling Rates Procedure.

The Energy Bureau will establish through Order the procedure to determine the Wheeling Rates, under 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 shall ensure that costs associated with wheeling do not affect in any way whatsoever nonsubscribers of wheeling services.

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ARTICLE 8.- RECONSIDERATION AND JUDICIAL REVIEW

Section 8.01.- Reconsideration.

Any person who is not satisfied with a decision made by the Energy Bureau under this Regulation may file, within the term of twenty (20) days from the date copy of the notice of such decision is filed by the Energy Bureau's Clerk, a request for reconsideration before the Energy Bureau wherein the petitioner sets forth in detail the grounds that support the request and the decisions that, in the opinion of the petitioner, the Energy Bureau should reconsider.

Section 8.02.- Judicial Review.

Any person dissatisfied with a final decision of the Energy Bureau under this Regulation may, within thirty (30) days from the date copy of notice of a final decision addressing a request for reconsideration is filed by the Energy Bureau's Clerk, or within thirty (30) days from the date copy of the notice of an Energy Bureau final decision is filed by the Energy Bureau's Clerk, if a request for reconsideration has not been filed, appear before the Puerto Rico Court of Appeals by way of writ of judicial review, under Section 4.2 of the LPAU and the applicable Rules of the Court of Appeals.

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Agreed upon by the Puerto Rico Energy Bureau, in San Juan, Puerto Rico, on December __, 2019.¶
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GOVERNMENT OF PUERTO RICO

Public Service Regulatory Board
Puerto Rico Energy Bureau

REGULATION ON ELECTRIC ENERGY WHEELING

TABLE OF CONTENTS

ARTICLE 1.- GENERAL PROVISIONS 4
Section 1.01.- Title 4
Section 1.02.- Legal Basis and Authority..... 4
Section 1.03.- Purpose..... 4
Section 1.04.- Applicability..... 4
Section 1.05.- Interpretation. 5
Section 1.06.- Provisions of Other Regulations. 5
Section 1.07.- Unforeseen Proceedings. 5
Section 1.08.- Dates and Time Periods. 5
Section 1.09.- Definitions. 5
Section 1.10.- Controlling Version..... 9
Section 1.11.- Severability. 9
Section 1.12.- Forms. 9
Section 1.13.- Mode of Submission..... 10
Section 1.14.- Effect of Submission. 10
Section 1.15.- Confidential Information. 10
Section 1.16.- Validity..... 10
Section 1.17.- Penalties for Non-Compliance. 10
Section 1.18.- Compliance with Other Applicable Legal Requirements. 11

ARTICLE 2.- RESPONSIBILITIES OF THE PROVIDER OF LAST RESORT 11
Section 2.01.- Applicability..... 11
Section 2.02.- Interconnection..... 12
Section 2.03.- Wheeling Tariffs..... 12

ARTICLE 3.- RESPONSIBILITIES OF RETAIL ENERGY SUPPLIERS..... 13
Section 3.01.- Applicability..... 13
Section 3.02.- Wheeling Services Agreement Requirement. 13
Section 3.03.- Certification. 13
Section 3.04.- Metering and Billing..... 14
Section 3.05.- Default..... 14

ARTICLE 4.- WHEELING SERVICES AGREEMENT 14
Section 4.01.- Applicability..... 14
Section 4.02.- Stakeholders Input Process..... 14
Section 4.03.- Wheeling Services Agreement Draft. 15
Section 4.04.- Wheeling Services Agreement Application Form. 15
Section 4.05.- Nonrefundable Fee..... 16
Section 4.06.- Energy Bureau Review. 16

ARTICLE 5.- POWER PURCHASE AGREEMENTS 16
Section 5.01.- Development of a Standard Power Purchase Agreement..... 16
Section 5.02.- Standard Power Purchase Agreement. 17

ARTICLE 6.- WHEELING SERVICES AGREEMENT APPLICATION PROCESS..... 17
Section 6.01.- Applicability.....17
Section 6.02.- Wheeling Services Agreement Application Review Process.....17
Section 6.03.- Appeal to the Energy Bureau.18

ARTICLE 7.- WHEELING RATES 18
Section 7.01.- Wheeling Rates.....18
Section 7.02.- Wheeling Rates Procedure.....18

ARTICLE 8.- RECONSIDERATION AND JUDICIAL REVIEW 18
Section 8.01.- Reconsideration18
Section 8.02.- Judicial Review.18

REGULATION ON ELECTRIC ENERGY WHEELING

ARTICLE 1.- GENERAL PROVISIONS

Section 1.01.- Title.

This Regulation shall be known as the *Regulation on Electric Energy Wheeling*.

Section 1.02.- Legal Basis and Authority.

This Regulation is adopted under Act 57-2014, as amended, known as the *Puerto Rico Energy Transformation and RELIEF Act* ("Act 57-2014"); Act 17-2019, known as the *Puerto Rico Energy Public Policy Act* ("Act 17-2019"); and Act 38-2017, as amended, known as the *Uniform Administrative Procedure Act of the Government of Puerto Rico* ("LPAU" for its Spanish acronym). Specifically, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("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 the applicable laws."¹ 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."²

Section 1.03.- Purpose.

The Energy Bureau adopts and enacts this Regulation to implement the energy wheeling mechanism in Puerto Rico, under applicable legislative mandates. To implement a system that allows an exempt business, dedicated to the production of energy, as described in Section 2(d)(1)(H) of Article 1 of Act No. 73-2008, as amended, known as the *Economic Incentives Act for the Development of Puerto Rico*, or similar provisions in other incentive laws, as well as Electric Power Service Companies, Microgrids, Energy Cooperatives, Municipal Ventures, Large Industrial and Commercial consumers, and Community Solar and other demand aggregators, to participate in the energy wheeling mechanism in Puerto Rico.

Section 1.04.- Applicability.

This Regulation shall apply to all companies offering electric service operating in Puerto Rico when this Regulation enters into effect, as well as to all companies that intend to operate or offer electric services in Puerto Rico now or in the future.

¹ Section 6.3(g) of Act 57-2014, as amended by Section 5.10 of Act 17-2019.

² Section 6.3 of Act 57-2014, as amended by Section 5.10 of Act 17-2019.

Section 1.05.- Interpretation.

This Regulation shall be interpreted so it promotes the highest public good and the protection of the interests of all electric service customers of Puerto Rico, and in such a way that proceedings are carried out rapidly, justly, and economically.

Section 1.06.- Provisions of Other Regulations.

This Regulation may be supplemented by other regulations of the Puerto Rico Energy Bureau compatible with this Regulation.

Section 1.07.- Unforeseen Proceedings.

When a specific proceeding has not been planned for in this Regulation, the Energy Bureau may attend to it in any way that is consistent with Act 57-2014 and other applicable laws.

Section 1.08.- Dates and Time Periods.

In computing any time period established in this Regulation, or by order of the Energy Bureau, the day of the act, event, or noncompliance that triggers the period shall not be counted, and the established period shall elapse on the following day. Whenever a due date falls on a Saturday, Sunday, or legal holiday, said due date shall be extended until the next workday.

Section 1.09.- Definitions.

- A) These definitions are to be used for this Regulation and are not intended to modify the definitions used in any other Energy Bureau regulation or order.
- B) For this Regulation, these terms will have the meaning established below, unless the context of the content of any provision indicates something else:
 - 1) “Application” means the document submitted by an Independent Power Producer to the Provider of Last Resort requesting to execute a Wheeling Services Agreement.
 - 2) “Balancing Charge” means a tariffed rate that reflects the net cost or benefit to the Provider of Last Resort of differences between the customer’s energy requirements and Retail Energy Supplier power supply, as approved by the Energy Bureau. Such tariff may reflect the timing and quantity of deliveries and consumption, as well as line losses computed in the same manner as line losses attributed to similar full-service customers.

- 3) "Community Solar" means a program whereby local solar facilities are shared by multiple customers who receive credit on their electricity bills for their share of the power produced.
- 4) "Customer" means any Person who receives Electric Services.
- 5) "Distributed Generation" means an electric power generation facility in Puerto Rico connected to the Distribution System and producing power for self-supply or sale.
- 6) "Distribution System" means the physical equipment used to distribute electric power at voltages of less than 38,000 volts, including but not limited to poles, primary lines, secondary lines, service drops, transformers, and Meters.
- 7) "Electric Power Grid" means the electric power Transmission System and Distribution System of Puerto Rico.
- 8) "Electric Service" means the provision of generation, distribution and/or transmission service to a customer; it may include ancillary services.
- 9) "Electric Power Generation Company" or "EPGC" means any natural or juridical person engaged in the production or generation of electric power in Puerto Rico. This term shall include cogenerators already established in Puerto Rico that supply energy to PREPA through a Power Purchase Agreement, and renewable energy producers. All Electric Power Generation Companies shall be deemed to be Electric Power Service Companies.
- 10) "Electric Power Service Company" or "EPSC" means any natural or juridical person or entity including Energy Cooperatives, engaged in the rendering of energy generation, transmission and distribution services, billing, wheeling, grid services, energy storage, and/or the resale of electric power.
- 11) "Energy Bureau" means the Energy Bureau of the Puerto Rico Public Service Regulatory Board, established by virtue of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board, and Act 211-2018, formerly the Puerto Rico Energy Commission, created under Act 57-2014, which is a specialized independent entity in charge of regulating, overseeing, and enforcing the public policy on energy of the Government of Puerto Rico.
- 12) "Energy Cooperative" means a cooperative organized under Act 239-2004, known as the *General Cooperative Associations Act of 2004*, as amended, mainly to meet individual and common electric power needs of their cooperative members, affiliated consumers and/or communities through electric power generation, transmission and/or distribution systems. "Cooperative

Microgrids” as defined in Regulation 9028,³ shall not be considered Energy Cooperatives, as defined in this Regulation.

- 13) “Independent Power Producer” means an Electric Power Generation Company without a Provider of Last Resort obligation. An Independent Power Producer may, but is not required to, be qualified as an exempt business described in Section 2(d)(1)(H) of Article 1 of Act No. 73-2008, as amended, known as the *Economic Incentives Act for the Development of Puerto Rico*.
- 14) “Interconnection” means the connection of an electric power generation facility to Puerto Rico’s Electric Power Grid.
- 15) “Large Industrial or Commercial Consumer” means any customer receiving Electric Service from the Provider of Last Resort under a commercial rate, whose maximum monthly demand is at least 250 kVA.
- 16) “Meter” means the equipment used to measure consumption and/or generation of energy at the point of connection between an individual Customer and the Electric Power Grid as well as associated communications and control capabilities.
- 17) “Microgrid” means a group of interconnected loads and Distributed Energy Resources within clearly defined electrical boundaries that acts as a single controllable entity that can connect and disconnect from the Electric Power Grid to enable it to operate in either grid-connected or off-the-grid (islanded) mode.
- 18) “Municipality” means the local government legal entity organized and existing under Article VI, §1 of the Puerto Rico Constitution and Act No. 81 of August 30, 1991, as amended, known as *the Autonomous Municipality Act of the Commonwealth of Puerto Rico*.
- 19) “Municipal Venture” means an enterprise undertaken by a municipality to provide electric services to its citizens under applicable laws.
- 20) “Partial Requirements Power Tariff” means a rate authorized by the Energy Bureau to be paid by a Wheeling Customer to the Provider of Last Resort for generation services not provided by the Retail Energy Supplier under a Power Purchase Agreement that provides the Wheeling Customer with less than 100% of its generation services.
- 21) “Person” means a natural person, or a legal entity created, organized, or existing under the laws of Puerto Rico, the United States of America, any state

³ Regulation on Microgrid Development, May 18, 2018.

of the union, or any foreign state or country; a Municipality or a consortium of Municipalities; or any other government entity, including PREPA.

- 22) "Power Purchase Agreement" or "PPA" means any agreement or contract approved by the Energy Bureau, whereby an Electric Power Generation Company is bound to sell electric power, at a just and reasonable rate, to another natural or juridical person, and such other person is, in turn, bound to acquire said electric power.
- 23) "PREPA" means the Puerto Rico Electric Power Authority, a corporate entity created by Act No. 83 of May 2, 1941, as amended, and any successor entity.
- 24) "Provider of Last Resort" or "POLR" means the entity maintaining the primary responsibility for providing for any of the generation, transmission, distribution, commercialization, and operating functions of the Electrical System. The Provider of Last Resort shall be PREPA or its agent or successor.
- 25) "Retail Energy Supplier" or "RES" means a certified Electric Power Service Company, Microgrid, Energy Cooperative, Municipal Venture, Independent Power Producer or Community Solar enterprise that produces or acquires generation services from one or more Electric Power Generation Company to be supplied to one or more Customers or a demand aggregator that provides energy services to end-use customers.
- 26) "Stand-by Power Tariff" means an optional rate authorized by the Energy Bureau to compensate the Provider of Last Resort for providing power if a Retail Energy Supplier that has contracted through a Power Purchase Agreement to provide one or more Wheeling Customers with power fails to meet the terms and conditions of that Power Purchase Agreement and the Wheeling Customer is desirous of having continual service. The standby compensation may be paid by the Retail Energy Supplier or the Wheeling Customer, and may be included in the Wheeling Charge or separately stated.
- 27) "Transmission" or "Transmission System" means the physical equipment used to transmit electric power at voltages of at least 38,000 volts, including but not limited to towers, poles, lines, and transformers.
- 28) "Wheeling" means the transmission of electricity from one or more Independent Power Producers through a Retail Energy Supplier to a Wheeling Customer through the Electric Power Grid. Wheeling includes no form of distributed generation to which net-metering is applied.
- 29) "Wheeling Charge" means the charge the POLR will bill the Retail Energy Supplier and/or its Wheeling Customers as a result of applying the Wheeling Rate to the wheeling services provided.

30)“Wheeling Customer” means Electric Power Service Companies, Microgrids, Energy Cooperatives, Municipal Ventures, large scale industrial and commercial consumers and community solar and other demand aggregators that enters into a Power Purchase Agreement with a Retail Energy Supplier or an Independent Power Producer.

31)“Wheeling Rate” means a set of just and reasonable prices, as approved by the Energy Bureau, that shall be charged to an Independent Power Producer, Retail Energy Supplier, or to a Wheeling Customer, for the use of the Electric Power Grid for the delivery of energy to a Wheeling Customer.

32)“Wheeling Service Agreement” means the contract executed between an Independent Power Producer or Retail Energy Supplier and the Provider of Last Resort to establish the functions and obligations of these two parties, before commencing the supply of power to a Wheeling Customer under a Power Purchase Agreement.

C) Every word used in the singular in this Regulation shall be understood to also include the plural unless the context indicates otherwise.

Section 1.10.- Controlling Version.

Should any discrepancy between the Spanish version and the English version of this Regulation arise, the English version shall prevail.

Section 1.11.- Severability.

If any article, provision, word, sentence, paragraph, subsection, or section of this Regulation is disputed, for any reason, before a court and declared unconstitutional or null and void, such ruling shall not affect, damage, or invalidate the remaining provisions of this Regulation, rather the effect shall be limited to the article, provision, word, sentence, paragraph, subsection, or section declared unconstitutional or null and void. The nullity or invalidity of any article, word, sentence, paragraph, subsection, or section, in any specific case, shall not affect or jeopardize in any way its application or validity in any other case, unless it has been specifically and expressly invalidated for all cases.

Section 1.12.- Forms.

The Energy Bureau shall establish the forms it deems necessary to conduct the proceedings under this Regulation and shall inform the public via its website. The fact that the Energy Bureau has not adopted one or more forms, is in the process of reviewing them, or the Internet website is out of service, shall relieve no party of its obligation to comply with the provisions stated, provide the information required by this Regulation, or otherwise comply with any applicable Energy Bureau order.

Section 1.13.- Mode of Submission.

The forms, documents, and appearances required by this Regulation or any order of the Energy Bureau must be submitted before the Energy Bureau in electronic format according to the instructions which, from time to time, the Energy Bureau establishes through an order in relation to the electronic filing system.

If the electronic filing system is temporarily not operating or functioning, the forms, documents, and appearances required by this Regulation or by any order of the Energy Bureau shall be submitted before the Energy Bureau under any instructions that the Energy Bureau shall provide at that time through an order.

Section 1.14.- Effect of Submission.

In filing any document before the Energy Bureau, the party undersigning such document shall be deemed to have certified that the content of said document is true and that, according to the signer's best knowledge, information, and belief, formed after reasonable inquiry, the document is based on reliable and trustworthy facts, arguments, judicial sources, and information.

Section 1.15.- Confidential Information.

If in compliance with this Regulation or any of the Energy Bureau's orders, a Person must disclose information to the Energy Bureau considered privileged, under applicable evidentiary privileges, said Person shall identify the alleged privileged information and request in writing for the Energy Bureau to treat such information as confidential, under Article 6.15 of Act 57-2014. In identifying privileged information and requesting confidential treatment by the Energy Bureau, the requesting party shall follow the rules and procedures established by the Energy Bureau in Resolution CEPR-MI-2016-0009, as such resolution may be amended from time to time, for the filing, handling, and treatment of confidential information. Except in the case of information protected under the attorney-client privilege, the claim of confidential treatment shall, under no circumstances, be grounds for denying such information from being filed with the Energy Bureau.

Section 1.16.- Validity.

Under Section 2.8 of the LPAU, this Regulation shall enter into effect thirty (30) days after its submission to the Department of State and the Legislative Library of the Office of Legislative Services.

Section 1.17.- Penalties for Non-Compliance.

Any Person who fails to comply with any of the requirements set forth in this Regulation may be subject to the impositions of penalties under Act 57-2014, Section 3.05 and 3.06 of

Regulation 8701, and under the procedures established in Regulation 8543⁴.

Section 1.18.- Compliance with Other Applicable Legal Requirements.

Compliance with this Regulation shall relieve no party affected by this Regulation from fully complying with other applicable legal and regulatory requirements enforced by any other government entity.

ARTICLE 2.- RESPONSIBILITIES OF THE PROVIDER OF LAST RESORT

Section 2.01.- Applicability.

This section establishes the responsibilities of the Provider of Last Resort (“POLR”) regarding the implementation of Wheeling. The POLR shall ensure transparent, open access on non-discriminatory terms to the Electric Power Grid for Retail Energy Suppliers serving or intending to serve Wheeling Customers; ensure the reliability and adequacy of the Electric Power Grid; ensure adequate power for all customers; ensure efficient economic dispatch and scheduling of resources to serve loads; and ensure that electricity delivery is accurately accounted for to the Retail Energy Suppliers. The POLR shall:

- A) Maintain the reliability and security of the Electric Power Grid, including the instantaneous balancing of generation and load, and assuring the adequacy of resources to meet demand;
- B) Provide for transparent, non-discriminatory and open access to the Electric Power Grid, consistent with this Regulation, Energy Bureau orders, PPAs and approved Wheeling Services Agreements;
- C) Process expeditiously all requests for interconnection by Independent Power Producers seeking to provide energy to Retail Energy Suppliers or directly to a Wheeling Customers and provide interconnection under the same pricing and other conditions as that provided for Independent Power Producers selling energy to the POLR;
- D) Process all requests for wheeling services from Retail Energy Suppliers seeking to serve Wheeling Customers in accordance with the procedures established by the Energy Bureau to those effects;
- E) Provide billing and metering services to Customers not engaged in wheeling. In the case of Wheeling Customers, the POLR shall bill the Retail Energy Suppliers and/or

⁴ *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures*, December 18, 2014.

the Wheeling Customers, under the Wheeling Rate and the terms and conditions of the Wheeling Service Agreement with each Retail Energy Suppliers.

- F) Have a continuing obligation to provide adequate power to any Customer;
- G) Administer settlement and billing for wheeling services provided to the Retail Energy Suppliers; and
- H) Perform any additional duties required under this Regulation, Energy Bureau orders, and Wheeling Services Agreements.

Section 2.02.- Interconnection.

The POLR shall be responsible for complying with interconnection regulations and protocols subject to approval by the Energy Bureau, for the interconnection of generating facilities, Microgrids and Distributed Generators as applicable, that use the Transmission and Distribution System.

Section 2.03.- Wheeling Tariffs.

- A) The POLR is directed to develop and offer, subject to Energy Bureau review and approval, the following wheeling tariffs:
 - (1) A delivery rate for any Wheeling Customer opting to enter into Power Purchase Agreements with a Retail Energy Supplier. That delivery rate shall cover all costs for transmission, delivery and customer service, as well as any generation-related costs to the POLR not avoided by the wheeling arrangement or covered by the charges to the customer's Retail Energy Supplier.
 - (2) A schedule of charges to Retail Energy Suppliers for the account administration, sharing metering and other customer data, and any other non-volumetric customer-related services provided by the POLR to the Retail Energy Supplier in excess of the costs of serving full-service customers.
 - (3) Stand-by Power Tariff. A Stand-by Power Tariff shall be available to any Wheeling Customer purchasing their full electric power from a Retail Energy Supplier. Retail Energy Supplier fails to meet the Wheeling Customer's load for any given period.
 - (4) A balancing tariff to reflect the net cost or benefit to the POLR of differences between customer energy requirements and Retail Energy Supplier power supply, as approved by the Energy Bureau. Such tariff may reflect the timing

and quantity of deliveries and consumption, as well as line losses computed in the same manner as line losses attributed to similar full-service customers.

(5) A Standby Power Tariff, if the POLR's costs of maintaining the ability to serve the Wheeling Customers' generation requirements are not otherwise covered by other terms and provisions of the Wheeling Tariffs.

(6) Partial Requirements Power Tariff. The Partial Requirements Power Tariff shall be available to any Wheeling Customer purchasing less than their full electric power requirements from an Independent Power Producer. Tariffs shall specify proposed rates including any minimum or maximum purchase requirements among other relevant terms that the Energy Bureau may specify in an Order.

(7) Such other tariffs or charges as the Energy Bureau may specify in an Order.

B) The terms and conditions of the delivery rate tariffs shall specify when the Wheeling Customer may opt to return to the then existing applicable tariff available to customers served directly by the POLR, as well as how long any Wheeling Customer that returns to the POLR shall be required to stay with the POLR.

C) The POLR shall file the wheeling tariffs setting forth the terms and conditions for service for the Energy Bureau's approval. In establishing the tariffs, the Energy Bureau will ensure that costs associated with wheeling do adversely affect the costs and reliability to full-service customers.

ARTICLE 3.- RESPONSIBILITIES OF RETAIL ENERGY SUPPLIERS

Section 3.01.- Applicability.

This section establishes the responsibilities of any Retail Energy Supplier seeking to supply power to a Wheeling Customer through a Power Purchase Agreement.

Section 3.02.- Wheeling Services Agreement Requirement.

A Retail Energy Supplier must have an approved Wheeling Services Agreement with the POLR prior to delivering power to a Wheeling Customer pursuant to a Power Purchase Agreement.

Section 3.03.- Certification.

Any Independent Power Producer who intends to sell power through a Power Purchase Agreement to a Wheeling Customer shall file a certification application that must be

approved by the Energy Bureau, under Regulation 8701, or any subsequent regulation to those effects, before providing any such services.

Section 3.04.- Metering and Billing.

- A) If no other arrangements are made, the POLR shall be responsible for metering, for billing of delivery and other charges, and for providing the metering data to the Retail Energy Supplier on a timely basis at the incremental cost of such service. The Retail Energy Supplier shall be responsible for billing its customer based on the metering data received.

- B) The Retail Energy Supplier may provide its own metering for the power usage of a Wheeling Customer with which they have a Power Purchase Agreement, consistent with the terms and conditions of such Power Purchase Agreement.

- C) The Retail Energy Supplier may also contract with PREPA for joint billing, either by PREPA or by the Retail Energy Supplier. In such event, the contract shall specify how nonpayment or partial payments shall be handled. If the Retail Energy Supplier is responsible for billing, the Wheeling Charge shall appear in the Wheeling Customer's bill as a pass-through charge.

Section 3.05.- Default.

In the event that the Retail Energy Supplier defaults on the delivery of power committed in a Power Purchase Agreement by failing to provide power consistent with the terms and conditions of the Power Purchase Agreement and/or the Wheeling Service Agreement for any given period, the Retail Energy Supplier shall be responsible for compensating the Wheeling Customer to account for any additional charges to the Wheeling Customer from the POLR, in excess of the rates and terms of the Power Purchase Agreement.

ARTICLE 4.- WHEELING SERVICES AGREEMENT

Section 4.01.- Applicability.

The POLR and the Retail Energy Supplier with an approved Wheeling Services Agreement Application shall enter a Wheeling Service Agreement prior to commencing wheeling services.

Section 4.02.- Stakeholders Input Process.

The Energy Bureau shall conduct stakeholder technical workshops or solicit comments from stakeholders as needed to ensure that a Standard Service Agreement is developed between the POLR Resort and the Retail Energy Supplier.

Section 4.03.- Wheeling Services Agreement Draft.

A) In accordance with an Order by the Energy Bureau, the POLR shall propose, for Energy Bureau approval, a standard Wheeling Services Agreement. Besides the parameters established in the Order described in Section 4.02 of this Regulation, the Standard Wheeling Services Agreement shall cover standard electric industry wheeling terms and conditions and shall explicitly address at least:

- (1) Terms, conditions, and charges for wheeling service;
- (2) Authorized form of wheeling instruction;
- (3) A description of the settlement process for under- and over-deliveries on either a daily or monthly basis or based the wheeling instruction;
- (4) The arrangements for metering, data exchange and billing, and charges, therefor;
- (5) The process for addressing any default in the provision of energy to a Wheeling Customer; and
- (6) Any other parameter established by the Energy Bureau through Order.

B) The POLR shall provide the Retail Energy Supplier with the Standard Wheeling Services Agreement and shall inform the Retail Energy Supplier that it may negotiate different terms if the Standard Wheeling Services Agreement is not suitable to its needs.

Section 4.04.- Wheeling Services Agreement Application Form.

A) In accordance with an Order by the Energy Bureau, the POLR shall submit, for Energy Bureau approval, a draft of the proposed Standard Wheeling Service Agreement application form. Such draft shall contain, but not be limited to, these requirements:

- 1) Geographic location of the Independent Power Producer generation facilities serving the Retail Energy Supplier;
- 2) Estimated quantity of energy and peak demand to be wheeled;
- 3) The injection point and delivery points for the power on the Electric Power System;

- 4) Anticipated Wheeling Customer locations to be served under a Power Purchase Agreement, to the extent available;
- 5) Proposed commencement date and anticipated duration of the wheeling agreement;
- 6) Any other information necessary for the implementation of this Wheeling Regulation; and
- 7) Any other information required by the Energy Bureau through Order.

B) The draft proposed form shall specify that, upon request from the Retail Energy Supplier, the POLR will designate, handle and treat as confidential the information included in the application which was specifically identified by the Retail Energy Supplier to that effect.

Section 4.05.- Nonrefundable Fee.

Upon submission of the Standard Wheeling Services Agreement, the POLR shall propose, for Energy Bureau approval, a nonrefundable fee to be paid by the applying Retail Energy Supplier upon submission of a Wheeling Services Agreement application form. Such fee shall be set by the Energy Bureau for no more than is necessary to ensure that costs associated with processing the application do not affect in any way whatsoever nonsubscribers of wheeling services.

Section 4.06.- Energy Bureau Review.

The Energy Bureau shall approve, disapprove, or modify the proposed standard Wheeling Services Agreement, the proposed Wheeling Agreement Application Form and the proposed Nonrefundable Fee. In its evaluation process, the Energy Bureau will consider any comments provided by the public. In considering any term or condition, the Energy Bureau will ensure that costs associated with wheeling do not affect in any way whatsoever nonsubscribers of wheeling services.

ARTICLE 5.- POWER PURCHASE AGREEMENTS

Section 5.01.- Development of a Standard Power Purchase Agreement.

Within forty-five (45) days of the adoption of this Regulation, the Energy Bureau shall convene a stakeholder technical workshop or series of workshops to request input on developing a standard Power Purchase Agreement. Upon completing the stakeholder input process, the Energy Bureau will issue an order establishing the parameters the Retail Energy Suppliers will use for the drafting of Power Purchase Agreements. The Energy Bureau will consider any comments provided by the public regarding the standard Power Purchase Agreement. In considering any term or condition, the Energy Bureau will ensure that costs

associated with wheeling do not affect in any way whatsoever nonsubscribers of wheeling services.

Section 5.02.- Standard Power Purchase Agreement.

All Power Purchase Agreements must contain, at a minimum, the clauses and provisions, as well as comply with the parameters and instructions, established by the Energy Bureau through order.

ARTICLE 6.- WHEELING SERVICES AGREEMENT APPLICATION PROCESS

Section 6.01.- Applicability.

Any certified Retail Energy Supplier connected, or intending to interconnect, to the Electric Power Grid to wheel power to a Wheeling Customer pursuant to a Purchase Power Agreement, must submit a Wheeling Service Agreement application before the POLR, using the application form approved by the Energy Bureau. Such application must be approved by the POLR prior to commencing the supply of power to a Wheeling Customer pursuant to a Power Purchase Agreement.

Section 6.02.- Wheeling Services Agreement Application Review Process.

- A) Within thirty (30) calendar days of the filing of the Wheeling Services Agreement Application by the Retail Energy Supplier, the POLR shall determine if it is complete. A Wheeling Services Agreement Application shall be deemed complete by the POLR if it includes all the information required in the corresponding application form. If the POLR does not respond to the Application within thirty (30) calendar days of the filing, the Wheeling Services Agreement Application shall be deemed complete.
- B) If the POLR deems a Wheeling Services Agreement Application incomplete, the POLR shall notify the Retail Energy Supplier in writing of the specific areas in which the filing is deficient and the information required to correct such deficiencies.
- C) Within thirty (30) days of the filing of the corrected documents, the POLR shall evaluate them for completeness. The POLR shall notify its determination in writing to Retail Energy Supplier within the same 30-day period.
- D) The POLR shall evaluate the Wheeling Services Agreement application within a term of thirty (30) days from the date it determined the Wheeling Services Agreement application is deemed complete. The POLR shall notify the Retail Energy Supplier of its final determination in writing to the Retail Energy Supplier within the same 30-day period. If the Application is not accepted, then the POLR shall provide a detailed explanation of the basis for rejecting the application.

Section 6.03.- Appeal to the Energy Bureau.

If a Retail Energy Supplier is not satisfied with the POLR's determination with respect to its Wheeling Services Agreement application, the Retail Energy Supplier may appeal such determination before the Energy Bureau within thirty (30) days of the date the determination was notified to the Retail Energy Supplier.

ARTICLE 7.- WHEELING RATES

Section 7.01.- Wheeling Rates.

The Energy Bureau shall review and approve the rates that the POLR may charge Retail Energy Supplier or Wheeling Customers for the use of the transmission and/or distribution system to deliver power pursuant to a Purchase Power Agreement to a Wheeling Customer.

Section 7.02.- Wheeling Rates Procedure.

The Energy Bureau will establish through Order the procedure to determine the Wheeling Rates, under 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 shall ensure that costs associated with wheeling do not affect in any way whatsoever nonsubscribers of wheeling services.

ARTICLE 8.- RECONSIDERATION AND JUDICIAL REVIEW

Section 8.01.- Reconsideration.

Any person who is not satisfied with a decision made by the Energy Bureau under this Regulation may file, within the term of twenty (20) days from the date copy of the notice of such decision is filed by the Energy Bureau's Clerk, a request for reconsideration before the Energy Bureau wherein the petitioner sets forth in detail the grounds that support the request and the decisions that, in the opinion of the petitioner, the Energy Bureau should reconsider.

Section 8.02.- Judicial Review.

Any person dissatisfied with a final decision of the Energy Bureau under this Regulation may, within thirty (30) days from the date copy of notice of a final decision addressing a request for reconsideration is filed by the Energy Bureau's Clerk, or within thirty (30) days from the date copy of the notice of an Energy Bureau final decision is filed by the Energy Bureau's Clerk, if a request for reconsideration has not been filed, appear before the Puerto Rico Court of Appeals by way of writ of judicial review, under Section 4.2 of the LPAU and the applicable Rules of the Court of Appeals.