

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

NEBR

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IN RE: REGULATION FOR THE EVALUATION
AND APPROVAL OF AGREEMENTS
BETWEEN ELECTRIC SERVICE COMPANIES

CASE NO.:
NEPR-~~AP~~-2020-0014

MI

SUBJECT:
Comments on Revised Proposed
Regulation

THE PUERTO RICO ELECTRIC POWER AUTHORITY'S COMMENTS ON THE
REVISED PROPOSED REGULATION FOR THE EVALUATION AND APPROVAL OF
AGREEMENTS BETWEEN ELECTRIC SERVICE COMPANIES

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW, the Puerto Rico Electric Power Authority, through its counsel and respectfully submits its comments to the revised proposed *Regulation for the Evaluation and Approval of Agreements Between Electric Service Companies* published by the Puerto Rico Energy Bureau of the Public Service Regulatory Board on March 18, 2021.

In San Juan, Puerto Rico, this 29th day of April 2021.

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GOVERNMENT OF PUERTO RICO
Puerto Rico Electric Power Authority

In Re: Regulation for the Evaluation and Approval of Agreements Between Electric Service Companies, Case No. NEPR-MI-2020-0014

The Puerto Rico Electric Power Authority's Comments on the Revised Proposed Regulation for the Evaluation and Approval of Agreements Between Electric Service Companies

April 29, 2021

The Puerto Rico Electric Power Authority ("PREPA") hereby submits its comments on the revised version of the proposed *Regulation for the Evaluation and Approval of Agreements Between Electric Service Companies* which the Energy Bureau published for public comment in the captioned proceeding on March 18, 2021. This submission is being made in compliance with the Energy Bureau Resolution of March 31, 2021 announcing that comments on the revised proposed regulation would be due by April 29, 2021.

PREPA appreciates the Energy Bureau's efforts to respond in the revised Proposed *Regulation for the Evaluation and Approval of Agreements Between Electric Service Companies* to comments which PREPA and other stakeholders provided in November and December 2020. In these comments, PREPA offers again certain comments that are intended to clarify the regulation, and suggests certain additional revisions that are intended to modify certain definitions to align them more closely with electrical industry practice, to eliminate certain definitions that are not needed, and to eliminate an unnecessary reference to a minimum capacity threshold for projects defined as "Community Solar Projects."

Terminology and Definitions

General:

1. The acronym for "Power Purchase Agreement" – "PPA" – should be used consistently throughout the document, and should not include an apostrophe where the reference is intended to be to more than one PPA. There is no instance in the revised proposed regulation in which the term "PPA's" is grammatically correct, and the acronym "PPA's" should be replaced by "PPAs" wherever it appears (including in headings and the Table of Contents).
2. Several definitions appear out of alphabetical order. So, for example, the definitions "Electric Grid," "Electric Power Service Company" and "Electric Service" should appear in this order, and should follow the term "Electric Cooperative" (currently Definition # 26). The definition of "Interconnection" (currently # 27) should follow the definition of



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definition. Section 1.04 D)1) exempts PPAs covering projects having capacity of less than 5 MW from coverage under the revised regulation, so inclusion of a 5 MW minimum threshold in the Community Solar Projects definition appears unnecessary if the goal is to eliminate for most Community Solar Projects the burden of complying with the regulation.

3. “Electric Service” or “Energy Service” (currently Definition # 16) – This definition should be revised. In place of the phrase “a set of activities that comprise an electrical system,” the Energy Bureau should insert the phrase “relate to use, maintenance or construction of an Electric Grid, including but not limited to the provision of Energy Generation Services.” This would be more precise and would use a defined term in place of the imprecise (and undefined) term “electrical system.”
4. “Electric Power Service Company” or “EPSC” or “Electric Power Company” (currently Definition # 17) – replace the phrase “generation, transmission and distribution services, wheeling, grid services, energy storage, and electric energy resale” with the defined term “Electric Service.”
5. The terms “Electric Grid” or “Electric Power Grid” (currently appearing in Definition # 18) and “Energy System” (currently Definition # 24) appear to have overlapping meanings. This overlap might lead to confusion as the three terms might be interpreted as referring to the same infrastructure. The term “Electric Grid” is comprehensive enough to cover the terms covered in both Definitions 18 and 24 and should be used to the exclusion of the alternative terms “Electric Power Grid” and “Energy System.”
6. The definition of the terms “Energy Generation” and “Power Generation” (currently appearing in Definition # 21) should be revised to substitute for the phrase “production of electric power” the phrase “provision of Energy Generation Services.” This would permit the various services beyond the production of electric power to be captured in the defined term “Energy Generation Services.”
7. The defined term “Energy Generation Company” (currently Definition # 22) provides that it is intended to refer to “cogenerators already established in Puerto Rico, that supply energy to PREPA through a PPA,” as well as “energy cooperatives, and renewable energy producers.” As currently structured, this definition could be read narrowly as not including the utility scale renewable energy projects that have signed PPOAs with PREPA, or entities that will be parties to future renewable PPOAs, Energy Storage Service Agreements or Grid Services Agreements resulting from PREPA’s currently pending renewables and energy storage procurement. In addition, this definition might not be broad enough to include entities that withdraw electrical energy from a battery energy storage system.





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10. In the definition of “Sales Contract” (currently Definition #45), the term *power purchase agreement* should use initial capital letters (as in “Power Purchase Agreement”), since this term is defined in the proposed regulation.

Suggested Revisions to Other Provisions of the Revised Proposed Regulation

1. Section 1.03 (Purpose and Executive Summary) – The reference in the final sentence to “Power Purchase Agreements (PPAs)” should be changed to “Agreements and Contracts as defined in this Regulation.” This would broaden the reference to cover the various types of Agreements (which will include PPAs, Energy Storage Services Agreements and Grid Services Agreements, and possibly others) that the Energy Bureau will have responsibility for evaluating and approving under the Regulation.
2. Section 1.04 C) (Special conditions for the application of this Regulation to agreements between EPSCs and entities which are not EPSCs):
 - a. The term “agreements” should be capitalized so that it is understood as the defined term “Agreements.”
 - b. The modifier “large scale” used in reference to “industrial and commercial Consumers” appears unnecessary. The term “large scale” is not defined, and so its inclusion could lead to debate over what size or characteristics make an “industrial and commercial Consumer “large scale.” The relevant consideration here is whether the entity has “enter[ed] into PPAs directly with an EPSC.” Also, the proposed regulation establishes that PPAs under 5 MW are exempt from the regulation, which effectively sets a lower threshold for the scale of industrial and commercial customers considered. Accordingly, the qualifier “large scale” may be deleted.
3. Section 1.04 D) (Exceptions) – The carve-out for “companies that provide maintenance or installation services for energy generating equipment or facilities, or entities that provide administrative services to energy producers” should be revised so that it does not inadvertently exclude from the Regulation’s coverage entities that provide some such services as a minor part of their business activities, but which are primarily engaged in the provision of generation, transmission, distribution and/or storage services. This could be accomplished by revising the provision as follows:
 - 2) This Regulation shall not apply to entities that, as their primary line of business, provide maintenance or installation services for energy generating equipment or facilities or provide administrative services to energy producers.





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- e. Section 10.01 A) 1) – rephrase to read “The rights of the Parties or project creditors to require inspections by an independent engineer of construction of, repair of or improvements to the project facility, as well as evaluation by an independent engineer of operational compliance under the terms and conditions of the Contract.”
 - f. Section 10.02 A) 2) – rephrase to read “The rights of PREPA, the Parties or project creditors to require inspections by an independent engineer of construction of, repair of or improvements to the project facility, as well as evaluation by an independent engineer of operational compliance under the terms and conditions of the Contract.”
 - g. Section 10.02 A) 9) – add the word “cost” after “marginal”.
11. Section 11.02 B) – replace the comma following “... Parties to the Agreement” with a period; change the word “Accordance” to “accordance”.

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