

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

NEER

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IN RE: THE UNBUNDLING OF THE
ASSETS OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY

CASE NO.:
NEPR-AP-2018-0004

SUBJECT:
Informative Motion; May 10, 2021
Compliance Filing

**INFORMATIVE MOTION REGARDING PROPOSED AMENDMENTS TO
REGULATION 9138 AND THE MAY 10, 2021 COMPLIANCE FILING**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW, the Puerto Rico Electric Power Authority (the “Authority”) through its undersigned legal representation and respectfully submits and prays as follows:

On April 23, 2021, Puerto Rico Energy Bureau of the Public Service Regulatory Board (the “Energy Bureau”) entered a *Resolution* in case no. CEPR-MI-2018-10, *In RE: Regulation on Wheeling*, providing notice of proposed amendments to regulation and request for public comments on the *Regulation on Electric Energy Wheeling* (the “Proposed Amendment”).¹ The redline version of the Proposed Amendment provides emphasis on the planned amendments to current Regulation 9138 as approved by the Energy Bureau on December 11, 2019.² The comments on the Proposed Amendments are due on May 24, 2021.

Pursuant to the February 5, 2021 *Resolution and Order*, regarding unbundled tariff, the Authority is required to submit a filing by May 10, 2021, which must contain, among other things, a proposed Unbundling Tariff and a draft Uniform Services Agreement.³

¹ Energy Bureau, *Resolution* entered on April 23, 2021, in case no. CEPR-MI-2018-10, *In Re: Regulation on Wheeling*.

² Energy Bureau, *Regulation on Electric Energy Wheeling*, Regulation No. 9138 (Dec 11, 2019) (“Regulation 9138”).

³ *Resolution and Order* entered on February 25, 2021 (the “February 5 Order”):

The Energy Bureau ORDERS PREPA to file, on or before May 10, 2021, the following studies and proposals as required in the December 23 Resolution:

As evidenced in the weekly reports filed by the Authority and the testimony offered during the technical conferences held on March 15 and April 15 of 2021, the Authority is on track to file an Unbundling Tariff and Uniform Services Agreement that is consistent with Regulation 9138 by the May 10, 2021 deadline (the “Compliance Filing”). However, there are several changes included on the Proposed Amendment that could impact the draft rates and agreement.

Upon receiving the Proposed Amendment, Guidehouse, Inc. (“Guidehouse”), the Authority’s expert on rate and consultant for the captioned case, identified changes in the Proposed Amendment that could potentially impact the work done thus far. The items mentioned below are not intended to neither be comments on the Proposed Amendment, nor an exhaustive list of findings, but rather examples of how the Proposed Amendment may impact the structure of the Unbundling Tariff and Uniform Services Agreement the Authority intends to submit on May 10, 2021.

These changes include, but are not limited to:

- a. Item 20 of Definitions changes the “Stand-by Services” to “Partial Requirements Services”. The Stand-by services implies the POLR would

A. A fully unbundled cost of service study based upon the general techniques used in the Unbundling Report, with updated data as feasible and an explanation of any different methodologies used. This study shall allocate revenues among classes, and within each class, allocate revenues among at least the following three categories:

1. All non-generation costs, not subject to competition from wheeling;
2. Generation costs avoidable by wheeling-related reductions in PREPA's generation requirements;
3. All other generation costs stranded by a reduction in sales;

B. A proposed unbundled tariff and structure consistent with the default tariff and structure, as originally set forth in Appendix A of the Energy Bureau’s October 14 Resolution, and further modified in the December 23 Resolution and

C. Any proposed unbundling tariffs and structures, containing unbundled rates based the cost-of-service study.

support the customer's load needs in the event that an Independent Power Producer fails to meet the terms and conditions of the Power Purchase Agreement. However, the Partial Requirements service allows for a wheeling customer to select generation services that do not fully meet their needs. In other words, the Authority interprets the new language to now contemplate the option that a customer receives generation services from both the POLR and a Retail Energy Supplier, with the POLR responding to the "net load" of the customer (net load being their load less their supply from the ESP). This is a different level of service than a standard Stand-by service and charges would change accordingly. The Authority is poised to propose a rate that, on occasion, "backs-up" the ESP's generator. Given these are two different levels of service, and thus two different rate structures, the Authority may need to file a revised proposal with the Partial Requirements service included and consider whether a Stand-by service rate is also needed.

- b. Item 24 of Definitions defines of "Retail Energy Supplier" includes options for supply connections to the distribution grid, while the previous rules were focused on transmission connected supply. Connection agreements and rules for distribution level supply are very involved for safety and operational reasons and have implications on the Uniform Services Agreement. Further, such a change may create issues related to transmission charges, and specifically cost shifting of transmission costs due to distribution level supply. The Authority's Compliance Filing will be

relevant for Transmission connected supply. An alternative proposal will be needed to address Distribution connected supply.

- c. Item 26 of Definitions the addition of the option for paying for standby services by either the Retail Energy Supplier or the Wheeling Customer and “may be included in the Wheeling Charge or separately stated.” This changes the Uniform Services Agreement and requires a separate Tariff as well. The Authority’s proposals for tariffs and the agreement will be focused on charges between Energy Service Providers and the Authority for standby power as originally contemplated. The Wheeling Credit will also be based on this assumption. To that end, if both options are required, other changes in the proposal may be necessary and thus require a subsequent proposal.
- d. Section 2.01 notes that the process refers to ‘expeditiously’ for interconnections. The Authority was planning on noting specific time periods for connecting customers, thus if expeditiously is further defined and inconsistent with the Authority’s proposal, changes to the agreement and, potentially charges, to be proposed.
- e. The revisions to Section 2.03 deletes significant details regarding the scope of a Stand-by Power Tariff. The Authority was designing a rate that was specific to these requirements. If the Stand-by Power service is broader, as contemplated, the proposed tariffs would have to be revisited to ensure full cost recovery of these services and to avoid cost shifting to POLR customers.

- f. Section 3.04 additions imply the Authority will do billing for the Retail Energy Supplier or there will be an option for the Retail Energy Supplier to bill jointly. This has not been contemplated, particularly as noted in the new text that there needs to be provisions for ‘partial payments’ or nonpayment. At this time the Authority was following the model that the Authority will bill for services the Authority provides and the ESP will bill for their services, with the Wheeling customer getting a ‘supply’ credit. If the Authority is to offer ESP’s billing services, this would impact the Uniform Services Agreement and the Authority would need to file an alternative proposal accommodating this requirement.
- g. Section 4.02 notes opportunities for Stakeholder Input into the “Standard Services Agreement”. While the Authority supports this engagement, it will most likely have implications on the Uniform Services Agreement and the Unbundling Tariff not currently contemplated under the specific rules outlined thus far. Therefore, it is likely the Authority would need to refile both to address feedback.

In short, the Unbundling Tariff and Uniform Services Agreement are linked to ensure all costs of supplier choice are tracked and appropriately charged and any credits reflect the true avoided costs to the Authority, thus eliminating cost shift. To that end, any regulation change by the Proposed Amendment could impact both the tariff and the agreement, and the Authority would be compelled to refile a proposal to reflect any regulation amendment.

WHEREFORE, the Authority respectfully requests Energy Bureau to note the Authority's concerns about the Proposed Amendment to Regulation 9138 and how it impacts the May 10, 2021 Compliance Filing.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 3rd day of May 2021.

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CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and a courtesy copy of the filing was sent via e-mail to hrivera@oipc.pr.gov, ramonluisnieves@rlnlegal.com; manualgabrielfernandez@gmail.com; ccf@tcm.law.

In San Juan, Puerto Rico, this 3rd day of May 2021.

s/ Joannely Marrero Cruz

Joannely Marrero Cruz