NEPR

Received:

Jun 4, 2021

8:33 PM

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

IN RE: REGULATION ON WHEELING	**CASE NO.:** NEPR-MI-2018-0010 **SUBJECT:** Comments from PREPA and LUMA to Proposed Amendment to Regulation on Electric Energy Wheeling

JOINT MOTION SUBMITTING COMMENTS TO PROPOSED AMENDMENT TO REGULATION ON ELECTRIC ENERGY WHEELING

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW, LUMA ENERGY, LLC as Management Co., and **LUMA ENERGY SERVCO, LLC** (collectively, "LUMA"), and the **PUERTO RICO ELECTRIC POWER AUTHORITY** ("PREPA") (jointly "LUMA and PREPA"), through their respective undersigned legal counsel and respectfully state and request the following:

1. On April 23, 2021, this Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution (the "Resolution of April 23, 2021") notifying a Proposed Amendment ("Proposed Amendment") to the Energy Bureau's Regulation on Electric Energy Wheeling ("Regulation 9138"), its intent to publish notice of the rulemaking process in a newspaper of general circulation, and that the public would have thirty (30) days from the publication of the latter notice to submit comments regarding the Proposed Amendment. The Energy Bureau included the text of the Proposed Amendment as Attachment I to the mentioned Resolution and a redline version of the Proposed Amendments highlighting the proposed changes as Attachment II.

2. On May 5, 2021, this Energy Bureau issued a Resolution (the "Resolution of May 5, 2021") notifying that it had published a public notice in a newspaper related to the Proposed

Amendment on that same date and that the general public had until June 4, 2021 to submit comments regarding the Proposed Amendments.

3. LUMA, PREPA and consultant Guidehouse, reviewed the Proposed Amendments and agreed on comments to the Proposed Amendment which are being jointly submitted herein for the review and consideration of this Energy Bureau within the time frame provided in the Resolution of May 5, 2021. *See* Exhibit 1.

WHEREFORE, LUMA and PREPA respectfully request that the Energy Bureau **accept** and **consider** this filing of comments to the Proposed Amendment and adopt and/or incorporate the proposed revisions as per the attached comments.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 4th day of June 2021.

We certify that we filed this motion using the electronic filing system of the Puerto Rico Energy Bureau.

Counsel for LUMA Energy LLC as Management Co. and LUMA Energy ServCo LLC

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Exhibit 1

PREPA and LUMA Joint Comments to Proposed Amendment
To PREB Regulation on Electric Energy Wheeling

JOINT COMMENTS BY PREPA AND LUMA RE: PROPOSED AMENDMENTS TO REGULATION ON ELECTRIC ENERGY WHEELING

CASE NEPR-MI-2018-0010

June 4, 2021

This document provides the comments of PREA/LUMA to the Proposed Amendments to the Puerto Rico Energy Bureau's ("PREB") Regulation on Electric Energy Wheeling, Regulation 9138. These comments include general comments as well as specific comments on particular changes to the text of the Proposed Amendments.

1. Item 20 of Section 1.09 – Definitions, changes the "Stand-by" services to "Partial Requirements" services. PREPA/LUMA are concerned with the change in direction of Regulation 9138 from focusing on creating customer options to choose alternative energy suppliers to a structure that allows a customer to receive a portion of their load from a supplier and the balance from PREPA/LUMA. The reasons for these concerns include:
    a) **Load Following:** Under the previous language, the service provided to the customer by PREPA/LUMA would be limited to occasionally providing backup power to the customer in the event that the customer's Electric Service Provider ("ESP") was unable to supply energy due to outages. This would require LUMA to plan for generation levels to meet occasional outages of generators. This service benefits, to some degree, from generation diversity in that not all generators need backup at the same time. Converting to Partial Requirements service results in LUMA being responsible for continuing to serve the customer and, potentially, a much more volatile load. That is, currently LUMA serves the customer's variability and, like generation, benefit from diversity of loads in the same area as the customer and that variability is driven by the customer's behavior. However, with partial requirements, the customer's load variability is now driven by both customer behavior and the ESP's generation profile. The implications are that LUMA will be balancing increased supply and demand variability and creating additional costs for that balancing that would impact customers not choosing alternative supply.
    b) **As Generated Energy:** This approach also provides ESPs with a new product that must be supplied by LUMA. That is, the ESP no longer has to build resources to meet their customer's needs but rather are offered the opportunity to simply build a generator and send the power to the grid "as generated" and in turn is paid by the customer to provide 'firm' energy and load following. Providing an "as generated" service by a control area is very rare, as it is common practice to require the generator to self-supply or purchase reserves. It should be noted that it is best practice within United States to follow the FERC Open Access Transmission Tariff, which requires generators to provide their own ancillary services or purchase them from the control area operator. Without such structures, cost shifting to PREPA's 'captive' customers would result as generated resources designated to serve a small group of customers will be socialized across all customers.
    c) **Unit Contingent:** Similar to "As Generated" this approach also provides certain customers to gain the benefits of buying a unit contingent product from their ESP while getting a credit that is akin to a full requirements (firmed) product. As noted above, it is common for unit contingent generation to also be responsible for procuring or self-supplying reserves in the event of an unplanned outage. PREPA/LUMA recommends this requirement be applied in Puerto Rico as well to ensure that Wheeling customers are required to bear the risks of unit contingent power through interruption of service or additional fees while the proposed Default Supply Choice Charge (DSCC) provides a credit based on the customer no longer receiving firming services from LUMA.

d) **Pricing:** The supply credit will need to be tailored to a customer who is receiving partial requirements from LUMA versus full service from ESP. If the final credit is the proposed DSCC, which is the sum of the Fuel Cost Adjustment (FCA) and Purchase Power Cost Adjustment (PPCA), then the credit is in excess of the potential cost savings because these adjustment riders also include costs for load following and 'firming' of generation to supply the customer. If that customer is receiving energy from a generator that is not firmed, then the supply credit should be adjusted to subtract out those costs.

RECOMMENDED LANGUAGE: To address the above concerns, PREPA/LUMA respectfully request that the following definition be added:

"Power Firming Charge" means a charge 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. The Power Firming Charge will be paid by the Retail Energy Supplier.

"Standby Power Tariff" means an optional rate authorized by the Energy Bureau to allow the Provider of Last Resort to provide a Wheeling Customer with on-site generation behind the meter with additional reliability service. The Standby Power Tariff will be paid by the Wheeling Customer.

2. Item 24 of Section 1.09 -Definitions, defines "Retail Energy Supplier"[1] to include options for supply connections to the distribution grid, while the previous rules were focused on transmission connected supply. To allow for full "two way" (e.g., customers both receive and provide power) flow at significant levels, rules and requirements related to connections should be reviewed and formalized. Further, considerations on supply credits should also be revisited to incorporate potential savings or costs related to transmission and distribution services. Specifically:

a) **Connection Agreements:** Connection agreements and rules for distribution level supply are very involved for safety and operational reasons and have implications on the Uniform Services Agreement in case No. NEPR-AP-2018-0004, re: The Unbundling of the Assets of the Puerto Rico Electric Authority. Specifically, on safety, without proper controls and assurance that these controls are followed, there is considerable risk to LUMA crews when working on distribution power lines that are thought to be de-energized but are not due to distribution supply sources. Therefore, supply that connects to distribution level should be subject to similar requirements for transmission connections, to include but not limited to any additional costs to the distribution system to accommodate the new supply. PREPA/LUMA recommend PREB take a measured and phased approach and begin with transmission connected supply and then leverage lessons learned from that implementation and, in parallel, initiate a formal review of the rules looking at other jurisdictions, such as California's Rule 24, to frame the requirements for these supply sources.

b) **Confusion with NEM:** Such a provision also creates confusion and potential issue related to current tariff structures. Currently LUMA offers a 'net energy metering' structure to supply. NEM is becoming an antiquated pricing scheme for customer supply that ignores costs-based principles and potentially creates significant cost

[1] "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.

shifts. If customer supply is contemplated as a significant source of energy for Puerto Rico going forward, PREPA/LUMA encourages PREB to review pricing structures for these types of supply separately from the unbundling efforts, in part because the supply credit does not include transmission and distribution avoided costs.

c) **Disconnect with Planning:** Puerto Rico is restructuring its utility sector, in part, to improve reliability and resiliency while optimizing opportunities to decarbonize and creating a more cost-efficient sector. As part of this restructuring, actions are being taken to sign new PPOAs resulting from a competitive solicitation process that 'compete' based on the merits of how each resource supports grid reliability as well as price. While distributed energy resources will be part of that equation, these resource options should compete equally with all other supply sources to ensure least cost for customers. Allowing these DERs to serve specific customer segments and to transfer the burden for firming and shaping load to LUMA to meet the full 24-hour demand profile could result in less efficient competitive solicitation process by allowing these resources to pass these obligations to LUMA, and the remaining customers (non-subscribers) then forced to absorb this cost differential.

It also has the very real possibility of disrupting the planning process. If supply 'appears' in the 'control area' of the LUMA that is not planned for but it does not meet the planning needs, the LUMA must adapt to that supply from not only a delivery (T&D) perspective but in backing down generation sources to accommodate the new supply. This is particularly true if the new supply is not 'economically dispatched' by the LUMA but rather behaves like negative load. This issue becomes exacerbated by the possibility of supply being built in anticipation of selling the load (e.g., a merchant generator) that is then able to put their generation onto the grid and receive the imbalance rate for that energy until such time that the energy is committed to a customer. This puts the LUMA in the position of purchasing that power outside the competitive bidding process and paying full marginal costs while other potential generators may have offered their energy at a lower price improving the economics for all customers.

Finally, the IRP planning process will need to be adjusted to reflect the impact of potentially lost demand to the RESs. If LUMA is forced to always welcome back customers who leave their RES contracts, whether from the choice of those customers, or from commercial decisions by the RESs, then LUMA will still have to include that customer load in its IRP planning assumptions. This will result in LUMA being forced to plan for a larger load than will emerge in the near-term, which will create economic inefficiencies which will increase the cost of IRP plans.

d) **Phased Approach:** PREPA/LUMA recognize that the definition provided is consistent with the legislation, however, including the broad definition in the specifics to Regulation 9138 challenges the ability to take a measured approach to opening markets. Best practice is to phase in supplier choice by first creating a competitive and functioning wholesale market that allows for resources to competitively bid against each other to serve load. This is then followed by allowing certain customer groups, typically larger customers, to acquire supply from entities other than the incumbent utility. These agreements are to serve all the needs of the customer.

RECOMMENDED LANGUAGE: For the reasons stated above, PREPA/LUMA recommend the definition of Retail Energy Supplier to be limited at this time to the following:

"Retail Energy Supplier" or "RES" means a certified Electric Power Service Company" connected to the GridCo's system at the transmission level. RES will be responsible

for meeting the full needs of the Wheeling Customer, who receives the Default Supply Choice Credit (DSCC).

3. In Item 26 of the Section 1.09- Definitions, adding 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. That is, Standby Services are typically provided to customers with on-site generation that covers the customer's needs when the generator is not operating (either due to planned or unplanned outages). Providing 'Standby' Services to the ESP is a different product as the ESP is only supplying energy and the 'service' is to firm the ESP's supply to meet the customer's load, to include reserves. This issue is related to Item 1 above and issues are the same.

4. Section 2.01 notes that the process refers to 'expeditiously' for interconnections. The current orders from PREB regarding the unbundling services is silent on timing so PREPA, in its May 10, 2021 filing, provided timing recommendations in the Alternative Uniform Services Agreement. PREPA/LUMA reaffirms its recommendation to PREB to hold a technical workshop to discuss timing requirements, which would be related but not limited to interconnections and customer transfers (existing or returning).

5. Section 2.03.3 rewrites and deletes significant detail regarding the scope of a Stand-by Power Tariff. As noted above, Standby Services are typically provided to customers with on-site generation that is, from time to time, insufficient to meet needs due to outage. It is unusual to have the customer who has chosen to receive supply from an alternative energy supplier (ESP) to then request Standby power in the event that the ESP cannot provide the power. Usually the ESP is responsible for meeting all the customer's energy needs and pays the grid operator for charges related to deviations in supply versus load. Asking customers to procure backup supply on the behalf of their ESP requires the customer to have a good sense of the operational characteristics of the ESP and shifts the risk of outages to the wheeling customer. PREPA/LUMA recommend reconsidering this risk shift from supplier to individual customer and require all standby and imbalance charges to be the responsibility of the ESP.

6. Section 2.03.A.1 provides further clarity on delivery rate and PREPA/LUMA support this further clarification.

7. Section 2.03.A.2 was added and provides further clarity on charges by LUMA to ESPs for administrative costs. PREPA/LUMA support this further clarification.

8. Section 2.03.A.4 provides further clarity on imbalance charges and PREPA/LUMA support this further clarification.

9. Section 2.03.A.5 addresses the need for standby rates for customers if the ESP cannot meet load. Again, PREPA/LUMA recommend the ESP be responsible for serving the customers load and any services provided by LUMA or charges related to an ESP not meeting the customer load are charges between LUMA and the ESP, leaving the customer with a full service energy supply.

10. Section 3.04 additions imply LUMA will do billing for the Retail Energy Supplier or there will be an option for the Retail Energy Supplier to bill jointly. This issue has also come up in discussions regarding the credit terms related to the Uniform Services Agreement. Before determining that LUMA must provide billing services, PREPA/LUMA recommend the PREB further explore this issue as part of the Uniform Services Agreement finalization. Also, PREPA/LUMA do not believe the rules must be specific about services to be offered,

therefore deferring to the Uniform Services Agreement allows for more time to ensure the best outcome as well as keep the flexibility to add or remove such service options in the future.

In addition to the specifics noted above, and to address the concerns stated above, PREPA/LUMA recommend the following language additions within the definitions:

"Wheeling Service" means service provided by a RES to meet a Wheeling Customer's needs. This service is full requirements to meet all the Wheeling Customer's needs and thus requires the ESP to ensure as generated, unit contingent and related Ancillary Services costs are incurred by the RES through other providers, including the Provider of Last Resort.

"As Generated supply" means generation sent to the grid as a generator produces that generation without control or dispatchability by GridCo.

"GridCo" means the control area operator responsible for managing supply and demand and thus dispatching all sector available resources to meet all customer connected energy needs.

"Unit Contingent Supply" means supply that could, at any moment, be interrupted due to operational issues of the generation (e.g., unplanned outages

Additionally, PREPA/LUMA recommends the following language be adjusted in Section 3.03.- Certification.

Any RES 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.

PREPA/LUMA also recommend adding the following language to Section 3.02.- Wheeling Services Agreement Requirement. This language, or similar, is needed to ensure two things. First, that the RES is fully equipped and able to serve the customer without creating undue burden on the customers who remain with LUMA (POLR). Second that the RES is not able to bypass the integrated resource planning and not 'compete' with other resources bidding into the request for proposal process.

Further, upon notification to POLR of a RES agreement with a Wheeling Customer, prior to transitioning that customer from POLR to the RES, the RES must demonstrate that the RES has supply sufficient to provide their Wheeling Customer with their energy needs over the next year. The RES will then be responsible for scheduling energy to meet their Wheeling Customer's demand, plus losses. If the RES schedules more energy than demand plus losses, the POLR has the right to curtail energy in the event that the incremental energy is not needed.

PREPA/LUMA also notes that there are some internal inconsistencies within the regulation that should be addressed, such as:

- PREPA/LUMA recommends discussing the use of Independent Power Producer and Retail Energy Supplier throughout the document as in some places Retail Energy Supplier includes Independent Power Producer, in other cases they are named separately
- In 2.03.C) the original language was "the Energy Bureau will ensure that costs associated with wheeling do not affect in any way whatsoever nonsubscribers of

wheeling services", the revised language provides for the opposite and is inconsistent with Act 17-2019: "the Energy Bureau will ensure that costs associated with wheeling do adversely affect the costs and reliability to full-service customers" PREPA/LUMA recommends that the original language, consistent with Act 17-2019 replace the revised language.

In closing, PREPA/LUMA recommend that these issues are highly complex and warrant further exploration and discussion. Therefore, PREPA/LUMA highly recommend PREB conduct several Technical Conferences to discuss implications of this revision in advance of finalizing any of the proposed draft language in the "Regulation for Electric Energy Wheeling"...

Lastly, PREPA/LUMA reiterate that the changes to these rules may have a significant impact on PREPA's filing on May 10, 2021 incase No. NEPR-AP-2018-0004, re: The Unbundling of the Assets of the Puerto Rico Electric Authority . Therefore, it is likely that, once these rules are solidified, amended reports have to be filed related to Unbundling and Uniform Services Agreement.