

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

NEPR

Received:

Jun 4, 2021

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IN RE:

REGULATION ON WHEELING

CASE NO.: NEPR-MI-2018-0010

SUBJECT: LUMA's Comments Proposed
Amendment to Regulation on Electric Energy
Wheeling

**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), through the 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. Today, under separate cover, LUMA and the Puerto Rico Electric Power Authority filed joint comments to the Proposed Amendment.
4. With this Motion, LUMA respectfully submits a letter with additional comments to the Proposed Amendment. *See* Exhibit 1.
5. LUMA looks forward to engaging with this honorable Energy Bureau and stakeholders in collaborative discussions to attain the common goal of adopting equitable, consistent and clear rules to adopt and implement wheeling mechanisms in Puerto Rico.

WHEREFORE, LUMA and PREPA respectfully request that the Energy Bureau **accept** and **consider** this filing of LUMA's comments to the Proposed Amendment.

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.



DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969
Tel. 787-945-9107
Fax 939-697-6147

/s/ Margarita Mercado Echegaray
Margarita Mercado Echegaray
RUA NÚM. 16,266
margarita.mercado@us.dlapiper.com

/s/ Laura T. Rozas

Laura T. Rozas

RUA Núm. 10,398

laura.rozas@us.dlapiper.com

Exhibit 1

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

LUMA's Comments

June 4, 2021

Mr. Edison Avilés-Deliz, PE, Esq.
Chairman
Puerto Rico Electric Bureau
268 Av. Luis Muñoz Rivera
San Juan, 00918, Puerto Rico

Re: Docket No. CEPR-MI-2018-0010, LUMA Energy Comments in Response to the Proposed Amendment to Regulation on Electric Energy Wheeling

Dear Mr. Avilés-Deliz:

LUMA Energy appreciates the opportunity to provide these comments in the docket referenced above in response to the Proposed Amendment to the "Regulation on Electric Energy Wheeling." LUMA has reviewed the Proposed Amendment presented by the Energy Bureau in its Resolution dated April 23, 2021.

LUMA has jointly submitted comments with PREPA in this docket and is in full agreement with that submittal. In addition, LUMA is supportive of the aims in this docket and will implement electric energy wheeling in accordance with the ultimate Resolution issued by the Energy Bureau. LUMA does, however, have some serious concerns and offers these additional comments for the Energy Bureau's consideration.

The design of Regulation 9138 on electric energy wheeling is intertwined with the unbundling of the assets of the Puerto Rico Electric Power Authority and the establishment of a retail wheeling tariff, which is the subject of the Energy Bureau's Docket No. NEPR-AP-2018-0004. LUMA believes that it is critical that the Energy Bureau coordinates its regulatory actions in CEPR-MI-2018-0010 (the referenced docket) and NEPR-AP-2018-0004 (unbundling docket), so as to implement changes to the electricity sector in Puerto Rico in a measured and deliberate way for the benefit of all electric customers. As described in greater detail later in this letter, a measured and careful approach would entail rolling out retail wheeling at the transmission level first and holding off on distribution-level retail wheeling until the lessons have been learned and applied at the transmission level. This approach will support efforts "to ensure that wheeling does not affect in any way whatsoever (including technical problems and rate increases) for nonsubscribers of wheeling services" Puerto Rico Energy Transformation and RELIEF Act, Act 57-2014 Section 6.30, as amended by the Puerto Rico Energy Public Policy Act, Act 17-2019, Section 5.26.

There are numerous reasons for advocating this measured approach. Significant work and advancement have occurred in docket NEPR-AP-2018-0004 with respect to transmission wheeling and significant re-work or duplication of work would be required to revise the filings and the Uniform Service Agreement to reflect distribution-level wheeling. Further, LUMA is currently undertaking an effort to modernize the billing system for its customers. Billing for distribution-level retail wheeling may not be possible until the new billing system is fully implemented. Additionally, there are specific commercial, legal and financial requirements for the third parties to participate in retail wheeling that the current system may not be able to support without a detailed assessment. The distribution system is currently in a poor state of repair with inadequate engineering records. The capability to interconnect at the distribution level and the amount of capacity that can be interconnected at individual points cannot be determined until this remediation work

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has been completed and engineering documentation created. Requiring distribution-level retail wheeling earlier will force LUMA to create a string of manual processes that will distract from its core recovery work and impact the reliability of the system for all customers.

Lastly, there are numerous significant changes proposed in the Proposed Amendment that go materially above and beyond the provisions in, and change the intent of, the "Regulation on Electric Energy Wheeling" adopted in on December 12, 2019. These proposed changes require substantial consideration and analysis and must be carefully deliberated and build on learnings from transmission level wheeling. Contemplation of the proposed changes should be done in a similar manner as in the process to development of Regulation 9138, including a broad process of public participation taking into account appropriate business, policy, and sector rules. In other jurisdictions, this process has taken several years to fully allow all stakeholders to participate. It is also noted, that in several jurisdictions retail wheeling has been reversed due unanticipated circumstances which resulted in rate increases for nonsubscribers.

Act 57-2014, as amended by Act 17-2019, requires that wheeling rates be just and reasonable and not adversely affect customers. This requirement is best stated in Section 6.32(g) of Act 57-2014, as amended by Section 5.28 of Act 17-2019 which reads:

The Energy Bureau shall ensure that the rates, fees, rents, or charges paid to independent power producers are just and reasonable, and protect the public interest and the treasury. The Energy Bureau shall also oversee that the charge to be paid for interconnecting to the transmission and distribution network, including construction fees and wheeling rates, as well as any other requirement applicable to independent power producers or other electric power service companies that wish to interconnect to the transmission and distribution system is just and reasonable. During this process, the Energy Bureau shall ensure that the charges allow for an interconnection that does not affect the reliability of the electric power service and that promotes the protection of the environment, compliance with the mandates of the Act, and does not adversely affect customers.

There is a wide array of facts and circumstances that could result in cost shifting to non-wheeling customers, some of which follow:

- As "Balancing Charge" is defined in §1.09.B)2) and also addressed in §2.03.A)(4) of the Proposed Amendment, it only includes energy costs and losses but does not include other required services (e.g., capacity, load following, reserves, regulation, and other ancillary services). All of these must be accounted for to avoid cost shifting from retail wheeling customers to captive customers. It is possible that these services can be charged for under the wheeling rates and the stand-by power tariff, which is defined in §1.09.B)26) of the Proposed Amendment and also addressed in §2.03.A)(3) of the Proposed Amendment, but the result of doing so could mean that each agreement is individually negotiated as a "one off", which is not best practice.
- If retail wheeling customers can contract for partial requirements as indicated by §1.09.B)20) of the Proposed Amendment and also addressed in §2.03.A)(6) of the Proposed Amendment, the complexities are further increased with greater likelihood of cost shifting to non-wheeling customers. Two likely scenarios are: (1) a retail wheeling customer contracting with an Electric Power Generation Company (EPGC) supplying from an intermittent, renewable resource, resulting in GridCo absorbing all surpluses and filling all gaps, and (2) a retail wheeling customer contracting with an EPGC supplying from a resource with limited or no shaping ability, thereby

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exacerbating GridCo's load following responsibilities, and captive customers bearing the resultant costs and technical problems.

- PREPA/LUMA's requirements as the Provider of Last Resort (POLR), as set forth in §2.01.A) of the Proposed Amendment means that it must perform resource planning for all customer loads, including those served by other Electric Power Service Companies, must similarly ensure adequate capacity for all customers, and, therefore, many of its costs must appropriately be borne by all customers, not just non-wheeling customers. As the POLR, presumably LUMA is the only Electric Power Service Company (EPSC) with an obligation to serve. That obligation alone adds to LUMA's costs (one example is the cost of serving customers with poorer credit that other EPSCs will not serve) and these kinds of costs should be appropriately borne by all customers.
- If the retail energy supplier may provide its own meter, as stated in §3.04.B) of the Proposed Amendment, the regulations should specify the standard for such revenue quality meters to ensure compatibility with GridCo metering equipment, accuracy, and grid reliability.

The inclusion of distributed generation, as contemplated in §1.09.B)5) of the Proposed Amendment, will add to the challenges and complexities of formulating an appropriate wheeling tariff and formulating appropriate interconnection policies and standards. Self-supply distributed generation would ordinarily be set up under a net energy metering arrangement and would thereby avoid the transmission and distribution charges on the proportion of energy self-supplied even though the customer would be heavily reliant upon the system for service, along with using it for energy storage. Distributed generation that is located remotely from the customer it serves can be addressed, but distribution-level interconnections are, by nature, limited and, hence, interconnection policies must carefully account for upgrade costs to avoid cost shifting, which can easily be exacerbated at the distribution level.

The addition of distribution-level wheeling will also add complexity and confusion regarding the avenues and opportunities for distribution-level participants. Net energy metering, as previously mentioned and which is currently available to LUMA customers is one avenue. PREPA's current RFP for renewable energy generation resources and energy storage systems is intended to include at least 150 MW of distributed virtual power plants (VPPs). This will provide another opportunity for distribution-level wheeling and provide verification regarding how such projects compete with other renewable generation. LUMA advocates allowing this avenue to play out before adding distribution-level retail wheeling under the Unbundling retail wheeling tariff.

There are broad implications that will result from the Proposed Amendment as well as establishment of a retail wheeling tariff under the Unbundling docket. As such, LUMA believes it is important to expand the retail wheeling discussion beyond the current technical issues related to establishing a retail wheeling tariff and include all appropriate business, policy, and market rules as part of the conversation. Although the Proposed Amendment is quite comprehensive, we believe there are other, general matters, which should also be included. Some of these are as follows:

Power Suppliers

- What sorts of power supplies might be eligible for access to the grid and wheeling to an end user? Must they be "green", or might they be surplus thermal power sources from behind the fence commercial and industrial customers? Will all such generation be required to comply with the same policies and environmental requirements that are applicable to PREPA's generation? LUMA strongly advocates that all Electric Power Service Companies should be held to identical standards.

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- Will the power supply agreements between independent power producers and retail energy suppliers (or directly to large industrial or commercial customers), be limited to voluntary and bilateral contracts only? LUMA advocates that this should be the case.
- How does the Energy Bureau intend to regulate the power suppliers to ensure contract performance and, if so, how will the Energy Bureau regulate the power suppliers and administer those contracts?

Retail Wheeling Sector Structure

- LUMA understands that the intent of the move toward retail wheeling is to enable certain customers the opportunity to select their power supplier. Based on discussions that occurred on May 18, 2021 during the Initial Technical Hearing in Energy Bureau Docket No. NEPR-AP-2018-0004, LUMA has become concerned that an EPGC could effectively build a merchant generation facility and put surplus power to GridCo by utilization of overly generous rules related to energy imbalance. In both dockets, the program intent should be clarified to preclude this possibility. EPSCs should be required to match the load of their existing customer as closely as possible, and EPSCs should be precluded from receiving compensation for energy imbalances beyond a reasonable upper limit, for example 5% greater than customer load on an annual basis.
- How will retail wheeling work under an emergency situation; e.g., a hurricane and the restoration period thereafter? LUMA, as the operator for GridCo, must have wide latitude during both emergencies and restoration efforts to operate and manage the grid for the maximum benefit and reliability of all customers, neither penalizing nor advantaging retail wheeling customers over non-wheeling customers.

LUMA recommends that the Energy Bureau convene a series of workshops so that interested parties can work collaboratively to address these issues. LUMA also recommends that retail wheeling should start at the transmission level. This will enable the Energy Bureau and all parties to gain a better understanding of retail wheeling issues and solutions to ensure that these data-driven solutions are carried over to the distribution level. In addition, or alternatively, LUMA could develop one or two pilot programs to develop retail wheeling using the pilots to test out the effectiveness of the concept.

The rules and policies which are captured in this regulation will ultimately determine how well retail wheeling will work in Puerto Rico for all customers. There have been numerous examples, with the most recent occurring in the ERCOT market in Texas, where inadequate market rules resulted in outages and financial hardships, which were largely borne by captive customers. In other markets, the rules have inadvertently favored larger and sophisticated customers and wealthier customers, with energy commissions and utilities now attempting to address these social inequities. LUMA believes that the Energy Bureau should develop rules and processes in order to find an appropriate balance to ensure a transparent and efficient sector so that customers do not overpay, and the Energy Bureau can act in the best interest of protecting customers from decisions that lead to unjust, unreasonable or insufficient rates. The electricity customers of Puerto Rico must be the ultimate beneficiaries of these processes and their benefits must be known and measurable. This proposed approach is key to promoting the principles of impartiality, solidarity, and equity under Act 17-2019, providing for equal treatment of consumers (see Act 17-2019, Section 1.4(v)); a rate design that takes into account providing affordable electricity to all consumers (see *id.* Section 1.4(vi)); and the “attainment of a balanced and appropriate energy service coverage in the various regions and sectors of the Island in order ensure that the basic needs of the entire population are met.”

LUMA's Comments

LUMA looks forward to continuing to engage with staff and other stakeholders to finalize draft rules that ensure a clear and consistent process for retail wheeling. Thank you for the opportunity to provide these comments. If you have any questions, please contact me.

Sincerely,

LUMA Energy