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**To:** Comentarios  
**Subject:** NRDC Comments on PR Energy Efficiency  
**Attachments:** NRDC Comments on PR Energy Efficiency Regulation.pdf

Please see attached comments from the Natural Resources Defense Council on the proposed Energy Efficiency Regulations.

Thanks,

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Government of Puerto Rico  
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June 7, 2021

**Re: Comments on Proposed Regulation for Energy Efficiency**

We appreciate the opportunity to present these comments and hope they will help create a strong Regulation for Energy Efficiency. Below we provide some overall recommendations for the regulation. Additionally, we remain committed to helping the Puerto Rico transition quickly to clean energy and hope we can help the island achieve its climate and clean energy goals.

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# Introduction

NRDC appreciates the opportunity to comment on the proposed Regulation for Energy Efficiency for Puerto Rico. We are highly supportive of the proposed regulation, and believe that, if well implemented, it will ensure high cost-effective energy savings, significant bill savings for Puerto Rico, allow demand side resources to be evaluated on an equal playing field as supply side solutions, and help Puerto Rico become one of the leading jurisdictions for energy efficiency. However, there are several key refinements that could be made to the proposed rules in order to ensure that the laudable goals driving the proposed rulemaking are preserved when the programs are being implemented. Our comments will focus on several recommendations that we believe will increase the chances of success for energy efficiency in Puerto Rico.

## Savings Allocations

The goal of 30% cumulative savings by 2040 in the legislation is a strong goal that, if applying only to PREPA efficiency programs, would lead to some of the more aggressive energy efficiency programs in the US and its territories. However, PREPA is one of at least six areas which can contribute towards these goals, with some potentially still undefined. As given in Section 2.01(B) other areas are:

- Governmental buildings, as facilitated by the PEPP
- Savings from the adoption of new building codes
- Savings resulting from incremental federal or Commonwealth appliance efficiency standards and laws implemented after 2019
- Energy efficiency resulting from actions funded by federal or Commonwealth funds
- Other TBD sources

In order to estimate the portion of the total savings that PREPA is responsible for, the Energy Bureau has proposed that it will first estimate the savings from the other five sources, and then back these savings out of the total 30% goal. NRDC is concerned that the PREPA goal in the regulation will become significantly watered down by the other eligible sources of savings, and lead to much less aggressive PREPA-administered program than intended. Depending on the specifics of how the analysis is done, the savings from new building codes and appliance standards could be particularly significant. Even more concerning is that it talks about additional sources that are still undefined. Given this, the goal can neither be considered aggressive, nor does it provide a clear direction to PREPA about the savings targets it should plan for.

## Recommendation

We recommend that the Regulations call for PREPA to capture all cost-effective and reasonably achievable efficiency resources. So long as the efficiency resource is cost-effective, aggressive pursuit of efficiency resources is the only way to provide PREPA's customers with the lowest cost solution to their energy needs. The regulation requires regular market potential

studies to inform the goals in PREPA's three-year plans. It also specifies that the Energy Bureau shall use the results of the potential study to develop PREPA's annual savings expectations. We support this approach, and the regulation should require the potential studies to estimate the full maximum achievable cost-effective efficiency, and that PREPA's annual savings targets be set to capture the full cost-effective achievable potential. Savings sufficient to provide a path to achieving *at least* the 30% by 2030 savings target from all sources listed should be set as a minimum acceptable goal.

## Electrification

The proposed regulation is not clear whether PREPA is permitted to promote fuel switching/electrification measures as part of its EE programs. While oil, gas, and propane benefits are to be included in the Puerto Rico Test, fuel switching is not explicitly listed in section 3.01(d) that defines the energy efficiency activities that are included under the regulation. Further, the regulation defines energy efficiency as "the reduction in energy use attributable to implementing Energy Efficiency Measures designed to reduce a customer's energy power consumption." While the word "energy" is typically used to be inclusive of non-electric energy sources, the word "power" is typically associated specifically with electricity. As a result, it is left a little vague whether the regulation allows for fuel switching technologies that reduce total energy consumption, but not electric power.

### *Recommendation*

Fuel switching could be a significant aspect of reducing GHG emissions, and any truly comprehensive look at lowering a building's energy consumption will need to include, for example, heat pumps to replace gas-, oil-, or propane-fired heating when it will save total energy use and reduce bills. As a result, NRDC recommends that the final regulation explicitly allow for and encourage PREPA to promote fuel switching measures as part of their overall energy efficiency portfolio. Specifically, we recommend including in the definition of energy efficiency "the reduction of energy use attributable to implementing Energy Efficiency Measures designed to reduce a customer's energy usage from all energy sources, as measured at the customer's site." Measuring the reduction based on site energy, as opposed to source energy, is important as it recognizes the impact of a decarbonizing grid and increased DERs, and allows PREPA to claim savings from these measures. Further, we recommend that fuel switching (especially from fossil fueled to electric space and water heat) be explicitly listed under section 3.01(d) as a specific activity that PREPA should engage in because of this regulation, when cost-effective and providing total energy usage reductions on site. Finally, although we recognize the significant benefits from a switch to electric transportation, we do not recommend these energy savings be included as fuel switching within the allowable

portfolio meant to achieve the goals. Electric transportation should be discussed and analyzed separately.

## Stakeholder Process

While this regulation will provide a very solid foundation for energy efficiency in Puerto Rico, there will be many policy decisions and implementation procedures that will need to be specified to fully support the efficiency effort. These include, but are not limited to:

- When and how the results of the EM&V process will be implemented and applied to the savings estimates (e.g., prospectively, retrospectively, or a hybrid approach)
- Determine policies and practices for development and maintenance of the TRM
- Defining the goals and how to determine achievement of them, including timing of cumulative savings adjustments, appropriate attribution of savings to ensure only net new savings are counted, etc.
- Determine the structure, metrics, and application of any performance incentives
- Determine the reasonableness of PREPA's three-year plans and annual updates
- The structure, input values and methods of application of the Puerto Rico Test
- Numerous program design and implementation details

In the current regulation, the Energy Bureau is in charge of most of these issues. While we agree that the EB should have ultimate say on these issues, it is our experience that contentious issues are best resolved through an ongoing stakeholder process where the interested parties have the opportunity to shape policies as they are being developed, and ideally reach some consensus, as opposed to simply reacting to material put in front of them by the EB or PREPA.

### *Recommendation*

The current regulation calls for PREPA to facilitate a stakeholder working group that meets at least quarterly, in addition to predefined intervals before a new three-year plan or annual update is filed. In our experience, these meetings can often turn into presentations by the utilities on program progress and plans to date, with little opportunity for the stakeholders to actually influence important policy and programmatic decisions in a timely manner. As a result, we recommend:

1. That a stakeholder advisory group be established that is chaired by the Energy Bureau – not PREPA. The Energy Bureau would also set schedules and agendas for the meetings.
2. The meetings occur at least every other month, as opposed to quarterly, with the opportunity for more frequent meetings of the full stakeholder group, or subcommittees or working groups, as appropriate.
3. The stakeholder process allow opportunity for interested parties to weigh in on and attempt to gain consensus in a timely manner, before anything is fully established or filed, thus lowering the risk of contested cases, and ensuring a high level of buy-in from stakeholders.
4. PREPA should initially present on the 3-year plan at least 180 days before the filing date, to present its ideas and provide an opportunity for stakeholders to comment and propose modifications on PREPA's early thoughts on key issues, and to allow time for a process to reach a consensus on key issues such as savings targets, budgets, programs, implementation approaches, and performance incentives.
5. The stakeholder process has the opportunity to address, with a goal of achieving a consensus, on key policy, programmatic and implementation issues beyond just a focus on planning and overall performance.

## Cost Effectiveness

We commend the proposed regulation for defining a process to develop a Puerto Rico Test that includes a comprehensive accounting of benefits, including non-energy benefits, environmental impacts, and hard-to-quantify benefits. However, we also note that the proposed interim test only includes electric benefits and quantifiable avoided environmental compliance costs.

### *Recommendation*

We recommend that the interim test also include benefits from the reduction of gas, oil, propane, and other energy resources and water. We also recommend that the test include the social cost of carbon, as defined by the U.S. federal government. The resulting test can be thought of as an “energy systems test,” as opposed to an “electric utility test.” These proposed changes will bring the results of the interim test much closer to the eventual results of the planned Puerto Rico Test, with minimal additional development work or issues to resolve. While additional benefits can and should be added later, readily established and available values for these items should already exist and there is no reason to wait to include them.

## Conclusion

NRDC reiterates our support for the proposed regulation. It is, overall, extremely strong, and should set Puerto Rico on a path to become a leading jurisdiction for energy efficiency. The few changes outlined above would help ensure that the energy efficiency programs as implemented would achieve the bold vision reflected in the regulation and underlying legislation, and maintain broad stakeholder support.