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June 28, 2021

Puerto Rico Energy Bureau
World Plaza Building
268 Muñoz Rivera Avenue
Suite 202
San Juan, PR 00918-1925

RE: AARP Initial Comments on Energy Bureau Proposed Regulations on Energy Efficiency (**CASE NO. NEPR-MI-2021-0005**)

Puerto Rico Energy Bureau:

AARP hereby submits its initial comments pursuant to the Energy Bureau's Notice of Proposed Regulation and Request for Public Comments on a set of regulations designed to promote energy efficiency and demand response. As the Bureau is aware, AARP is a nonpartisan, social mission organization with an age 50+ membership of nearly 38 million nation-wide, and approximately 90,000 members here in Puerto Rico. AARP supports livable communities for all ages, aging in place initiatives and financial opportunity and resiliency for everyone as they work age and retire. Towards these ends, AARP supports affordable and reliable sustainable energy policies that ensure that all consumers can afford their essential energy needs.

AARP applauds the Energy Bureau for its efforts to promulgate comprehensive regulations that will support programs and policies towards the statutory mandate of thirty percent (30%) cost-effective energy efficiency. The proposed regulations borrow heavily from the long-standing processes and procedures used by utilities stateside. In this, they rely on time-tested means of identifying, developing and funding utility programs to make it easier for customers to install efficient end uses, and to enjoy energy benefits at lower cost.



Traditional energy efficient programs overcome market barriers to energy efficiency for many customers. However, as the Proposed Regulations implicitly observe, not all customers can take advantage of the traditional suite of programs. With this in mind, AARP also wishes to commend the Bureau for noting the prospects for broadening the availability of utility energy efficiency to customers by implementing a “Pay As You Save”™ program. See Section 3.06 Energy Efficiency Financing(D)(5).

AARP wishes to bring to the Bureau’s attention a number of important issues as it prepares to issue final regulations. Where possible AARP proposes some possible word changes that would resolve these issues. The areas of potential improvement include the following:

1. Need for an express statement of the goal that electricity be affordable.
2. Need for an express statement of the goal that tenant residential customers who are not homeowners achieve same benefits as homeowners.
3. Need to revise PAYS™ provisions to eliminate references to “financing.”
4. Need to resolve potential conflicts between stated goals, and to clarify priorities.
5. Need to consider the impact of programs on rates, especially for those who cannot participate in direct savings.
6. Need to clarify the meaning of “cost-effective energy savings”.

In the attached comments, AARP discusses the need for these provisions in more detail. AARP remains ready to answer any questions the Bureau may have about these issues. AARP thanks the Bureau for this opportunity to comment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jose R. Acaron', written over a faint, large, stylized letter 'A' that serves as a watermark or background element.

Jose R. Acaron
State Director

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

IN RE: REGULATION FOR ENERGY EFFICIENCY: CASE NO. NEPR-MI-2021-0005

**AARP SPECIFIC COMMENTS ON
PROPOSED ENERGY BUREAU EFFICIENCY REGULATIONS**

a. “Available to all” is not the same as equitable.

In the preamble, the Proposed Regulations say they would provide energy efficiency programs “that will be available to all customer classes ...” The wording “available to all customer classes,” and other similar statements throughout the Proposed Regulation, suggest that the determinants of equity will be (a) availability (b) to all customer classes, as those are defined for billing purposes, and not necessarily to specific identifiable subgroups within a class (except for carving out a 15% budget set-aside for “low-income” programs).

There is a hidden problem in the “availability” test for equity. A program can be available to all, but still not enable all to participate. A program availability clause that says any residential customer may participate is misleading. A program can be universally available in the legal sense to residential customers, yet still leave many customers unable to take advantage of the benefits. Further, some programs cannot by their own terms be available to all customers.

Within any given rate class, there are many customers with shared characteristics

who will have widely varying abilities to take advantage of a program that is nominally open to all residential customers. This is because energy efficiency programs are intended to identify and overcome market barriers that prevent customers from choosing efficiency measures available in the market. Different groups of customers face different market barriers, different in kind and in difficulty.

b. Within any given customer class, customers face different economic barriers.

Any list of market barriers that must be overcome for a customer to take part in the energy efficiency offerings of the utility will show that not all residential customers will be able to take advantage of standard utility energy efficiency offerings. The typical energy efficiency programs reach some customers, but still do not remove barriers for many other customers. These typical utility programs have so far not cracked the problem of overcoming these barriers or being truly available to all customers.

The Proposed Regulation reads as if the suite of typical rebate, loan and incentive programs used stateside will be used. These include:

- Incentives to reduce upfront or lifecycle costs for certain energy efficiency measures – typically rebates.
- Efforts to educate customers about energy efficiency.
- Efforts to engage landlords of multi-family buildings in renovating their buildings.
- Incentives to vendors.
- Training programs and certification programs for installers.
- Direct Install (free measure installation) for certified low-income customers.

From a review of the list above, it is likely that the routine suite of utility energy efficiency programs will leave many customers unable to take advantage of the programs. Most of the barriers to taking advantage of such programs would be solved if the customer:

- ✓ Had enough disposable income
 - To pay copays.
 - To pay or to get financing for upfront costs.
 - To risk a measure not working, or having to pursue relief for a measure not working.
 - To take other risks of insufficient gain/financial loss.
- ✓ Was able to effectively use education and research options to evaluate risks, pros and cons.
- ✓ Was a homeowner. ¹
- ✓ Had a house that is suitable, or fixable with customer funds/financing.
- ✓ Able to get financing – sufficient income/wealth/credit scores, etc.

The standard or typical suite of utility energy efficiency programs leaves out wide swathes of residential customers who still face remaining market barriers due to the issues listed above.

c. Puerto Rico faces unique challenges.

Puerto Rico has some unique challenges to widespread participation in standard programs:

¹ Homeownership is a [particularly significant problem in Puerto Rico because so many homeowners do not have record title to their homes. These are not squatters, lack of documentation of their homeownership. This problem has prevented some from receiving FEMA relief and other benefits targeted to homeowners.

- Tenancy vs. home ownership.
- Lack of documentation of home ownership.
- Rules limiting eligibility to low-income programs based on documentation requirements.
- Undeveloped banking system in rural areas, which complicates lending processes.
- Inability of some to qualify for loans.
- Inability of some to take the risk of programs that do not provide claimed benefits.
- Homes ruined by hurricanes sufficiently to be unsuitable for efficiency investments.
- Other economic priorities being more important for survival.
- Challenges unique to an aging population.

Some of these challenges can be met by tailoring availability clauses to the lived reality of Puerto Rican customers. However, not all can be met with a relaxation of usual rules.

d. PAYS™ can overcome many barriers to participation.

The Proposed Regulations do have one provision that could help address many if not all of these remaining barriers to participation in energy efficiency. That is the “Pay As You Save”™ (PAYS) program:

Section 3.06 Energy Efficiency Financing...

(D)(5) PREPA shall evaluate, and offer, if possible, tariff-based financing options assigned to the meter (rather than to the customer), with site-specific cost recovery so the repayment would be provided by the benefitting customer even if the building has different occupants or owners (such as “Pay As You Save”™ approaches) or the occupant or owners change.

a) PREPA must particularly seek to develop such a program offering for residential and small business customers, but need not be limited to these customer types.

This is the only energy efficiency program that has been shown to overcome the split incentive between landowner and bill-payer, to remove the necessity to take out loans, to assure immediate savings right away, to safeguard against payment requirements for measures that do not work, to address the risk of having to leave the premises before reaching positive payback, and to rely on certified auditors and installers to ensure a quality product. For these reasons, PAYS™ should definitely be tried in Puerto Rico.

Importantly, the elements that enable PAYS™ to reach customers not served by standard programs are sometimes not well understood. For example, PAYS™ is *not* a financing program. A financing program implies a customer indebtedness. Participants in PAYS™ do not incur a debt that follows them if they no longer reside in the premises, or no longer receive the benefit of the measures installed in their home.

Using PAYS™, utilities in a number of states have provided energy efficiency services without becoming lending institutions. Customers have participated who could not otherwise and could not take on a loan. It would be useful the word “financing” in this section were replaced by the word “program” or some other word that makes clear this program does not create an indebtedness on the part of the participant.

e. Energy Efficiency priorities should include affordability.

None of the proposed priorities include affordability. The carve-out for low-income programs is fine. However, many customers will qualify for participation, and yet still not be capable financially to take advantage of rebates and other traditional programs. [This makes programs such as PAYS™ essential if all customers are to participate in the benefits]. Importantly, difficulty with electricity bills is not limited to those who are eligible for means-tested social programs.

As discussed in the next section, the manner in which programs are made available and how their costs relate to avoidable generation and transmission costs will determine if all rates will go up, by how much, and without offsetting usage reductions for many customers. Program developers and operators should explicitly consider these consequences when designing, funding and operating programs.

f. Conflicting Priorities – not all can be achieved.

A major problem in the Proposed Regulations is that key decisions are to be made using vague and undefined standards for goals and for programs. The Proposed Regulation sets out targets or goals for program design that are mutually incompatible, and thus does little to establish priorities.

The overall target in Article II, Section 2.01 appears understandable:

- A) The 2040 target for Annual Cumulative Reduction in electric consumption resulting from increased energy efficiency shall be 4,744 GWh per year (30% of PREPA's fiscal year 2019 sales).

The problem arises when looking at the various subsidiary targets/goals. The Proposed Regulations implicitly acknowledge this problem by citing a long list of objectives, and then saying they could later be prioritized by the Energy Board. See, Section 3.01(D). This **initial fluidity** allows PREPA and the Energy Bureau an essentially free hand to choose the priorities it wants. It will make the Bureau's later prioritization process an essential process for the public to follow. Similarly, the Three-Year Plans and annual Plan approvals will be opportunities to ensure that AARP constituents are included in the priorities.

The proposed regulations acknowledge that this initial lack of priorities must be organized so as to make it possible for program operators make choices. The Proposed Regulations as ultimately approved should provide more certainty. AARP believes that this prioritization should happen sooner, rather than later. The language should be amended as follows:

“as PREPA’s programs begin, mature, and develop ~~over time~~, the Energy Bureau ~~may choose to~~ must consult with stakeholders and prioritize ~~certain of~~ these objectives.”

Note that the proposed regulations state that PREPA must evaluate, and offer, if possible, a tariff-based program such as PAYS™. Section 3.06(D)(5).

g. Clarification of Definitions to ensure cost-effective energy savings.

The proposed regulations are unclear as to what is meant by “energy efficiency.” Sometimes the term is used in the normal sense – lowering the usage (kWh) of the customer while maintaining the same level of comfort or use. Other times, the term “energy efficiency” includes the concept of a reduction of peak demand levels.

The overall statutory goal is “30% energy efficiency by 2040.” In the Regulations, the reference point given is the usage in 2019. Most utility efficiency practitioners understand this to mean that PR should use 30% less electricity in 2040 than it did in 2019. It is not clear whether or not this is a reference to reducing peak load demand. Reducing demand is usually good for all customers over the long run. It doesn’t threaten to raise per kWh rates (or at least only minimally).

As stated above, a problem arises when energy-efficiency programs are only usable by some customers to lower bills, but raise rates for all customers. It is possible for peak-load

reduction programs to benefit the overall system, as well as benefit individual consumers who opt into them. However, it is also possible for such programs to be both harmful and costly to consumers—for example, if the time-of-use rates are implemented in a way that older adults who need adequate cooling are forced to choose between paying peak rates or cutting back on air conditioning. Anytime the costs avoided by reducing usage are less than the cost of the programs to reduce usage, then rates will increase *by definition*. With a clearer delineation between the concepts of lowering energy usage and of lowering peak demand, the regulations would be easier to administer and easier to evaluate.

Thank you for allowing AARP the opportunity to provide comments on these important regulations.

-Filed on June 28, 2021.