

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

NEPR

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THE UNBUNDLING OF THE ASSETS
OF THE PUERTO RICO ELECTRICAL
POWER AUTHORITY

CASE NO.: NEPR-AP-2018-0004

SUBJECT: THE INDEPENDENT
CONSUMER PROTECTION OFFICE'S
COMMENTS TO ATTACHMENT B OF
THE ENERGY BUREAU'S MARCH 24,
2022, FINAL RESOLUTION AND ORDER.

**INDEPENDENT CONSUMER PROTECTION OFFICE'S
COMMENTS TO ATTACHMENT B OF THE ENERGY BUREAU'S
MARCH 24, 2022, FINAL RESOLUTION AND ORDER**

COMES NOW, THE INDEPENDENT CONSUMER PROTECTION OFFICE
(hereinafter, "ICPO"), through the undersigned attorneys, and very respectfully STATES
and PRAYS:

I. INTRODUCTION

1. On March 24, 2022, the Energy Bureau of the Puerto Rico Public Service
Regulatory Board (hereinafter, "Energy Bureau") issued the Final Resolution and Order
in the captioned case.

2. As a next step in this process, the Energy Bureau included in said Final
Resolution and Order, an Attachment B, requesting stakeholder comments by April 25,
2022, on the relevant issues for a wheeling services agreement.

II. STANDING OF THE INDEPENDENT CONSUMER PROTECTION OFFICE ("ICPO")

3. The Independent Consumer Protection Office was created by Act 57-2014, *supra*, to educate, advise, assist, and represent customers of the services under the jurisdiction of the Puerto Rico Public Service Regulatory Board, such as power service customers in the Commonwealth of Puerto Rico.

4. Within the powers and duties enumerated in Section 6.42 of Act 57-2014, *supra*, the ICPO shall have the followings:

- (a) *Educate, inform, and provide orientation and assistance to customers on their rights and responsibilities with regard to the electric power service and the public policy on savings, conservation, and efficiency, telecommunication services, and those under the jurisdiction of the Transport and other Public Services Bureau;*
- (b) *Evaluate the impact that the rates, public policy, and any other issue may have on electric power, telecommunications, and transport services customers in Puerto Rico;*
- (c) *Defend and advocate for the interests of customers in all matters brought before the Energy Bureau, the Telecommunications Bureau, the Transport and other Public Services Bureau or being addressed by the Energy Public Policy Program of the Department of Economic Development with regard to electric power rates and charges, the quality of the electric power service, services provided by electric power service companies to their customers, resource planning, public policy, and any other matter of interest for customers;*
(...)
- (e) *Participate in the rate adoption or modification process for issues affecting electric power, telecommunications, and transport services' customers;*
- (f) *Make independent recommendations to the Bureaus regarding rates, bills, public policy, and any other issue that may affect services' customers in Puerto Rico;*
- (g) *Request and advocate for just and reasonable rates for the consumers represented by the Office;*

- (h) *Participate or appear as intervenor in any action brought before a government agency of the Government of Puerto Rico or the Federal Government with jurisdiction, in connection with rates, bills, public policy, and any other issue that may affect electric power, telecommunications, and transport services' consumers and/or customers;*
(...)

5. Consequently, the ICPO has the legal power and duty to submit comments for the benefit of electric power customers.

III. ICPO'S COMMENTS

6. Fulfilling its duties, the ICPO hereby submits its comments on the Attachment B of the March 24, 2022, Final Resolution and Order, included as an annex to this Motion.

WHEREFORE, it is respectfully requested from the Energy Bureau to take notice of the ICPO's comments.


Respectfully submitted.

In San Juan P.R. this 25th day of April 2022.

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I HEREBY CERTIFY that on this date copy of this motion has been electronically filed with the Clerk of the Puerto Rico Energy Bureau which will give notice to all participants in the instant case.

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Attachment B
Questions for Stakeholder Comment

1. Please provide any general comments on the list of requirements for a wheeling services agreement contained in Regulation 9351 and the additional issues raised specifically in this docket.

- Geographic location and interconnection point of the independent power producer facilities participating in wheeling

Geographic location and interconnection point is mostly a due diligence task of the independent power producer to find the best available options to locate their generation facilities, considering different circumstances or constraints. However, LUMA must provide support and tools to those independent power producer proponents to evaluate possible interconnection points, taking into consideration specific project impacts on the overall system as well. Many industrial and commercial facilities in the range of 250 KVA or higher demand are connected to the distribution system. For those cases, supply could come from either the transmission or distribution system. However, if the supply is coming from the distribution system, the consumer and supplier must be part of that radial system and consider many more possible constraints than if the supplier is tied to the transmission system.

- Estimated quantity of power to be wheeled.

In addition to the quantity of power to be wheeled, is important to consider at least the following:

- Percentage of the consumer load and demand profile per hour and day met by the independent power supplier
- Percentage of compliance with the delivery of scheduled power by the provider, and
- The ability of the supplier to adapt to changes in load and demand requirements from their customers.
- Anticipated wheeling customer locations to the extent available

Industrial and commercial qualified wheeling customers of 250 kVA demand or more, as per recent PREB Resolution, are located and connected at transmission and distribution system level as well, throughout the island.

- Proposed commencement date and anticipated duration of the wheeling arrangement.

The commencement date should be near the current LUMA'S billing (invoice) date. This will allow the consumer to track and compare the service provided by their independent power producer against LUMA or any other provider.

A longer duration of wheeling arrangement should be favored or incentivized by lower application fees, operation fees, or charges.

2. Please provide any comments on the potential methods for establishing hourly balancing charges to be billed to retail electricity suppliers on a monthly basis as discussed in today's resolution and order on pages [insert].

Besides establishing hourly balancing charges to independent power producers, PREB should allow those independent power producers to establish different approaches or strategies to meet or be much closer to meet their customer's annual demand. For example, one way is to allow the independent power provider to set up backup generation or storage at their customer site to increase the percentage of met demand under different circumstances, and to incentivize their customers to implement demand-side management for further savings granted by their energy supplier.

3. Please comment on the design of annual imbalance charges for retail electricity suppliers.

a. How should the imbalance charge vary with the annual difference between energy a supplier delivers to the LUMA system, and the energy required by its customers?

Imbalance charges may be higher to the independent power producer on peak hours or high demand season. If the supplier and consumer are located at distribution level, such charges should take into consideration local distribution constraints.

b. What is the amount of imbalance ("dead zone") should be allowed before the imbalance charge is triggered?

The exact amount of imbalance should be further studied, but the allowed amount of imbalance should be smaller during peak demand periods or seasons, and a lower amount of imbalance should be allowed as the time of the contract progresses.

c. Should the phase-in for an imbalance “dead zone” be by calendar year or should the phase-in be separate for each retail electricity supplier?

It seems to be fairer if the phase-in is separated for each retail electricity supplier, that is, if no technical challenge is foreseeable to do that approach, in order to incentivize more players at the supplier side to open competition for the consumer's benefit.

4. See pages 20-21 of Exhibit D (Proposal for Uniform Services Agreement Report by Guidehouse) to the Motion in Compliance with Resolution and Order entered on May 13, 2021. Is the proposal for different collateral requirements depending on a retail electricity supplier's credit rating appropriate? What are the appropriate percentages of collateral that should be required depending on the entity's credit rating?

Two or three times the expected revenue of the retail electricity supplier at the most should suffice, depending on the independent power producer credit rating. Allowing more time for LUMA to collect, resolve controversy, or return the consumer to LUMA's service will only incentivize LUMA to be inefficient in that process, to the detriment of wheeling and non-wheeling consumers.

5. Please describe any factors or information that should be considered in establishing cost-based administrative charges to retail electricity suppliers (e.g., per month for each retail electricity suppliers and per-month for each wheeling customer account).

Administrative charges should include LUMA's metering services, billing tasks from LUMA to the retail electricity provider, and scheduling coordination between LUMA and the supplier.

6. Please describe any other issues that the Energy Bureau should consider in the creation of a wheeling services agreement.

Self-generation for net metering done by the consumer should not be an impediment to that consumer being able to have service from an independent service provider through a wheeling mechanism or vice versa.

7. Please provide any general comments that the Energy Bureau should consider in establishing a wheeling services agreement application form.

We see two agreements, one between LUMA and the independent power supplier and another one between the independent power supplier and the consumer.

8. Please provide any comments on the establishment of a nonrefundable fee to be paid with the wheeling services agreement application form.

The implementation of a wheeling arrangement, like that of a renewable distributed generation system for net metering that currently has a nonrefundable application fee, takes time and resources, and the risk of such proposed projects not being completed and operational is present. We propose then a fee to be paid by the independent power producer proponent in two instances, one for the establishment of their generation facility and one per each customer agreement application added to their service.

Retail Supply Agreement

1. Are there any compelling reasons to establish a standard retail supply agreement at the current stage of this process?

There are still pending economic and technical considerations for wheeling implementation. The development of a standard retail supply agreement will provide uniformity to the process as it is enriched by early project development experience.

2. If the Energy Bureau waits to establish a standard retail supply agreement, should there be a filing requirement for retail supply agreements entered into between wheeling customers and retail electricity suppliers?

Yes, an agreement document between the retail electricity supplier and the utility will also be required, which will act as the default last resort supplier.

3. Should any preliminary requirements for retail supply agreements be determined before the Energy Bureau establishes a standard retail supply agreement? If so, what should those preliminary requirements be?

We recommend that PREB order LUMA to submit an evaluation assessment of the current T&D infrastructure to host (interconnection) and manage (scheduling, metering, and billing) wheeling arrangements between retail electric providers and transmission and distribution consumers allowed to participate in wheeling by PREB's Resolution, which are industrial and commercial clients with electric demand from 250 kVA over.