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Puerto Rico Energy Bureau
Clerk's Office,
World Plaza Building, 268 Muñoz Rivera Ave., Suite 202,
San Juan, PR 00918

**Re: SESA Comments on the Regulation on Microgrid Development
of the Puerto Rico Energy Bureau (Docket # NEPR-MI-2023-0007)**

Honorable Commissioners:

On October 11, 2023, the Puerto Rico Energy Bureau (the "PREB") issued a Resolution and Order calling on stakeholders and the general public to provide feedback and comments on potential revisions to Regulation 9028 of May 18, 2018, known as the Regulation on Microgrid Development of the Puerto Rico Energy Bureau ("Regulation 9028" or the "Regulation"). The Solar and Energy Storage Association of Puerto Rico ("SESA") hereby acknowledges the PREB's invitation and respectfully submits the following comments.

Summary of Input: Included in these comments is a general request for a series of in-person inclusive workshops to foster synergetic input from stakeholders, as well as a list of specific points of initial input for areas of improvement in the existing Microgrid Regulation.

General Comments

Generally, we would like to applaud the Energy Bureau for revisiting the Microgrid Rule and seeking stakeholder input for its improvement. We acknowledge that there has been practically no utilization of the microgrid rule since its original publication, and we hope that these rule revisions address the reasons that little to no microgrids have been developed under this rule, despite strong interest from project developers and energy consumers.

We also request that this rule revision involve a series of intentional in-person workshops including interested parties, rather than a completely on-paper process. The order seeking input on these rules provides no context as to the motivation for seeking stakeholder input at all, nor for seeking stakeholder input at this time, thus our input and that of all stakeholders is based on guessing what sort of changes the Energy Bureau is contemplating.

We strongly request that the next step in this process be a series of in-person stakeholder workshops facilitated by PREB, which seek to foster understanding and consensus among stakeholders as to which aspects of the Microgrid rule are in need of in revision, and what those revisions would ideally be. A process aimed at fostering synergetic input might look something like this:

- Initial responses to PREB's October 11th order received.
- In-person workshop, presenting a summary of input received and fostering clarity on stakeholders' initial input.
- Publishing of an informal draft of a rule revision, highlighting areas seeking further stakeholder input.
- One or two workshops fostering further stakeholder input.
- Publishing of formally proposed rule and 30-day comment period.
- One or two workshops focused on stakeholders' formal input, ensuring clarity and encouraging synergy and consensus
- Publishing of final rule change.

Specific Comments

We have identified key areas in Regulation 9028 that, if addressed, could significantly enhance its applicability and effectiveness. In our view, the primary constraints in Regulation 9028 hindering its widespread application are as follows:

- (1) Inclusion of Puerto Rico Electric Power Authority's ("PREPA") Infrastructure: When first envisioned, the initial draft for Regulation allowed microgrids to buy or lease PREPA equipment, and also established a fee structure for such transactions. The intention behind this measure "was to facilitate the development of microgrid systems by allowing owners and/or operator to access to existing infrastructure, therefore reducing the infrastructure costs while providing PREPA a source of revenue for equipment that, given the development of the microgrid may be under-utilized or not used at all". However, concerns were raised about the feasibility of this arrangement given PREPA's restructuring under Title III of PROMESA and bondholder agreements. These complexities, along with issues like maintenance responsibilities, infrastructure adaptation for isolation, and pricing of use fees, ultimately led to the removal of these provisions.

Regulation 9028's exclusion of provisions for integrating microgrids with PREPA's existing infrastructure markedly increases the challenges and costs associated with microgrid development. In its current form, the Regulation effectively requires microgrids to be built from the ground up, independent from PREPA's existing infrastructure, significantly raising the Regulation's entry barrier. Establishing a new, standalone system involves substantial investment and technical complexity, making it prohibitively expensive for many potential users. This exclusivity not only increases the cost but also limits the scalability and adaptability

of microgrids across different regions and community sizes. By essentially requiring entirely new infrastructure, the Regulation potentially excludes a broader segment of the population from participating in and benefiting from microgrid development.

As the regulation is revisited, it would be prudent to reevaluate the feasibility and benefits of allowing microgrid systems access to PREPA's infrastructure. Allowing microgrids to lease, license or enter into other kinds of transactions to enable the use of equipment such as lines, poles, transformers and substations from Puerto Rico Electric Power Authority (PREPA) could offer several benefits: (a) Cost Efficiency: Reduces the need for microgrid developers to invest in new infrastructure, lowering the overall cost of projects, thereby enabling broader participation from individuals and spurring market engagement; (b) Rapid Deployment: Contracting the use of existing infrastructure would accelerate the implementation and expansion of microgrid systems; (c) Enhanced Resilience: Utilizing established infrastructure could lead to quicker restoration of power during outages and enhance the overall resilience of the energy system; (d) Resource Optimization: The use of existing assets could be optimized, potentially turning underutilized resources into profitable or cost-effective solutions; (e) Revenue for PREPA: Contracting the use of PREPA infrastructure could provide an additional revenue stream for PREPA, which could be reinvested into grid improvements, renewable or energy storage projects; and (f) Environmental Benefits: By facilitating the expansion of microgrids, this approach supports the transition to cleaner energy sources, thereby contributing to environmental sustainability. Future provisions or amendments of Regulation 9028 could explore structured collaborations between PREPA and microgrid operators, ensuring legal compliance, operational viability, and mutual benefit.

- (2) Clarifying existing ambiguity between microgrid registration and certifications: The current framework of Regulation 9028 presents a critical ambiguity between microgrid registration and certification processes. Specifically, the delineation between Sections 4.03, 5.03, and Sections 6.01, 6.02, 6.03 seems to suggest that the completion of a microgrid project is a prerequisite for its registration. This interpretation undermines the very purpose of registration, which ideally should enable, rather than obstruct, the development of microgrids. The wording in Section 6.03 B.1 creates a misleading impression that the decision on registration is contingent upon certification, which is only achievable post-construction. This structure inadvertently makes the registration step redundant and ineffectual, posing unnecessary risks for developers who may invest in projects without assurance of registration or certification.

Currently, Section 6.02(B)(1) reads: "The [Bureau] shall issue a determination on each application within thirty (30) days of receipt: (1) Granting the Microgrid status as a Registered Microgrid, **subject to compliance with Section 6.03 of this Regulation**". Simultaneously, Section 6.03 of the Regulation provides that "**After a Microgrid has been fully** constructed, but prior to its operation...". As mentioned above, this wording can be interpreted to imply that construction of the microgrid is a prerequisite for registration, contradicting the logical sequence of project development. This misalignment poses significant risks to developers who might not invest in projects without the assurance of future registration or certification. To

encourage sustainable microgrid development, a clear distinction between registration and certification is essential, ensuring that registration is an independent step, not contingent on post-construction certification.

To rectify this, a clear distinction between registration and certification processes must be established, ensuring that registration is an independent and facilitative step, not a contingent one. This separation is crucial to encourage the development of microgrids, aligning with the objectives of Regulation 9028 to promote sustainable energy solutions. Facilitating this distinction between an approval of the microgrid project and its ultimate certification would enable developers to assess the feasibility and compliance of their proposals before full-scale implementation. This early validation could significantly reduce development risks and uncertainties, making the process more attractive for investors and developers. It would also align with the overarching goals of Regulation 9028 to promote sustainable and resilient energy infrastructure in Puerto Rico by facilitating smoother, faster, and more confident project initiation and execution.

- (3) Expanding exemptions beyond operators: A Microgrid Operator is defined by the Regulation as “the registered operator of a microgrid which shall be the primary party responsible for *overseeing the operation of the microgrid* equipment, providing maintenance, delivering contracted services, billing for such services and serving as the primary point of contact. *The microgrid operator may not be the owner of the microgrid.*” By restricting requests for exemptions or modifications solely to Microgrid Operators, Article 7 of Regulation 9028 significantly hinders the widespread adoption and flexible development of microgrids in Puerto Rico. This limitation poses several challenges: (a) Exclusion of Key Stakeholders: By allowing only operational entities (Microgrid Operators) to request exemptions or modifications, the regulation excludes other crucial participants like project developers or owners from contributing to the regulatory process. This exclusion is particularly problematic during the initial stages of project development, where flexibility in compliance can be critical for addressing unique challenges or incorporating innovative technologies; (b) Inhibits Innovation and Adaptability: Restricting the ability to request regulatory changes to operational entities hampers innovation. In the rapidly evolving field of microgrid technology, the ability to adapt regulatory compliance in line with technological advancements is vital. This rigidity in the regulatory framework may deter potential developers who view the regulation as too inflexible to accommodate new or evolving technologies; (c) Operational Dependency: The Regulation's reliance on operational status as a criterion for requesting exemptions creates a catch-22 situation. Project developers, who are instrumental in shaping the microgrid project during its formative stages, are unable to seek necessary regulatory adjustments until the project becomes operational. This limitation can lead to project delays, increased costs, and potential non-compliance issues; (d) Risk Aversion among Investors: The strict criteria may also be perceived as a regulatory bottleneck by investors, deterring investment in microgrid projects due to perceived risks associated with inflexible regulatory compliance. To enhance the effectiveness of Regulation 9028 and encourage the development of microgrids, it is advisable

to broaden the scope of entities allowed to request exemptions or modifications. This change would facilitate a more inclusive, adaptable, and innovation-friendly regulatory environment, crucial for the growth and success of microgrid projects in Puerto Rico.

- (4) Providing a provision for amendments: Regulation 9028 currently lacks a mechanism for amending registration and certification once obtained. This is particularly troublesome when additional equipment or components are added to a microgrid, leading to changes in its design. Currently, an owner/operator has a duty to notify if any of the information provided as part of an application for registration changes. However, it lacks a mechanism for the amendment of the registration or certification once the change is notified. Moreover, as noted above, the Exemption mechanism provided by Article 7 is limited only to requests filed by registered Microgrid Operators. This omission can create hurdles for microgrid developers who might need to upgrade or expand their systems over time. The absence of a provision in Regulation 9028 for amending microgrid registration and certification when additional components or design changes occur presents a significant oversight. Microgrids, by nature, are dynamic systems that may require upgrades or expansions to accommodate evolving energy demands, technological advancements, or to enhance system efficiency and resilience. To address this, the PREB should consider implementing a flexible amendment process. This process would allow microgrid operators to seamlessly integrate new technologies or make necessary modifications, fostering an environment conducive to continuous improvement and innovation in microgrid development. Such a mechanism would not only reduce administrative burdens but also ensure that microgrids remain at the forefront of modern energy solutions, adapting to changing circumstances without facing regulatory hurdles.

On behalf of SESA, we extend our gratitude to the PREB for granting us the opportunity to engage in the collaborative effort to advance microgrid development in Puerto Rico and contribute to the ongoing discourse on the Regulation on Microgrid Development. We sincerely appreciate the PREB's commitment to stakeholder engagement.

Cordially,

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