

## CASE NO.: NEPR-AP-2023-0003

### IN RE: PUERTO RICO ELECTRIC POWER AUTHORITY RATE REVIEW

**To: Edison Avilés Deliz, Chairman PREB**

**From: Victor Luis Gonzalez**

**Date: December 18, 2024**

#### **Comments and Questions:**

In the first rate review case, the proposed revenue for each class differed from the required revenue for each class. Cost causation was not adhered to in order for gradualism to reduce the impacts.

**Has the gradualism transition period ended? Will gradualism again be taken into consideration?**

After hurricane Maria NEM customers started adding a Battery Energy Storage System (BESS). Currently, more than 150,000 TESLA Powerwalls have been installed with an aggregate capacity of 500MW for 4-hours. The main reason NEM customers purchased a BESS was to have reliable and resilient electricity in their homes and businesses. A time of use rate could perhaps benefit the grid by providing economic signals to the BESS owners when to charge or discharge the BESS. **Will the rate review process look into a time of use rate for the DG BESS?**

#### **Informal Procedures**

I agree that proceeding informally can provide efficiency benefits.

#### ***E. Consultant reports made public; report-writers made available for questioning***

I agree that participants should have access to the consultant's public reports and that they should have an opportunity to question the consultants. The questioning, particularly on technical matters, will achieve greater efficiency and transparency while maintaining an orderly process if it is allowed directly by the participants. At the last rate hearing, some participants were allowed to question directly while others were not. Participants should be allowed to directly question the consultants.

## **A. Substantive Scope**

The definition of “all expenditures” should define more clearly what are the expenditures for normal operations, storm resilience and restoration and “anything else”.

**What will be included in “anything else”?**

**Will ratepayers be charged for “storm resilience and restoration”?**

**Are RECs considered expenditures?**

Under the *Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act* (22 L.P.R.A. § 8121, et seq., the “Renewable Energy Policy Act”), a REC is personal property, *id.* §1.4(8), that constitutes a tradable and negotiable asset or commodity that may be purchased, sold, assigned, and transferred between persons for any legal purposes, which is equal to one (1) megawatt-hour of electricity generated from a sustainable renewable energy source or alternative renewable energy source (issued and registered pursuant to Act 82-2010), and represents all environmental and social attributes, as defined in Act 82-2010. Act 82-2010, Section 1.4; 22 L.P.R.A. § 8121.

The Renewable Energy Policy Act mandates, among other things, that retail electricity suppliers in Puerto Rico, like PREPA, comply with a Renewable Portfolio Standard (“RPS”) that requires specified percentages of their energy production come from renewable energy sources, escalating over time. Act 82-2010, Section 2.3; 22 L.P.R.A. § 8124.

In 2019, PREB initiated a process to evaluate draft regulations governing the REC “market.” In October 2021, PREB issued a draft regulation for comments, but the draft regulation has not progressed since that time.

The October 2021, draft proposes the following:

*“a. that the minimum value of the RECs will be the result of the multiplication of the market cost of a metric ton of CO<sub>2</sub>e by the CO<sub>2</sub>e emission factor of the electricity generators that use fossil fuels;*

*b. that non-compliance is subject to a penalty equal to double the minimum value;*  
*and*

*c. that ownership of the REC belongs to the REC generator until it is legally transferred. “*

PREPA claims ownership of the RECs generated by the energy exported by NEM customers.

NEPR-MI-2019-0016 July-September 2024 Progress Report shows that during the last 12 months the monthly quantity of kWh exported by NEM customers to the grid that PREPA claimed for RPS compliance is 49,346,230 kWh or 49,346 RECs.

Since 2015, PREPA has claimed for RPS compliance 1,808,542,762 kWh equivalent to 1,808,542 RECs generated and exported by NEM customers.

**Will the rate review case look into PREPA's non-compliance with the RPS?**

**Should the RPS compliance cost and/ or non-compliance penalties be incorporated into the rates as a line item?**

**B. A three-year rate case, covering FY2026, FY2027, and FY2028**

**(b) reflect the power-source changes caused by the 2020 and the 2025 IRP.**

**Who will receive the filing requirements of III.B. ?**

**From whom will PREB request ROI- III.B.1.f. status of cost-of-service studies ("COSS")?**

Please note that LUMA in its Rate Review-Phase I report, NEPR-AP-2023-0003 dated October 4, 2023 stated that:

#### 2.2.1 Projected Timing for Cost-of-Service Study

*"As with any study, the quality of the COSS will improve over time as the quality of inputs improves. Properly developed load forecasts and remediated financial records will facilitate a meaningful COSS that can be relied upon for cost causation and used to inform rate design. While there are many moving parts to perform a COSS in accordance with best practices, LUMA has determined that based on the schedule for financial controls and financial systems programs in FY2027 and assuming completion by other parties of their financial remediation activities, a full COSS could be performed in FY2028. This schedule also depends on availability of audited results for the first year of PREPA's operations as a transformed utility (FY2024) and completion of the balance sheet remediation activities funded through the 2024 Certified Fiscal Plan. "*

Also, please take into consideration that the Draft of Puerto Rico Net Energy Metering Report dated June 2024 (NEPR-MI-2024-006) filed June 14, 2024, states in 7.4 RATES:

*"What changes are warranted with respect to retail rate design? Each of the states investigated in this report have long-standing regulatory relationships between the utility and state PUC. In this relationship, rates have been developed over time, based upon the regulatory requirements of the utility and cost-of-service studies. The cost-of-service studies that explicitly account for when and how NEM customers use and produce electricity will provide information on whether NEM customers are paying their cost-of-service, or whether and to what extent they are being subsidized by non-participating customers." (emphasis added)*

Substantive Issues B informs that the three-year rate case *"would set separate rates for each of the three fiscal years, based on what evidence shows about changes in those three years caused by the current (2020) IRP and the to-be-filed-and-addressed-in-2025 IRP."*

LUMA declared that the projected timing of the COSS would not be ready until 2027 and PREB NEM Consultants on their Draft NEM Report concluded that a COSS was imperative to determine *"whether NEM customers are paying their cost-of-service"*. Yet, LUMA in its November 25, 2024, Motion Submitting First Interim Filing of the IRP (NEPR-AP-2023-0004) states on 4.6.1 ***"However the current NEM program unfairly burdens customers without PV systems by overcompensating NEM customers for the power they export to the system."***