(S. B. 1666)
(Conference)

(No. 133-2016)

(Approved August 5, 2016)

AN ACT

To amend Sections 1.4, 2.1, and 2.3 and add a new Section 2.2 to Act No. 82-2010, as amended, known as the "Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act"; amend Sections 3, 5, 8, and 9 of Act No. 114-2007, as amended, known as the "Net Metering Act"; and amend Section 3.4 of Act No. 57-2014, as amended, known as the "Puerto Rico Energy Transformation and RELIEF Act," in order to adjust the definitions; provide for the technological modernization of the Net Metering Program; clarify the billing period for Net Metering customers; establish the rules for the use of the Net Metering Program; require the Electric Power Authority to file progress reports; update the public policy on the interconnection of distributed generators; establish new responsibilities for the Commonwealth Energy Public Policy Office and the Puerto Rico Energy Commission; and for other related purposes.

STATEMENT OF MOTIVES

Just as other jurisdictions, Puerto Rico is undergoing an energy crisis that affects us all. Hence, legislation has been introduced in the past years for the purpose of establishing specific measures to address this issue and further energy production diversification in Puerto Rico, as well as to establish long-term energy conservation and stability.

At present, Puerto Rico generates over fifty percent (50%) of its electric power from oil. Oil price increases every year, and it is expected to continue increasing. Puerto Rico has no control over the price of fossil fuels and, therefore, our economy is subject to the constant fluctuation of prices in global markets and local capital

flight in connection with the purchase of such fuels. In fact, it is estimated that the annual cost of electricity in Puerto Rico is currently twice as high as the average cost in the rest of the United States, and that the average Puerto Rican pays around twenty cents ($0.20) per kilowatt-hour (kWh).

The high cost of energy and the instability thereof adversely affect not only our quality of life and the environment, but also our economic competitiveness, because it increases the cost of doing business in Puerto Rico. It is estimated that for every dollar increase in the cost of a barrel of fossil fuel, our economy experiences a seventy million dollar ($70,000,000)-flight of capital annually.

The history of energy in Puerto Rico shows that the development of infrastructure for the generation, transmission, and distribution of electric power has remained stagnant and excessively dependent on oil in spite of the worldwide evolution to adopt more efficient electric power sources and systems. While other jurisdictions have gradually departed from this source for being an expensive and toxic resource, our Island has maintained its subjection to oil for the generation of electricity.

Renewable energy is one of the main sources of distributed generation that provides some relief in the electricity bill in Puerto Rican households. For such reason, it is imperative that the public policy on renewable energy production and generation of the Commonwealth of Puerto Rico is up to date with the times and the best practices and trends of the industry.

Act No. 114-2007, created a Net Metering Program to allow the interconnection of residential, commercial, and industrial customers with renewable energy generation systems to the electric power grid of the Electric Power Authority (hereinafter the "Authority" or "PREPA") and the supply of electric power generated in excess of that used by customers to the grid. At that time, our Legislative Assembly stated that Act No. 114-2007 resulted, among other things, from the need

to incentivize the generation of electric power through renewable energy sources due to our excessive dependence on fossil fuels to generate electricity and their well-known polluting effect on the environment, as well as the high costs reflected on electricity bills. However, in spite of the subsequent amendments to the Act, the regulations adopted by PREPA with regard to systems with a nameplate capacity in excess of 1 MW, far from supporting the development of renewable energy alternatives, have had the practical effect of hindering the development thereof.

Act No. 57-2014, known as the "Puerto Rico Energy Transformation and RELIEF Act directs PREPA to adopt expedited procedures for the interconnection of renewable energy generation systems, because it is unacceptable that the interconnection processes under the Net Metering Program are excessively slow due to obsolete practices. For instance, the fact that physical access to meters is necessary to execute a Net Metering Agreement when such meters allow for remote access entails not only an unwarranted delay for Puerto Rican customers, but also an unreasonable increase in the costs of solar systems. To address this issue, it is imperative to adopt the use of Meters that meet the necessary standards for remote net metering that is precise and accurate. As defined in this Act, a Net Meter prevents the interconnection of distributed generation systems from being delayed due to the electric power service company's inability to have physical access to the meter.

Through the adoption of regulations using the SGIP and SGIA's as models, procedures shall be standardized, current obstacles for interconnection shall be eliminated, a reliable and safe interconnection process shall be provided for, and the economic activity of the Island shall be increased by reducing energy costs.

Likewise, it is essential that the processing and follow up of cases pending approval for interconnection is rendered transparent, efficient, and modern. An ongoing trend among electric power service companies, such as Pacific Gas and Electric Company (PG&E) in California is the automation of the process for

interconnection request through the use of websites that allow applicants to submit requests, follow up on the status of the case, and sign the Net Metering Agreement electronically. Puerto Rico is still one of the few jurisdictions that requires applicants to personally sign the Net Metering Agreement at the regional offices of PREPA, which entails an undue delay for Net Metering Program participants and an obsolete practice that extends the bureaucratic processing rather than simplify it.

The benefits of promoting and streamlining the production of renewable energy are beyond economic. The production of electric power through sustainable renewable and alternative renewable energy sources is very valuable and inures to the benefit of the people, given that this type of energy reduces environmental pollution and mitigates any adverse pollution-related effects on the health of our people. Moreover, renewable energy production generates clean energy, creates green jobs, and enhances the social and environmental wellbeing of Puerto Rico.

In the United States, customers wish to have access to solar energy and promote self-consumption. However, many people have issues related to: shaded roofs, houses located in historic zones, houses located in zones with restrictive ordinances, or simply the lack of funds to finance the installation of solar panels.

Community solar projects have become an alternative to have access to renewable energy. In addition to community solar, there are other terms used such as shared solar or solar gardens to describe the different ways whereby a group of people can have access to renewable energy. In Puerto Rico, community solar projects have a great potential to broaden the people's access to solar energy. The public policy to further community solar projects in Puerto Rico must be flexible and allow for the different modalities and nuances, whether known or to be developed in the future, that comply with the energy public policy as well as meet economic and processing requirements that are beneficial for the community. For instance, whether it consists of a project built in a land within the community or a

group of individual systems installed on the rooftops of houses, either of these can be considered a community solar project. The community itself, the Electric Power Authority, the municipality or a third-party may be the owner of the community solar project equipment. The Commonwealth Energy Public Policy Office shall identify the best practices for community solar projects, and the Puerto Rico Energy Commission shall regulate the same. Community solar projects shall constitute a milestone in the transformation of the electric power sector of Puerto Rico.

Authorizing the operation of microgrids in Puerto Rico is an additional step towards planning, building, and updating distribution systems in order to guarantee the use of local resources to the fullest (as established in Act No. 57-2014). A microgrid is a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to a grid. A microgrid can connect and disconnect from the grid to enable it to operate with flexibility (as defined by the Microgrid Exchange Group). Community solar projects may become microgrids should they have a base (constant) generation or sufficient storage capacity to be able separate from the grid if necessary.

This Legislative Assembly recognizes that this forefront legislative initiative lays the groundwork for us to raise to the energy challenges that we face as a society and promote a brilliant future for present and future generations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 1.4 of Act No. 82-2010, as amended, is hereby amended to read as follows:

'Section 1.4.- Definitions.-

…

1) …

…

8) 'Renewable Energy Certificate' or 'REC' means a personal property that constitutes a tradable and negotiable asset or commodity that may be purchased, sold, assigned, and transferred between persons for any lawful purpose, 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 this Act) and, in turn, represents all environmental and social attributes, as defined in this Act.

9) 'Commission' means the Puerto Rico Energy Commission created under Act No. 57-2014, as amended.

10) 'Municipal Solid Waste'…

11) 'Executive Director'…

12) 'Qualified Hydropower'…

13) 'Alternative Renewable Energy'…

14) 'Distributed Renewable Energy' means sustainable renewable energy or alternative renewable energy supplying electric power to an electric power service company or generated for self-consumption or for sale to third-parties. Community solar projects are considered distributed renewable energy at residential level and their maximum capacity shall be determined by the Puerto Rico Energy Commission with the advice of the Electric Power Authority.

15) 'Sustainable Renewable Energy': means the energy derived from the following sources:

a. Solar energy;

b. Wind energy;

c. Geothermal energy;

d. Renewable Biomass Combustion;

e. Renewable Biomass Gas Combustion;

f. Combustion of biofuel derived solely from renewable biomass;

g. Qualified hydropower;

h. Marine and hydrokinetic renewable energy, as defined in Section 632 of the 'Energy Independence and Security Act of 2007' (Public Law 110-140, 42 U.S.C. § 17211);

i. Ocean thermal energy;

j. Any other clean and/or renewable energy that the Energy Commission may define in the future through regulation or order as sustainable renewable energy.

16) 'Green Energy' the term 'green energy' includes both terms 'sustainable renewable energy,' 'alternative renewable energy,' and 'distributed renewable energy.'

17) 'Sustainable Renewable Energy Source' means any electricity source that produces electric power through the use of sustainable renewable energy, as such term is defined in this Act.

18) …

19) …

20) 'Net Meter' means a tool used to measure and register the two-way flow of power (bidirectional), that is, supplied and received energy in kilowatt-hour by a customer who has a distributed generation system interconnected to the power grid of PREPA.

21) 'Microgrid' means a group of interconnected loads and distributed energy resources within clearly defined electrical boundaries that acts as a single controllable entity with respect to PREPA's grid. The goal of microgrids is to reduce energy consumption based on fossil fuels through local renewable energy generation and strategies to reduce energy consumption. A microgrid can connect and disconnect from PREPA's grid to enable it to operate in both grid-connected or off the grid.

22) …

23) …

24) …

25) …

26) …

27) …

28) …

29) …

30) …"

Section 2.- Section 2.1 of Act No. 82-2010, as amended, is hereby amended to read as follows:

"Section 2.1.- Applicability.-

This Chapter, together with orders, resolutions, and regulations issued or promulgated by the Puerto Rico Energy Commission to enforce the goals established herein, shall apply to any person subject to the Renewable Portfolio Standard, whether imposed by means of federal or local legislation or regulations, to any electric power service company, sustainable renewable, alternative renewable or distributed renewable energy producer, as defined in this Act, and any person who purchases, sells or otherwise transfers a Renewable Energy Certificate ('REC'), issued in accordance with the provisions of this Act."

Section 3.- A new Section 2.2 is hereby added to Act No. 82-2010, as amended, to read as follows:

"Section 2.2.- Net Metering Program Technological Modernization

(a) PREPA shall use Net Meters to measure the energy consumption of renewable energy systems interconnected to the grid so that said consumption can be measured remotely when such Net Meter is not physically accessible. Physical

access to the Net Meter shall not be required at any stage of the interconnection process.

(b) PREPA shall create a website that allows for the electronic filing of any document required by the interconnection regulations in effect, including the Electrical Installation Certificate. Said website shall allow for the follow up of cases, the electronic signature of the Interconnection or Net Metering Agreement, and provide for online orientation and information material for any applicant who opts for signing the Net Metering Agreement electronically. The electronic signature shall constitute the formal consent of the applicant to all the terms and conditions of the Agreement and shall execute the agreement by and between PREPA and the customer. PREPA shall create such website within one hundred and eighty (180) days after the approval of this Act."

Section 4.- Section 2.3 of Act No. 82-2010, as amended, is hereby amended to read as follows:

"Section 2.3.- Renewable Portfolio Standard.-

…

(e) For purposes of showing compliance with this Section, the amount of electric power sold during each calendar year by an electric power supplier derived from a hydroelectric facility shall not be accounted for as part of the total volume of electricity sold by the electric power service company during said year."

Section 5.- Section 5 of Act No. 114-2007, as amended, is hereby amended to read as follows:

"Section 5.- Energy Measuring.-

…

(f) PREPA shall credit every participant of the Net Metering Program promptly and expeditiously, provided that the electricity generated by the customer exceeds the electricity supplied by PREPA during the billing month. Such credit

shall be clearly shown in the monthly bill for the next billing cycle after the Net Meter was installed.

(g) If an agreement in accordance with this Act is not reached between the parties thereto within a non-extendable term of one hundred twenty (120) days counted from the date on which a net metering application was submitted to the Authority, or in those cases where the Authority must disconnect a renewable energy source under the Net Metering Program due to technical or security reasons, or in the event of a dispute related to bills or credits, the Puerto Rico Energy Commission shall have jurisdiction to settle such disputes as provided in Act No. 57-2014."

Section 6.- Section 3 of Act No. 114-2007, as amended, is hereby amended to read as follows:

"Section 3.- Net Meter.-

In the case of renewable energy systems interconnected to PREPA's grid, the Net Meter shall be installed by PREPA at the base of the meter already existing at the time the interconnection request is made. The Electric Power Authority shall not, whether by regulations, technical order, governing body directive or any other means, establish additional requirements, deny a request or endorsement, or request the relocation of the base of the existing meter, unless the current location of the meter fails to meet the security standards established by the National Energy Code in effect. However, the meter must be placed at an easily accessible location, otherwise, the customer shall be required to allow PREPA's staff access thereto, as required by PREPA and upon coordination.

Any installations of this sort shall include an automatic distribution line flow disconnection mechanism, in the event of an interruption of service of the Electric Power Authority."

Section 7.- Section 8 of Act No. 114-2007, as amended, is hereby amended to read as follows:

"Section 8.- Reports.-

The Electric Power Authority shall file with the Legislative Assembly semiannual progress reports on the interconnection of renewable systems to the grid including, but not limited to the average interconnection times of the distributed generation systems, the number of backlogged cases pending approval, and the percentage of compliance with the Renewable Portfolio Standard corresponding to the distributed renewable energy. The reports may include recommendations on additional legislation needed to achieve the objectives of the program."

Section 8.- Section 9 of Act No. 114-2007, as amended, is hereby amended to read as follows:

"Section 9.- Public Policy on Interconnection.-

It shall be the public policy of the Commonwealth of Puerto Rico to ensure that the procedures for the interconnection of distributed generators to the electric power system of the Electric Power Authority are effective in terms of costs and processing time, in order to promote the development of these types of projects and incentivize economic activity through the reduction of energy costs in the residential, commercial, and industrial sectors. For such reasons, it is hereby established that the procedures for the interconnection of distributed generators with a generating capacity of up to five (5) megawatts (MW) which shall participate in the Net Metering Program, shall be consistent with the Small Generator Interconnection Procedures (SGIP) and the Small Generator Interconnection Agreement (SGIA), provided in Order No. 2006 of the Federal Energy Regulatory Commission (FERC), as amended, and any other future amendments thereto that are adopted by the Energy Commission. PREPA shall uniformly follow the interconnection procedures in all of its regions.

Using the provisions of the SGIP as a model, the Electric Power Authority shall approve expedited processes so that distributed generators with a generating

capacity of less than one megawatt (1MW) may connect to the grid, provided, that the technical features of the distributed generator to be interconnected and the existing conditions of the electric power grid thus allow. Provided, further, that for the interconnection of generators with a generating capacity of more than five hundred megawatts (500MW) but less than one megawatt (1MW), the Commission may require the necessary reliability studies.

An electrical engineer and an expert electrician both members of their professional associations and admitted to the practice of their profession shall certify that the electrical installation of the distributed generation system meets the specifications required by PREPA's and the Energy Commission's regulations, and that the same was completed in accordance with the laws, regulations, and rules applicable to the interconnection of distributed generation to PREPA's transmission and distribution grid. Once said certification is submitted to PREPA, the applicant shall interconnect and operate his distributed generation system to PREPA's grid, provided that the generation capacity of said system does not exceed 10 kilowatt.

In the event that the Electric Power Authority refuses to evaluate or determines that it is not possible to evaluate an interconnection request through the fast track process, or when as part of the interconnection evaluation process, or during the negotiation of evaluation studies and/or interconnection agreements, PREPA determines that it is necessary to implement additional technical requirements and/or improvements to its electric power system, the applicant shall be entitled to challenge said determination or findings through any of the procedures provided in Section 12 of this Act."

Section 9.- Section 3.4 of Act No. 57-2014, as amended, is hereby amended to read as follows:

"Section 3.4.- Duties and Powers of CEPPO.

…

(ii) To formulate strategies and make recommendations to the Energy Commission to improve the electric power service in low-income communities through the study, promotion, and development of Community Solar Projects, using as guidelines the recommendations made by organizations such as IREC and NREL, adapted to Puerto Rico, and seeking the input of PREPA and the representatives of community organizations as well as relevant professional, and academic organizations.

(jj) CEPPO, in conjunction with the Commission and PREPA, shall study the best practices of the electric power industry and shall establish a plan for the development of microgrids in Puerto Rico. To minimize costs and broaden access to greater physical and human resources, CEPPO may partner with local or federal agencies, or recognized universities or institutes of electric power research, inside and outside of Puerto Rico, to carry out this task. Initially, this option shall be made available to low-income communities, universities, healthcare centers, and public institutions.

(kk) CEPPO, in conjunction with the Commission, shall determine the format and specific information to be shared by each microgrid."

Section 10.- Section 6.3 of Act No. 57-2014, as amended, is hereby amended to read as follows:

"Section 6.3.- Powers and Duties of the Energy Commission.-

The Energy Commission shall have the following powers and duties:

(a) …

…

(qq) The Commission, in conjunction with the Commonwealth Energy Public Policy Office and PREPA shall evaluate and make determinations regarding the interconnection of distributed renewable energy and large-scale renewable energy to

PREPA's distribution and transmission grid of in order to ensure access thereto fairly and equitably.

(rr) The Commission, in conjunction with the Commonwealth Energy Public Policy Office and the Independent Consumer Protection Office, and the comments of interested persons and organizations shall establish the regulatory framework that shall guide PREPA in the development of regulations for community solar projects and microgrids.

(ss) The Commission, with the advice of PREPA shall determine the maximum capacity and other requirements for community solar projects, using as guidelines the recommendations or organizations such as IREAC and NREL adapted to Puerto Rico."

Section 11.- Severability Clause

If any clause, paragraph, subparagraph, article, provision, section, subsection or part of this Act were held to be unconstitutional by a competent court, said holding shall not affect or invalidate the remaining provisions of this Act. The effect of such holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, subsection or part of this Act thus held to be unconstitutional.

Section 12.- Effectiveness

This Act shall take effect immediately after its approval.