

## ***“Puerto Rico Energy Transformation and RELIEF Act”***

Act No. 57 of May 27, 2014, as amended

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(Contains amendments incorporated by:

[Act No. 152 of September 6, 2014](#)

[Act No. 4 of February 16, 2016](#)

[Act No. 133 of August 5, 2016](#)

[Act No. 120 of June 20, 2018](#)

[Act No. 141 of July 11, 2018](#)

[Act No. 211 of August 12, 2018](#)

[Act No. 17 of April 11, 2019](#)

[Act No. 170 of December 12, 2019](#)

[Act No. 2 of March 19, 2025](#))

To establish the Puerto Rico Energy Transformation and RELIEF Act; repeal Section 2 and replace it with a new Section 2, amend Sections 3(b), 4, and 5, add a new Section 5A, amend Section 6, add new Sections 6A, 6B, and 6C, amend Section 22, add a new Section 28, and renumber Sections 28 and 29 as Sections 29 and 30 of [Act No. 83 of May 2, 1941, as amended, known as the “Electric Power Authority Act,”](#) in order to provide for the governance of the Governing Board of the Electric Power Authority, establish strategic planning and information requirements that PREPA must provide to guarantee an efficient electrical system, promote transparency in its processes, and make active citizen participation feasible, among other matters; create the Energy Public Policy Program of the Department of Economic Development and Commerce as the entity charged with developing and promulgating the public policy on energy of the Commonwealth of Puerto Rico and provide for its duties, responsibilities, operational organization, and budget, among other matters; establish energy efficiency parameters and the criteria to be observed by every agency of the Executive, Legislative, and Judicial Branches, as well as by the municipalities, in order to promote energy savings, among other matters; amend Section 7 and add new Sections 9, 10, 11, and 12 and renumber Section 9 as Section 15 in [Act No. 114-2007, as amended](#), in order to establish the public policy of the Commonwealth of Puerto Rico that shall govern the interconnection of distributed generators participating in the Net Metering Program established under [Act No. 114-2007](#), as amended, among other matters; create the Puerto Rico Energy Administration and the Energy Commission, establish their duties and responsibilities, as well as their operational structure and regulatory jurisdiction, provide for their operating budget, among other matters; establish the general obligations of electric power companies in Puerto Rico, among other matters; create the Independent Consumer Protection Office to assist and represent electric power service customers in the Commonwealth of Puerto Rico, and establish its duties, responsibilities, operational organization, and budget, among other matters; provide for the transition between created and eliminated agencies; amend Section 2 of Act No. 33 of June

27, 1985, as amended, and repeal Act No. 128 of June 29, 1977, as amended; repeal Section 4 of Article 1 of Act No. 73-2008, as amended; repeal Act No. 69 of June 8, 1979; repeal Section 2.2 of [Act No. 82-2010, as amended](#); repeal Act No. 233-2011, as amended; and for other related purposes.

## STATEMENT OF MOTIVES

The principal mandate of PREPA, since it was founded in 1941, was to achieve the total electrification of Puerto Rico. This process took forty (40) years and was substantially completed in 1981. While our electricity infrastructure continued developing to supply the growing demand for electric power, a complex interconnected system was created based on fossil fuels and on the presumption of the availability of said fuels at a low cost to achieve a continuous and reliable electric power service. Even though PREPA has, indeed, achieved its mission of electrifying the Island and providing a reliable service, there is a broad consensus on the need to evolve from our dependence on fossil fuels and use to the maximum extent possible the Island’s energy resources, such as the sun and the wind, conservation, and efficiency.

The high cost of energy limits our ability to stimulate the economy, strengthen small- and medium-sized business, as well as to attract private investors from abroad, develop commercial, industrial and manufacturing activities, and improve the quality of life of all Puerto Ricans. This prevents our Island from becoming a competitive and attractive place in all aspects. We have been held as hostages of a poorly efficient energy system that excessively depends on oil as fuel, and that does provide the tools to promote our Island as a place of opportunities in the global market. The current cost per kilowatt-hour of approximately twenty-seven cents (\$0.27) is extremely high when compared to other jurisdictions that compete with Puerto Rico to attract investors and severely affects the pockets of local consumers.

Therefore, it is imperative and compelling to enforce a thorough reform of the energy sector that promotes the operation and administration of an efficient system at just and reasonable costs, considering that we are an isolated jurisdiction that needs to have a safe and stable electric power grid. We need to adopt a regulatory and legal framework through the creation of a robust independent entity that will ensure the transformation of the electric power system of our Island for the benefit of present and future generations.

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. Data published by the U.S. Energy Information Administration (EIA) shows that, in 2011, Puerto Rico generated sixty-eight percent (68%) of its energy from oil. Today, we are still dependent on oil by more than fifty percent (50%). In comparison, the average dependence on oil for energy generation in the United States is scarcely one percent (1%), according to data provided by EIA in 2012.

The high dependence on oil also contributes to a greater environmental pollution by the toxic emissions of this fuel, which, in turn, affects the health and safety of Puerto Ricans. The Federal Government has established measures to mitigate these health hazards, through standards known as the Mercury and Toxic Air Standards (M.A.T.S.), which compel us, as a country, to transform our electric power generation system in order to comply with these standards by 2015.

After more than seventy (70) years of its creation, and more than three decades of having achieved the total electrification of the Island, PREPA has become a monopoly that regulates itself; sets its own rates without actual oversight; incurs operational, managerial, and administrative deficiencies whose actual cost, at the end of the day, is borne directly by customers; and whose governance lacks transparency and citizen participation. All of the above contributes to Puerto Rico being among the top U.S. jurisdictions with the highest energy cost.

This measure amends the Electric Power Authority Act to clearly express the people’s mandate to this public corporation. It does not include amendments that respond to vested interests, but rather it incorporates substantive amendments that set forth the legal framework to enable PREPA to become the public entity responsible for supplying electric power at the lowest possible cost, observing the highest environmental standards, and in support of the socio-economic development.

This Legislative Assembly reasserts its commitment to the People of Puerto Rico through the creation and implementation of an Energy Reform consisting of multiple initiatives that are all related to common goals such as permanently reducing the cost of energy and provide the People of Puerto Rico with a reliable, affordable, efficient, and transparent electric power service.

## TRANSFORMATION OF PREPA

PREPA needs a new legal mandate from the People of Puerto Rico. Some of the essential components of this Energy Reform are the amendments to the Organic Act of PREPA, Act No. 83, of May 2, 1941, as amended, by virtue of which PREPA has been conceived and managed as an independent Government entity that is not accountable to its customers. PREPA’s vision is inaccurate and inconsistent with the purposes that prompted its creation, which should be the basis for its operations. Such vision has, at times, led to the proposal and adoption of measures that, in practical terms, adversely affect most of its customers.

The amendments incorporated into the Energy Reform include specific requirements for PREPA to submit information to the Energy Commission created herein, such as, an Energy RELIEF Plan, which shall be filed for the Commission’s approval within a term that shall not exceed sixty (60) days after the approval of the regulations adopted by virtue of this Reform. The Energy RELIEF Plan shall state in detail how PREPA will comply with the new legislative mandates. Furthermore, PREPA shall prepare an integrated resource plan, which requires a detailed planning process with broad citizen participation, which considers all the reasonable resources to satisfy the demand for electricity services during a specific period of time, including those pertaining to energy supply and demand.

The amendments shall also include changes in the governance of PREPA’s Governing Board to assure a greater oversight by this governing body, as well as a clear mandate of the fiduciary duty of its directors. An important component of these amendments is the creation of an independent Audit Committee within PREPA’s Board. This Committee shall be responsible for overseeing the proper implementation of internal controls within PREPA, supervising the

independent audits of PREPA, and ensuring the implementation of a confidential process to address complaints and comments of PREPA’s employees on potential deficiencies in the internal controls of the public corporation. Other amendments include: mechanisms to promote greater citizen participation and customer’s access to information, as well as modifications to the contributions made to municipal governments, which shall have the direct effect of reducing PREPA’s operating expenses.

PREPA requires a thorough reform in its governance, mission, and the manner in which it operates and maintains the electricity infrastructure of Puerto Rico. Short-, medium-, and long-term actions are required to achieve this significant change; this includes maintaining the operational and financial viability of the public corporation throughout its transformation process. It is necessary to joint our efforts to transform PREPA, so that it administers the electricity infrastructure as a company at the service of the People of Puerto Rico. These comprehensive and essential amendments shall enable a thorough reform of our electricity infrastructure and the manner in which PREPA is administered and operated.

## PROMOTION OF THE PUBLIC POLICY ON ENERGY

The creation of the Commonwealth Energy Public Policy Office (CEPPO) *[Note: Replaced by the Energy Public Policy Program of the Department of Economic Development and Commerce (Program)]* as the entity in charge of developing and promulgating the public policy on energy of the Commonwealth of Puerto Rico is yet another key element of the strategy to address the energy crisis. Said autonomous office shall be the entity responsible for advising the Government in all matters related to the public policy on energy. Among its multiple responsibilities, it shall gather and share all sorts of information, as well as promote studies and timely and reliable evaluations on the generation, distribution, use, and consumption of electric power in Puerto Rico, whether through the use of oil and/or its byproducts such as fuel, natural gas, renewable energy sources, waste disposal, as well as any other mechanism or technology that could be used as energy resource. In this manner, our horizons with respect to energy resources are broadened not only with respect to electric power generation, but also on other aspects that could contribute to eliminate our dependence on fossil fuel.

## SAVINGS IN ENERGY CONSUMPTION

The responsible use of energy resources is an issue that concerns us all, including the government sector. The Energy Reform includes, as an essential component, the adoption of an aggressive public policy for the conservation and efficient use of energy in public facilities and buildings. To achieve this, specific provisions with measurable criteria and parameters to attain a reduction in energy consumption in the offices of the Executive, Legislative, and Judicial Branches and in the municipal governments, as well as the penalties for noncompliance therewith are established.

[PREPA’s Organic Act](#) established a mechanism which consisted of making a contribution or payment in lieu of tax (PILT) to municipalities in exchange for PREPA’s municipal tax exemption. The formula for the computation of such contribution has been revised on several occasions; the most significant change was incorporated under Act No. 255-2004, as amended by Act No. 233-

2011. After examining the PILT mechanism in light of PREPA’s current fiscal situation and without prejudice to the serious fiscal limitations faced by more than half of the municipalities, this Legislative Assembly hereby establishes a mechanism for municipalities to achieve savings in energy consumption by establishing a maximum annual cap per municipality for a three (3)-year period. It also creates a special incentive system for all municipalities that achieve savings in excess of the consumption cap designated; establishes a standard measurement to compute the maximum consumption cap; provides for the review of consumption caps every three (3) years; and establishes that the Commonwealth Energy Public Policy Office *[Note: Replaced by the Energy Public Policy Program of the Department of Economic Development and Commerce (Program)]* and the Energy Regulatory Commission shall be responsible for overseeing faithful compliance with the consumption control measures and the adoption of the necessary regulations to properly address PILT-related matters.

## NET METERING AND RENEWABLE ENERGY

[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 (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 obstructing the development thereof.

To address this situation, the Energy Reform directs PREPA to adopt expedited procedures for the interconnection of renewable energy generation systems with nameplate capacity of one (1) MW or less. Furthermore, it directs PREPA to adopt regulations for generation systems with nameplate capacity between one (1) and five (5) MW, using as a model the technical, procedural, and legal parameters contained in the Small Generator Interconnection Procedures (SGIP) as well as in the Small Generators Interconnection Agreement (SGIA), established by Order No. 2006 of the Federal Energy Regulatory Commission (FERC). 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. These amendments shall also allow Puerto Rico to continue with its mission of achieving the goals established in [Act 82-2010, better known as the “Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act,”](#) by enabling a greater interconnection of renewable sources to the electric power grid.

## REGULATIONS

The Energy Commission created herein shall be the key component for the faithful and transparent execution of the Energy Reform. It shall be an independent government entity in charge of regulating, overseeing, and ensuring compliance with the public policy on energy of the Commonwealth of Puerto Rico. As part of the energy reform, the Energy Commission shall adopt rules to ensure high efficiency in the generation of electricity based on fossil fuels. This shall lead to a more efficient use of fuel and, consequently, to lower energy production costs. This, in turn, shall have an impact on the electricity bill. To achieve this, the Energy Commission shall, within a period that shall not exceed three (3) years counted after July 1, 2014, ensure that at least sixty percent (60%) of the electric power generated in Puerto Rico based on fossil fuels (gas, coal, oil, and others) is “high efficiency,” as such term is defined by the Commission, which shall include as main factor the thermal efficiency of the power plant or facility per type of fuel used, fuel cost, and technology, among others.

A key mission of the Energy Commission shall be to evaluate the plans that PREPA is required submit to the new regulatory entity, in accordance with the provisions of this Act. PREPA shall submit to the Energy Commission an Energy RELIEF Plan regarding its obligation to efficiently generate electric power, various operational issues, and the integration of renewable energy, among other mandates. Moreover, PREPA shall submit for evaluation an integrated resource plan consisting of a twenty (20)-year planning period. By evaluating and following up on these plans, the Energy Commission shall be able to guarantee the orderly and integrated development of our electrical system, thus ensuring the reliability, efficiency, and transparency thereof, and the provision of electric power services at reasonable prices.

The Energy Commission shall approve the electricity rates proposed by PREPA and other electric power companies in the Island, and shall oversee all types of operations, processes, and mandates pertaining to the efficiency of the energy sector of the Island. It shall be the entity in charge of overseeing PREPA and other power producers, promoting the diversification of our energy sources as well as the reduction of energy costs. The Energy Commission shall carry out its regulatory duties steadfastly and effectively, but preventing its actions from impairing PREPA to meet its contractual obligations to bondholders.

The Energy Commission shall use as model the structure of energy commissions established in European and Latin American countries and of the public utilities regulatory commissions established in various states of the United States. This Legislative Assembly understands that there is a compelling need to take immediate action to improve our electrical system through the creation of a specialized regulatory entity with the resources and expertise needed to supervise this effort. The Energy Commission shall be subject to the Legislative Assembly’s strict scrutiny in order to ensure that it fully complies with its duties and responsibilities. If the Commission properly carries out its mandate, the Legislative Assembly may consider attaching or merging it with other public utilities regulatory commissions already existing in the Island. This formula of establishing independent regulatory commissions and subsequently merging their jurisdictions with those of other industries has been the standpoint of other countries such as Spain, Ireland, and Italy.

## ACTIVE CITIZEN PARTICIPATION

The creation of the Independent Consumer Protection Office (ICPO) is an important aspect to guarantee citizen participation and oversee the electric power system, since it is the entity responsible for representing and advocating for the interests of electric power service customers before both PREPA and the regulatory entity. The ICPO’s duty shall be to defend and advocate for the interests of customers in all matters before the Energy Commission, including those related to disputed PREPA bills. Furthermore, ICPO shall have the duty to coordinate citizen participation in PREPA’s internal rate review process and before the Energy Commission, as the case may be, so that such citizen participation in the process is guaranteed. With the creation of this new entity, it is guaranteed that customers are not left vulnerable to the power and size of PREPA and other electric power generation companies.

## ENERGY RELIEF NOW

To achieve an immediate transformation of our electrical system, this Energy Transformation and RELIEF Act requires the prompt and coordinated implementation of the multiple interrelated efforts that are shown in the various provisions of this Act.

Our Supreme Court has held that “[a] statute may comprise all issues related to the main matter and all issues that could be justly considered as accessories or necessary or appropriate to carry out the purposes for which they are comprised within the general matter.” [our translation]. See, Herrero y otros v. E.L.A., 179 D.P.R. 277 (2010); Bomberos Unidos v. Cuerpo de Bomberos, 180 D.P.R. 723 (2011). This legislative measure addresses a wide range of initiatives that pursue the same purpose of addressing in a prompt and integrated manner the energy crisis that the Island is undergoing and that threatens the wellbeing of our People.

Therefore, this Legislative Assembly deems it essential to consider these initiatives simultaneously through an integrated reform bill.

This Legislative Assembly recognizes that the Energy Reform established herein is the most effective manner to promote initiatives and measures that shall result in the much needed and permanent reduction of the cost of electricity, to restructure the electric power system in the Island and to serve as a driving force to promote the economic and competitive development that the people claim for our Island. This forefront legislative initiative lays the groundwork for facing and overcoming the energy-related challenges of our society and building a bright future for generations to come.

*Be it enacted by the Legislature of Puerto Rico:*

SUBTITLE A. — Energy RELIEF Reform.

CHAPTER I. — General Provisions.

**Section 1.1. — Title and Table of Contents.** (22 L.P.R.A. § 1051 nota)

(a) **Title.** — This Act shall be known as the “Puerto Rico Energy Transformation and RELIEF Act.”

(b) **Table of Contents.** — The table of contents of this Act shall be the following:

SUBTITLE A. — Energy RELIEF Reform.

CHAPTER I. — General Provisions.

Section 1.1. — Title and Table of Contents.

[Section 1.2.](#) — Declaration of Public Policy on Electric Power.

[Section 1.3.](#) — Definitions.

[Section 1.4.](#) — Principles of Transparency and Accountability.

[CHAPTER II. — PREPA’s Transformation.](#)

Section 2.1. — Section 2 of Act No. 83 of May 2, 1941, as amended, is hereby repealed and substituted for a new Section 2.

Section 2.2. — Subsection (b) of Section 3 of Act No. 83 of May 2, 1941, as amended, is hereby amended.

Section 2.3. — Section 4 of Act No. 83 of May 2, 1941, as amended, is hereby amended.

Section 2.4. — Section 5 of Act No. 83 of May 2, 1941, as amended, is hereby amended.

Section 2.5. — Section 5A is hereby added to Act No. 83 of May 2, 1941, as amended.

Section 2.6. — Section 6 of Act No. 83 of May 22, 1941, as amended, is hereby amended.

Section 2.7. — A new Section 6A is hereby added to Act No. 83 of May 2, 1941, as amended.

Section 2.8. — A new Section 6B is hereby added to Act No. 83 of May 2, 1941, as amended.

Section 2.9. — A new Section 6C is hereby added to Act No. 83 of May 2, 1941, as amended.

Section 2.10. — Section 22 of Act No. 83 of May 2, 1941, as amended, is hereby amended.

Section 2.11. — A new Section 28 is hereby added to Act No. 83 of May 2, 1941, as amended.

Section 2.12. — Sections 28 and 29 of Act No. 83 of May 2, 1941, as amended, are hereby renumbered as Sections 29 and 30, respectively.

[CHAPTER III. — Energy Public Policy Program of the Department of Economic Development and Commerce \(Program\)](#)

Section 3.1. — Creation of the Energy Public Policy Program of the Department of Economic Development and Commerce.

Section 3.2. — Secretary of the Department of Economic Development and Commerce.

Section 3.3. — Program Personnel.

Section 3.4. — Duties and Powers of the Department of Economic Development and Commerce.

Section 3.5. — Regulations of the Department of Economic Development and Commerce.

Section 3.6. — Emergencies.

Section 3.7. — Budget.

#### CHAPTER IV. — Government Energy Efficiency.

Section 4.1. — Energy Savings in the Instrumentalities of the Executive Branch and the Offices of the Judicial Branch.

Section 4.2. — Energy Savings in the Legislative Assembly.

Section 4.3. — Energy Savings in the Municipal Governments.

#### CHAPTER V. — Net Metering.

Section 5.1. — Section 2 of Act No. 114-2007, as amended, is hereby amended.

Section 5.2. — Section 7 of Act No. 114-2007, as amended, is hereby amended.

Section 5.3. — A new Section 9 is hereby added to Act No. 114-2007, as amended.

Section 5.4. — A new Section 10 is hereby added to Act No. 114-2007, as amended.

Section 5.5. — A new Section 11 is hereby added to Act No. 114-2007, as amended.

Section 5.6. — A new Section 12 is hereby added to Act No. 114-2007, as amended.

Section 5.7. — Section 9 of Act No. 114-2007, as amended, is hereby renumbered as Section 13.

#### CHAPTER VI. — Creation, Structure, Operation, Budget, and General Powers of the Energy Bureau

SUBCHAPTER A. — Reserved.

Section 6.1. — Reserved.

Section 6.2. — Reserved.

#### SUBCHAPTER B. — Energy Bureau.

Section 6.3. — Powers and Duties of the Energy Bureau.

Section 6.4. — Jurisdiction of the Energy Bureau.

Section 6.5. — Organization of the Energy Bureau.

Section 6.6. — Commissioners.

Section 6.7. — Powers and Duties of Commissioners.

Section 6.8. — Executive Director of the Energy Bureau.

Section 6.9. — Chair of the Energy Bureau.

Section 6.10. — Personnel of the Energy Bureau.

Section 6.11. — Delegation of Powers.

Section 6.12. — Office of the Energy Bureau.

Section 6.13. — Certification.

Section 6.14. — Amendment, Suspension, and Revocation of Decisions, Orders, and/or Certifications.

Section 6.15. — Rules of Confidentiality.

Section 6.16. — Budget and Regulatory Fees.

Section 6.17. — Audited Statements.

Section 6.18. — Electronic Filing System.

Section 6.19. — Scheduling and Holding of Administrative Hearings.

Section 6.20. — General Provisions on Administrative Procedures.

SUBCHAPTER C. — Electric Power Service Companies.

Section 6.21. — General Obligations of Electric Power Service Companies.

Section 6.22. — Information to be Filed with the Energy Bureau.

Section 6.23. — Integrated Resource Plan.

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Section 6.25. — Review of Electricity Rates.

Section 6.25A. — Rate Determination and Review of Transition Charges and Adjustment Mechanism.

Section 6.25B. — Performance-Based Incentives and Penalty Mechanisms.

Section 6.26. — Procedural Rules on Customer Complaint Resolution.

Section 6.27. — Procedure to Request Review of Electricity Bills and Rules for Service Suspension.

Section 6.28. — Customer Service.

Section 6.29. — Efficiency in Electric Power Generation.

Section 6.29A. — Demand Response.

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Section 6.30. — Wheeling.

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Section 6.32. — Agreements between Electric Power Service Companies.

Section 6.33. — Mediation and Arbitration of Energy Issues.

Section 6.34. — Construction and Extension of Electric Power Facilities.

Section 6.35. — Transfer, Acquisition, Merger and Consolidation of Certified Electric Power Companies.

Section 6.36. — Penalties for Noncompliance.

Section 6.37. — Annual Reports.

Section 6.38. — Interpretation of this Act.

Section 6.39. — Reserved

SUBCHAPTER D. — Independent Consumer Protection Office.

Section 6.40. — Creation of the Independent Consumer Protection Office.

Section 6.41. — Organization of the Independent Consumer Protection Office.

Section 6.42. — Powers and Duties of the ICPO.

Section 6.43. — Budget of the Office

CHAPTER VII. — General Transitory Provisions.

Section 7.01. — Section 2 of Act No. 33 of June 27, 1985, as amended, is hereby amended.

Section 7.02. — Repeal and Effect.

Section 7.03. — Inconsistent Provisions.

Section 7.04. — Separability Clause.

Section 7.05. — Effectiveness.

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## **Section 1.2. — Declaration of the Public Policy on Electric Power.** (22 L.P.R.A § 1051)

The transformation and restructuring of our electric power system is essential to achieve the competitiveness and economic development of Puerto Rico.

It is hereby declared as the public policy of the Government of Puerto Rico that an independent electric power regulatory entity with broad powers and duties shall be created to ensure compliance with the public policy on energy, the provisions of this Act, and to ensure that energy costs are just and reasonable by overseeing and reviewing the rates of electric power service companies. The regulatory entity shall thoroughly scrutinize the power grid’s maintenance and establish performance-based incentive and penalty mechanisms.

The Government of Puerto Rico, its agencies, municipalities, and public corporations shall become efficient and responsible energy consumers and shall promote energy conservation and efficiency in all branches and instrumentalities, as well as among the people in general. Moreover, it shall promote transparency and citizen participation in energy service-related processes.

[Amendments: [Act 17-2019](#), Sec. 5.1]

## **Section 1.3. — Definitions.** (22 L.P.R.A § 1051a)

The following terms, wherever they are used or referred to in this Act, shall have the meaning stated below, except where the context clearly indicates otherwise:

- (a) **“Creditors Agreement”** — Shall mean any agreement executed (including annexes, exhibits, and schedules attached thereto), by and among the Authority and various of the principal creditors thereof, as amended or supplemented, whereby certain terms and conditions of the current debt are modified and the Authority may commit to (i) implement certain administrative, operational, and governance reform measures; (ii) optimize electric power transmission and distribution; (iii) modernize electric power generation; and (iv) achieve operational savings. Neither the Agreement nor any future amendment thereto or supplement thereof shall be inconsistent with the provisions of the ‘Puerto Rico Electric Power Authority Revitalization Act.’
- (b) **“PREPA” or “Authority”** — Shall mean the Puerto Rico Electric Power Authority, a corporate entity created by virtue of [Act No. 83 of May 2, 1941, as amended](#), which, according to its statute, it is currently an electric power generation, transmission, and distribution company.
- (e) **“Bondholder”** — Shall mean any bond or outstanding bond, registered in his/her name or unregistered, or the owner, according to the register, of any bond or outstanding bond that at the time are registered in the name of a person other than the bearer.
- (c) **“Agency” or “Public Instrumentality”** — Shall mean anybody, entity, or corporation of the Government of Puerto Rico.
- (d) **“Bonds”** — Shall mean the bonds, term bonds, convertible bonds, obligations, notes, interim bonds, receipts, certificates, or other evidence of indebtedness or obligations that PREPA is authorized to issue, in accordance with the provisions of this Act.
- (f) **“Interconnection Charge”** — Shall mean the fair and reasonable amount of money that a person shall pay for the right to connect such person’s facility to Puerto Rico’s electric power grid.

- (g) **“Renewable Energy Portfolio”** — Shall mean the mandatory percent of sustainable or alternative renewable energy required in Puerto Rico, as provided in [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.”](#)
- (h) **“Certified”** — Shall mean every electric power service company that has been evaluated and authorized by the Energy Bureau.
- (i) **“Customer” or “Consumer”** — Shall mean any natural or juridical person that consumes or uses electric power or energy services.
- (j) **“Commission” or “Energy Commission”** — Shall mean the Puerto Rico Energy Bureau or PREB as established by virtue of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board, which is a specialized independent entity created by virtue of this Act, in charge of regulating, overseeing, and enforcing the public policy on energy of the Government of Puerto Rico. Any reference in this Act to the ‘Commission or Energy Commission’ shall be construed as a reference to the Puerto Rico Energy Bureau.
- (k) **“Commissioners”** — Shall mean the persons appointed by the Governor to constitute the Puerto Rico Energy Bureau.
- (l) **“Electric Power Company” or “Electric Power Service Company”** — Shall mean any natural or juridical person or entity, energy cooperative, engaged in the provision of generation services, transmission and distribution services, billing, wheeling, grid services, energy storage, resale of electric power as well as any other electric power service as defined by the Bureau. The Electric Power Authority or its successor as well as any Contractor under a Partnership or Sales Contract executed in relation to PREPA Transactions conducted by virtue of [Act No. 120-2018](#) shall be deemed Electric Power Service Companies for purposes of this Act.
- (m) **“Electric Power Generation Company” or “Independent Power Producer”.** — Shall mean any natural or juridical person engaged in the production or generation of electric power in Puerto Rico to be sold through Power Purchase Agreements or any other legal transaction authorized by the Bureau. This term shall include cogenerators already established in Puerto Rico that supply energy to the Authority through a Power Purchase Agreement, energy or electric cooperatives and renewable energy producers.
- (n) **“Conservation”** — Shall mean any reduction in electric power consumption resulting from changes in the consumers’ energy consumption patterns.
- (o) **“Energy Savings Performance Contracts”** — Shall mean a contract between a governmental unit and a Qualified Energy Service Provider, as defined in [Act No. 19-2012, as amended, known as the “Energy Savings Performance Contract Act.”](#) for the evaluation, recommendation, and implementation of one or more energy conservation and savings measures, subject to the terms of Act No. 19-2012, as amended.
- (p) **“Power Purchase Agreement” or “PPA”** — Shall mean any agreement or contract approved by PREB whereby an electric power generation company is bound to sell electric power to another natural or juridical person, and such other person is, in turn, bound to acquire said electric power at a just and reasonable rate.
- (q) **“Peak Demand”** — Shall mean the maximum electric power load received by the electrical system during a specific time of the day.

- (r) **“U.S. Department of Energy”** — Shall mean the Federal agency created by the [“Department of Energy Organization Act of 1977,”](#) Public Law 95-91 approved on August 4, 1977.
- (s) **“Electric Power Distribution”** — Shall mean the delivery of electric power from one energy substation to any customer or consumer through networks, lines, transformers, and any other infrastructure needed to transport the same throughout the Island.
- (t) **“Executive Director”** — Shall mean the Executive Director appointed by the Chair of the Public Service Regulatory Board pursuant to the Reorganization Plan of the Puerto Rico Public Service Regulatory Board.
- (u) **“Energy Efficiency”** — Shall mean reduction in energy use attributable to appliances and equipment replacement, technology modernization, or a more efficient operation of existing equipment and materials, as well as any other program developed by the Bureau for the purpose of reducing electric power consumption.
- (v) **“Thermal Efficiency” or “Heat Rate”** — Shall mean the amount of energy needed or used by an electric power plant or facility to generate one (1) kilowatt-hour (kWh) of electricity, which may vary depending of the fuel used.
- (w) **“Electricity Bill”** — Shall mean the invoice sent every month to customers or consumers stating in detail all components, charges or rates that are part of the total amount that every customer or consumer must pay for using electricity. Such bill may be sent by regular mail or electronic mail, or accessed by the customer on the Internet.
- (x) **“FERC”** — Shall mean the Federal Energy Regulatory Commission. It was created by the [“Department of Energy Organization Act of 1977,”](#) Public Law 95-91 approved on August 4, 1977, charged with regulating, overseeing, and investigating energy-related issues at the Federal level.
- (y) **“Renewable Energy Sources”** — Shall have the same meaning as the term “green energy,” defined in [Act No. 82-2010, as amended](#), or any successor law.
- (z) **“Electric Power Generation”** — Shall mean the production of electric power using oil and/or its byproducts, natural gas, renewable energy sources, or any other electric power production method.
- (aa) **“Distributed Generator”** — Shall mean any natural or juridical person that owns an electric power generation facility in Puerto Rico for use primarily by such person and that may provide any electric power generated in excess to the electric power grid.
- (bb) **“Essential public service facilities”** — Shall mean health facilities, police and armed forces stations, fire stations, emergency management offices, emergency management shelters, prisons, ports, airports, telecommunications facilities, waste water supply and treatment facilities, educational institutions and any other facility designated by the Energy Bureau as an ‘Essential Service Facility’ through regulations.
- (cc) **“Interconnection” or “Electric Interconnection”** — Shall mean the connection of power plants, electric power generation companies, independent power producers, natural or juridical persons, energy or electric cooperatives, microgrids or community solar into the same transmission and distribution grid in order for them to be electrically connected.
- (dd) **“Environmental Quality Board”** — Shall mean the government entity created by virtue of Act No. 416-2004, as amended, or any successor law.

- (ee) **“Puerto Rico Public Service Regulatory Board” or “PSRB”** — Shall mean the entity created by virtue of the [Reorganization Plan of the Puerto Rico Public Service Regulatory Board](#), composed of the Puerto Rico Energy Bureau, the Puerto Rico Transport and other Public Services Bureau, and the Puerto Rico Telecommunications Bureau.
- (ff) **“Energy Bureau” or “PREB”** — Shall mean the Puerto Rico Energy Bureau created by virtue of the [Reorganization Plan of the Puerto Rico Public Service Regulatory Board](#).
- (gg) **“Modernization”** — Shall mean projects for the development of new generation plants or the replacement of existing plants in accordance with the Integrated Resource Plan of the Authority.
- (hh) **“Commonwealth Energy Public Policy Office” or “CEPPO” or the “Energy Public Policy Program”** — Shall mean the Energy Public Policy Program of the Department of Economic Development and Commerce of Puerto Rico, created by virtue of this Act, in charge of developing and disseminating the public policy on energy of the Government of Puerto Rico. Any reference made in this Act to the ‘Commonwealth Energy Public Policy Office’ or ‘CEPPO’ shall be construed as a reference to the Energy Public Policy Program of the Department of Economic Development and Commerce.
- (ii) **“Independent Consumer Protection Office”** — Shall mean the entity created by virtue of this Act to assist and represent customers of services under the jurisdiction of the Public Service Regulatory Board attached to the Public Service Regulatory Board by virtue of the [Reorganization Plan of the Puerto Rico Public Service Regulatory Board](#).
- (jj) **“Citizen Participation”** — Shall mean the various mechanisms that allow customers of PREPA and electric power generation companies certified in Puerto Rico to have a forum to express their concerns, make suggestions, and be included in the decision-making processes. These mechanisms shall include, but not be limited to, the request and receipt of comments, photographs, and other documents from the public, administrative meetings of PREPA where customer focus groups participate, regional meetings open to PREPA’s customers in such region, public hearings, and the establishment of vehicles that enable participation by electronic means.
- (kk) **“Person”** — Shall mean any natural or juridical person created, organized, or existing under the laws of the Commonwealth of Puerto Rico, the United States of America, any state of the union, or any foreign state or country.
- (ll) **“Integrated Resource Plan” or “IRP”** — Shall mean a plan that considers all reasonable resources to satisfy the demand for electric power services during a period of twenty (20) years, including those related to the offering of electric power, whether existing, traditional, and/or new resources, and those related to energy demand, such as energy conservation and efficiency or demand response and localized energy generation by the customer. Every integrated resource plan shall be subject to the rules established by PREB and approved by the same. Every plan shall be devised with broad participation from citizens and other interested groups.

- (mm) **“Power Plant”** — Shall mean any electric power generation plant of an electric power company, including any plant operated, leased, licensed, used, and/or controlled by, for, or in relation to the generation of electric power in the Commonwealth of Puerto Rico.
- (nn) **“Electric Power Grid”** — Shall mean the electric power transmission and distribution infrastructure of the Government of Puerto Rico which is operated, supported, and administered by the Authority or Electric Service Company
- (oo) **“Federal Environmental Regulations”** — Shall mean the rules and regulations promulgated by the Environmental Protection Agency.
- (pp) **“Electric Power Service” or “Energy Service”** — Shall mean any service provided by an electric power company certified in Puerto Rico to a customer.
- (qq) **“Electrical System”** — Shall mean the electric power generation, transmission, and distribution system.
- (rr) **“Wheeling Rate”** — Shall mean a just and reasonable amount of money that shall be charged to a power producer for using the Authority’s transmission and distribution facilities for wheeling and for the right to interconnect the electrical power generation facility of such power producer to the electric power grid of Puerto Rico.
- (ss) **“Electricity Rate”** — Shall mean any payment, charge, duty, fee, usage charge, rent or schedule collected by any electric power company for any service or product offered to the public.
- (tt) **“Energy Transmission”** — Shall mean moving electric power from one power plant or facility, microgrid, energy or electric cooperative, or any other system to a power substation through networks, lines, transformers, and any other infrastructure necessary to transport the same at voltage levels higher than 13.2 kV throughout Puerto Rico.
- (uu) **“Wheeling”** — Shall mean the transmission of electricity from an independent power producer to the end consumer through Puerto Rico’s electric power grid and which does not constitute distributed generation through any net metering mechanism
- (vv) **“U.S. Energy Information Administration”** — Shall mean the government agency under the U.S. Department of Energy, in charge of collecting, analyzing, and disseminating information related to the production of energy from oil, natural gas, coal, nuclear and renewable sources, among others, to promote sound policymaking on the management of these resources, markets, and its impact on the development of the economy.

[Amendments: [Act 4-2016](#); [Act 211-2018](#); [Act 17-2019](#), Sec. 5.2]

#### **Section 1.4. — Principles of Transparency and Accountability. (22 L.P.R.A § 1051b)**

- (a) In accordance with the public policy established in Section 1.2 of this Act, every information, data, delivered demand, statistics, reports, plans, and documents received and/or disclosed by any of the entities created under this Act, the Authority, its successor, the transmission and distribution network Contractor, and every electric power company shall be subject to the following principles:

- (1) The information shall be complete, except for privileged information which shall be suppressed in accordance with the Rules of Evidence adopted by the Judicial Branch of Puerto Rico;
  - (2) The disclosure of the information shall be timely;
  - (3) The data shall be in a raw and detailed form, not modified. In addition to the original text of any document where such information or data appears, documents where such information is organized and shown so that it may be easily handled by persons without expertise in the disciplines addressed therein may understand them shall be published and made available to customers;
  - (4) The information shall not be subject to confidentiality standards broader than those required;
  - (5) The data must be machine processable;
  - (6) The public may access such information electronically without the need to register or create an account, and free of charge;
  - (7) Data produced by employees, officials, or contractors working for the Commonwealth of Puerto Rico shall not be subject to any copyright, patents, trademarks, or trade secret. Reasonable restrictions based on doctrines of privacy, security, and evidentiary privileges may apply; and
  - (8) Such data must be available in nonproprietary format; that is to say, no one shall have exclusive control over it.
- (b) Any person or entity to which these principles apply shall designate an official to assist and respond to any question that users may have on the information published.

[Amendments: [Act 17-2019](#), Sec. 5.3]

## CHAPTER II. — PREPA’s Transformation.

**Section 2.1. — Omitted.** [Note: Section 2 of [Act No. 83 of May 2, 1941, as amended](#), is hereby repealed and substituted for a new Section 2]

**Section 2.2. — Omitted.** [Note: Subsection (b) of Section 3 of [Act No. 83 of May 2, 1941, as amended](#), is hereby amended]

**Section 2.3. — Omitted.** [Note: Section 4 of [Act No. 83 of May 2, 1941, as amended](#), is hereby amended]

**Section 2.4. — Omitted.** [Note: Section 5 of [Act No. 83 of May 2, 1941, as amended](#), is hereby amended]

**Section 2.5. — Omitted.** [Note: Section 5A is hereby added to [Act No. 83 of May 2, 1941, as amended](#)]

**Section 2.6. — Omitted.** [Note: Section 6 of [Act No. 83 of May 2, 1941, as amended](#), is hereby amended]

**Section 2.7. — Omitted.** [Note: A new Section 6A is hereby added to [Act No. 83 of May 2, 1941, as amended](#)]

**Section 2.8. — Omitted.** *[Note: A new Section 6B is hereby added to [Act No. 83 of May 2, 1941, as amended](#)]*

**Section 2.9. — Omitted.** *[Note: A new Section 6C is hereby added to [Act No. 83 of May 2, 1941, as amended](#)]*

**Section 2.10. — Omitted.** *[Note: Section 22 of [Act No. 83 of May 2, 1941, as amended](#), known as the “Electric Power Authority Act,” is hereby amended]*

**Section 2.11. — Omitted.** *[Note: A new Section 28 is added to [Act No. 83 of May 2, 1941, as amended](#)]*

**Section 2.1. — Omitted.** *[Note: Sections 28 and 29 of [Act No. 83 of May 2, 1941, as amended](#), are hereby renumbered as Sections 29 and 30, respectively].*

### CHAPTER III. — Energy Public Policy Program of the Department of Economic Development and Commerce.

#### **Section 3.1. — Creation of the Energy Public Policy Program of the Department of Economic Development and Commerce.** (22 L.P.R.A § 1052)

- (a) The Energy Public Policy Program, hereinafter the ‘Program,’ is hereby created within the Department of Economic Development and Commerce to be charged with developing and promulgating the public policy on energy of the Government of Puerto Rico. All orders or regulations of the Program shall be issued in the name of the Department of Economic Development and Commerce.
- (b) The Secretary of the Department of Economic Development and Commerce shall direct the Program, which shall be constituted by the personnel hired by him.
- (c) The Department of Economic Development and Commerce shall post in its website information about the Program and the actions taken for the development and promulgation of the public policy on energy of the Government of Puerto Rico.

#### **Section 3.2. — Secretary of the Department of Economic Development and Commerce.** (22 L.P.R.A § 1052a)

The Secretary of the Department of Economic Development and Commerce and the person, if any, designated by him to direct the program and the members of his family unit, as defined in [Act No. 1-2012, as amended, known as the ‘Puerto Rico Government Ethics Office Organic Act,’](#) shall not have a direct or indirect interest in, nor contractual relations with PREPA and/or any certified electric power companies in Puerto Rico, or entities within or without Puerto Rico, affiliated to or with an interest in PREPA or in said companies.

**Section 3.3. — Program Personnel.** (22 L.P.R.A § 1052b)

- (a) The Program shall be part of the Department of Economic Development and Commerce. The Secretary of the Department of Economic Development and Commerce, as the appointing authority of the Department, may hire and appoint the personnel needed for the operation and functioning of the Program, which shall be governed by the rules and regulations promulgated by the Secretary. The Secretary may delegate to any employee the authorities conferred on him hereunder, except for his contracting, appointing, and rulemaking authority. The Program’s personnel system shall be organized in such a manner as to promote, in the job descriptions and qualifications, the hiring of skilled and trained personnel based on merit through a competition process that enables the fulfilment of the purposes of this Act.
- (b) No Program employee, be it a trust or career employee, may be related within the fourth degree of consanguinity and the second degree of affinity to the Secretary.
- (c) Any action or omission of the Secretary and the Program personnel in the discharge of their duties shall be subject to the restrictions provided in [Act No. 1-2012, as amended, known as the ‘Puerto Rico Government Ethics Office Organic Act.’](#)

**Section 3.4. — Duties and Powers of the Department of Economic Development and Commerce.** (22 L.P.R.A § 1052c)

Through the Secretary, the Department of Economic Development and Commerce shall have the following duties and powers:

- (a) Implement and develop the public policy on energy of the Government of Puerto Rico through regulations, in all areas that are not in conflict with the regulatory jurisdiction of the Energy Bureau attached to the Public Service Regulatory Board. These regulations shall be consistent with the public policy on energy established by legislation;
- (b) Shall be the spokesperson and advisor of the Governor of Puerto Rico in any issue related to the public policy on energy, including all matters related to emergencies as established in Section 3.6 of this Act;
- (c) Shall advise the Governor of Puerto Rico, the agencies, public instrumentalities, and political subdivisions of the Government, institutions, and the general public on the technological, scientific, socioeconomic, and legal aspects germane to the generation, distribution, transmission, use, and consumption of energy in Puerto Rico;
- (d) Make recommendations to the Energy Bureau about the rules that shall regulate every company under its jurisdiction, as well as any transaction, action, or omission that has an impact on the electric power grid and infrastructure of Puerto Rico;
- (d) Make recommendations to the Public Service Regulatory Board about the rules that shall regulate every company under its jurisdiction, as well as any transaction, action, or omission that has an impact on the electric power grid and infrastructure of Puerto Rico;
- (e) Serve as liaison and coordinating agent with the Department of Energy, FERC, the U.S. Energy Information Administration and/or any other Federal agency that manages energy affairs at the Federal level;
- (f) Develop, establish, and require public and private entities to implement and comply with the policies related to energy resources planning;

- (g) Collaborate with the Energy Bureau in developing short-, medium-, and long-term energy conservation plans for Puerto Rico, and oversee the development and implementation thereof
- (h) Review and issue comments on the integrated resource plans of PREPA and any other company under its jurisdiction, and the amendments thereto, ensuring that such plans are consistent with the established public policy on energy;
- (i) Establish through regulations, jointly with the Permit Management Office, the requirements that must be met by the new construction works and renovations in Puerto Rico to promote energy efficiency in said structures;
- (j) Establish through regulations the minimum efficiency requirements that the equipment and materials acquired by the Government of Puerto Rico and all its instrumentalities must meet;
- (k) Develop and recommend to agencies and public entities the necessary procedures to require energy assessment studies similar to those required to assess environmental impact in order to develop a true awareness on energy related problems at all levels and to foster the adequate and optimum use of limited energy resources;
- (l) Gather and publish together with the Public Service Regulatory Board, timely and reliable information on the generation, distribution, use, and consumption of electric power in Puerto Rico, whether through the use of fuel such as oil and/or its byproducts, natural gas, coal, renewable energy sources, waste disposal, as well as any other mechanism or technology that could be used as an energy resource;
- (m) Gather and present to the Energy Bureau all information from the agencies, instrumentalities, and public corporations, from the Judicial Branch and its respective offices and from the municipal governments of Puerto Rico, on the implementation of energy efficiency measures, compliance with the energy conservation standards established by law, and the results of the implementation of said measures and standards;
- (n) Establish and review every three (3) years the standard or baseline of energy consumption of the municipalities to verify their compliance with energy conservation and efficiency goals established by Law;
- (o) Assist in identifying the appropriate technologies and the sites that shall make the integration of renewable energy into the power grid feasible in accordance with the best interests of Puerto Rico, and submit its conclusions to the Energy Bureau;
- (p) Adopt regulations about any other initiative that promotes the reduction of energy costs and maximizes energy efficiency;
- (q) Conduct and carry out investigations about electric power companies as requested by the Energy Bureau through resolution;
- (r) Serve as liaison and coordinating agent with the U.S. Energy Information Administration and/or any other Federal agency that manages energy affairs in the United States of America;
- (s) File complaints with the Energy Bureau against natural or juridical persons or entities when it believes any action or omission inconsistent with the public policy on energy of the Commonwealth of Puerto Rico has been taken;
- (t) Appear before the Energy Bureau as a friend of the court or *amicus curiae* in adjudicative cases pending before it. At its discretion, the Department of Economic Development and Commerce may appear before the Energy Bureau *motu proprio* or upon a party's petition.

- (u)** Solicit, accept, receive, and administer funds and donations from private persons and public entities of the Commonwealth of Puerto Rico, or the United States of America to carry out the purposes of this Act;
- (v)** Promote studies involving scientific research, experiments, and evaluation on fossil fuels, alternative and renewable energy sources, including ways to optimize the performance thereof, and to promote the development of initiatives to reduce dependence on fossil fuels;
- (w)** Collaborate with agencies, public entities, and private persons or entities working in the development of strategies and policies to promote the adequate use of energy resources in connection with transportation and establish, through regulations, the public policy on the scope of energy transportation;
- (x)** Collaborate with the Department of Consumer Affairs (DACO, Spanish acronym) and other public or private entities in matters related to the public policy on energy regarding the import, management, and use of fuels in Puerto Rico;
- (y)** Promote collaboration agreements with academia for the creation and development of university programs and highly specialized fields aimed at providing training on regulatory and energy-related issues including, but not limited to, agreements with universities, research centers, or organizations with expertise in the energy field within and outside Puerto Rico, as well as to promote collaboration alliances with these institutions and entities for the development of projects and innovative initiatives on energy-related issues;
- (z)** Assess, promote, and facilitate the development of non-traditional electric power generation initiatives such as residential generators, electric power generation through agricultural activities, among others, to increase the participation of independent power producers and the availability of energy resources in the system;
- (aa)** Promote, in coordination with the agencies and pertinent government instrumentalities such as the Economic Development Bank, Government Development Bank, and the Office of the Commissioner of Financial Institutions, initiatives to keep at the local level the payments made by PREPA and its subsidiaries to their goods and services suppliers;
- (bb)** Hire any professional and advisory services needed to carry out its duties and powers;
- (cc)** Negotiate and enter into agreements with other public, municipal, state, and Federal entities, and with private persons to carry out research projects, to obtain services in the energy field, or for purposes consistent with the fulfillment of its duties;
- (dd)** Enter into collaboration agreements with other agencies or public entities of the Government of Puerto Rico that promote and promulgate the Island’s public policy on energy;
- (ee)** Sue before the Court of First Instance of the Government of Puerto Rico any natural or juridical person that fails to meet or interferes with the requirements, goals, and objectives of this Act;
- (ff)** Request the aid of the Energy Bureau and/or the General Court of Justice in the event that any person or entity fails to comply with its regulations or orders;
- (gg)** Appear before the Legislative Assembly to state its position with respect to any issue comprised within its administrative competence; and
- (hh)** Prepare and submit to the Governor and the Legislative Assembly, at the office of the Secretary of the Senate and of the Clerk of the House of Representatives, an annual report on the status of the energy situation of the Island, the results of the implementation of the public policy on energy, and the results of the efforts made by the Department of Economic

Development and Commerce in the development and promulgation of said public policy on energy, as provided in this Act. Said report shall be filed not later than the thirtieth (30th) of January of each year;

- (ii) To formulate strategies and make recommendations to the Energy Bureau 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 the Interstate Renewable Energy council (IREC) and the National Renewable Energy Laboratory (NREL), adapted to Puerto Rico, and seeking the input of the electric power company in charge of operating electrical system and the representatives of community organizations as well as relevant professional, and academic organizations.
- (jj) The Department of Economic Development and Commerce shall collaborate with the Energy Bureau and energy companies to study the best practices of the electric power industry and establish a plan for the development of microgrids in Puerto Rico. To minimize costs and broaden access to greater physical and human resources, the Department of Economics Development and Commerce may form partnerships with local or federal agencies, or recognized universities or institutes engaged in 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) The Department of Economic Development and Commerce shall advise the Energy Bureau on the format and specific information to be shared by each microgrid.
- (ll) Before each hurricane season, the Department of Economic Development and Commerce through the Energy Public Policy Program shall coordinate with the agencies and instrumentalities of the Government of Puerto Rico a revised Energy Assurance Plan providing for the establishment of a standardized Incident Command System (ICS) and Incident Management Team (IMT). This function may be assumed by a Contractor under a Partnership Contract awarded pursuant to [Act No. 120-2018, as amended](#).

[Amendments: [Act No. 141-2018](#); [Act No. 17-2019](#)]

**Section 3.5. — Regulations of the Department of Economic Development and Commerce.** (22 L.P.R.A § 1052d)

Every regulation to be adopted by the Department of Economic Development and Commerce on the Program shall comply with the provisions of [Act No. 38-2017, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act.’](#)

**Section 3.6. — Emergencies.** (22 L.P.R.A § 1052e)

When the Governor, by virtue of the information submitted by the Department of Economic Development and Commerce, determines that there is an imminent threat of a shortage of any energy resource in Puerto Rico because the basic needs of the Island may not or are not being satisfied, and this consequently could affect the general welfare of the People of Puerto Rico, the Governor may declare a state of emergency and issue executive orders as deemed necessary to ensure, to the extent practicable, for the subsistence of the People, the availability of the necessary amounts of such energy resources.

Within the state of emergency that may be declared, it is the public policy of the Government of Puerto Rico that satisfying the needs of the People of Puerto Rico shall be the main priority of every importer, distributor, manufacturer, producer, carrier, and exporter of any material constituting energy sources.

In applying this Section, the energy issues of the United States of America and the International community shall be taken into account.

In the executive order issued, the Governor shall:

- (1) Regulate natural or juridical persons engaged in the import, distribution, manufacture, production, transportation, and export of any energy resource for the purpose of implementing the public policy set forth above.
- (2) Adopt rules and regulations and issue orders to enforce compliance with this Section. Such rules, regulations, and orders shall be published once in two (2) newspapers of general circulation. Within fifteen (15) days following the promulgation of the rules, regulations, and orders, the Director shall call and hold public hearings thereon, upon previous public notice of the holding thereof. The rules and regulations adopted pursuant to the foregoing shall be effective only for the duration of the emergency situation and may be amended or repealed after the holding of said public hearings. The proposed amendments shall take effect upon the publication thereof for two (2) consecutive days in a newspaper of general circulation.
- (3) Entrust the Department of Economic Development and Commerce or any other government body with the powers and duties needed to implement the executive orders thus issued.
- (4) Require any board, department, agency or any public instrumentality or political subdivision of the government, as well as any employee or official thereof, to provide the Office with the necessary assistance regarding the use of personnel, office, equipment, and supplies and other available resources to comply with this Act and the regulations adopted thereunder. Said government bodies may provide the assistance needed upon previous authorization from the head, secretary, or chief executive officer of the body thus required.

### **Section 3.7. —Budget.** (22 L.P.R.A § 1052f)

The budget allocated to the former Commonwealth Energy Public Policy Office for Fiscal Year 2017-2018 shall be transferred to the Department of Economic Development and Commerce.

[Amendments: [Act No. 141-2018](#)]

CHAPTER IV. — Government Energy Efficiency.

**Section 4.1. — Energy Savings in the Instrumentalities of the Executive Branch and the Offices of the Judicial Branch.** (22 L.P.R.A § 1053)

- (a) In compliance with the public policy of the Government of Puerto Rico, all agencies, instrumentalities, and public corporations of the Executive Branch and all the offices of the Judicial Branch shall take measures and initiatives directed to reducing or eliminating those activities, practices, or uses in their facilities, buildings, and offices that result in the waste or inefficient use of energy resources.
- (b) It shall be the duty and responsibility of all agencies, public corporations, and instrumentalities of the Executive Branch and of the offices of the Judicial Branch to implement strategies directed to reduce the consumption of electric power in the instrumentalities and facilities under their jurisdiction. For such purposes, the agencies, public corporations, and instrumentalities of the Executive Branch and the offices of the Judicial Branch shall execute and implement those measures and initiatives that reduce the total annual electric power consumption in accordance with the annual per-sector compliance goals established by the Energy Bureau for the purpose of achieving the goal established in Section 6.29B of this Act.
- (c) Agencies, instrumentalities, and public corporations, as well as the offices of the Judicial Branch, in coordination with the Energy Public Policy Program, academia, professional associations with expertise in the energy field, and universities shall be entrusted with the planning and implementation of initiatives related to the use of energy in public or leased buildings, as well as with the establishment of a program to maximize the efficient use of energy in all buildings, which shall include, but shall not be limited to, one or several of the following measures:
  - (1) the replacement or modification of the lighting and electrical components, devices or systems, including natural lighting systems;
  - (2) the installation of renewable energy equipment or solar thermal energy systems;
  - (3) the use of automated or computerized energy control systems;
  - (4) improvements in indoor air quality and temperature control adjusted to the requirements of the applicable building code;
  - (5) changes in operations and maintenance practices;
  - (6) replacement or modification of windows or doors; and
  - (7) other initiatives that enable the efficient use and a reduction in energy consumption in the building.
- (d) Within one hundred eighty (180) days after the approval of the rules and guidelines established by the Energy Public Policy Program for such purposes, the agencies, instrumentalities, and public corporations of the Executive Branch as well as the offices of the Judicial Branch shall submit to the Energy Public Policy Program, an action plan stating in detail its annual energy consumption reduction goals, in percentage, using the baseline energy consumption, based on kilowatt-hours consumed. The Energy Public Policy Program shall oversee the energy consumption reduction goals of the Government of Puerto Rico; advise the agencies, public corporations, and instrumentalities of the Executive Branch and the offices of the Judicial

Branch in drafting and reviewing of plans in order to comply with the operating standards adopted hereunder, and oversee the use of energy and costs by agencies, instrumentalities, and public corporations and offices. Each quarter, PREPA shall produce and submit to the Energy Public Policy Program the information regarding the electric power consumption of every agency, instrumentality, and public corporation of the Executive Branch and offices of the Judicial Branch.

- (e) *Energy Savings Performance Contracts.* — In order to comply with the purposes of this Act, the Judicial Branch and every agency, instrumentality, or public corporation of the Executive Branch shall, as a strategy, enter into Energy Savings Performance Contracts (ESPCs), with a qualified energy service provider, as the first alternative to achieve savings in energy, or operating and maintenance costs, as established in [Act No. 19-2012, as amended, known as the ‘Energy Savings Performance Contracts Act.’](#) If, after a cost-effective analysis regarding the composition and features of the buildings that house facilities of public entities, the entity determines that it is extremely onerous to comply with this provision, it may request an exemption to such effect to PREB. If an agency deems that it is onerous, or that the implementation of a strategy involving an energy savings performance contract is not cost-effective, it shall certify said fact to the Department of Economic Development and Commerce of Puerto Rico and shall notify the measures it shall adopt to ensure compliance with the provisions of this Act. Any energy savings measure implemented under an energy savings performance contract shall comply with local building codes and the appropriate regulations of the Energy Public Policy Program of the Department of Economic Development and Commerce of Puerto Rico. The Department of Economic Development and Commerce of Puerto Rico, through the Energy Public Policy Program, shall be in charge of approving the regulations needed for the adoption of these types of agreements, in coordination with the pertinent agencies.
- (f) The Department of Economic Development and Commerce of Puerto Rico, in coordination with the Public Buildings Authority, the General Services Administration, PREPA, and any other pertinent agency or public corporation, shall oversee compliance with energy use efficiency standards for buildings owned by the Government of Puerto Rico, as provided in this Act and in Act No. 229-2008, as amended, known as the “Act to Promote the Efficient Use of Energy and Water Resources in New and Existing Buildings of the Government of Puerto Rico.”
- (g) *Compliance Oversight.* —
  - (1) It shall be a ministerial duty of every agency, instrumentality, and public corporation of the Executive Branch and the Director of the Office of Courts Administration (OCA) to submit to the Department of Economic Development and Commerce of Puerto Rico, every ninety (90) days, a report of the results of the implementation of their energy efficiency plans established by law. Provided, that the report to be filed by OCA shall include the results of the energy efficiency plans adopted in each office of the Judicial Branch. The Department of Economic Development and Commerce of Puerto Rico shall submit to PREB, twice (2) a year, a report including the consumption history of all the agencies, instrumentalities, and public corporations of the Executive Branch, and the offices of the Judicial Branch, as provided by PREPA (invoices or similar official document), and data regarding the measures taken to achieve energy reduction

- and the savings achieved. Said report shall also identify the agencies, instrumentalities, and public corporations of the Executive Branch, and the offices of the Judicial Branch that fail to comply with their energy efficiency plan and the savings measures established in this Act; state the reasons provided by such agencies, instrumentalities, public corporations, or offices for noncompliance with this Act, and specify the corrective measures taken by the agency, instrumentality, public corporation, or office to ensure compliance with the purposes of this Act. Both the quarterly report to be filed by agencies, instrumentalities, public corporations, and OCA with the Department of Economic Development and Commerce of Puerto Rico, as well as the semiannual report submitted by the Department to PREB shall be published on the Department of Economic Development and Commerce of Puerto Rico’s website.
- (2) Every public entity, in conjunction with the Department of Economic Development and Commerce of Puerto Rico, shall be responsible for establishing the energy efficiency programs deemed pertinent to keep a database of information regarding compliance with this Section.
- (h) Transparency and disclosure of energy savings: The Department of Economic Development and Commerce of Puerto Rico shall issue the semiannual scorecards or evaluations of the energy efficiency activities carried out by each agency, which shall be published on its website. These scorecards shall be based on the savings percentage gathered from the information submitted by public entities, pursuant to the criteria established through regulations by the Department of Economic Development and Commerce of Puerto Rico. Such scorecards shall be a measuring tool to promote greater transparency in the use of energy resources by public entities.
- (i) Noncompliance with the energy savings plan: Every agency, instrumentality, or public corporation of the Executive Branch that fails to comply with its annual energy consumption reduction goals, as established in the action plan required by virtue of subsection (c) of this Section, shall have, as penalty, a budgetary cut on the following fiscal year. Thus, the Public Policy Program shall notify any noncompliance with the energy consumption reduction goals to the Office of Management and Budget before preparing the budget for the fiscal year. The budget cut shall be equal to the amount used, measured in kilowatt-hours, in excess of the goal established in the plan submitted to the Department of Economic Development and Commerce of Puerto Rico for that particular year, multiplied by the electricity rate charged by the Authority, its successor, or the transmission and distribution network Contractor as of July of the previous year. The budget cut shall be deposited in the Green Energy Fund of Puerto Rico created by virtue of [Act No. 83-2010, as amended, known as the ‘Green Energy Incentives Act of Puerto Rico’](#) or similar provisions in incentive laws.

The Department of Economic Development and Commerce of Puerto Rico, through the Energy Public Policy Program, shall be the entity responsible for overseeing compliance with the government energy efficiency standards and, as such, shall bring any action before PREB, or before the Courts to achieve the purposes established herein, as the case may be.

- (1) PREB shall have primary and exclusive jurisdiction to address cases and disputes arising as a result of noncompliance by any agency, instrumentality, or public corporation of the Executive Branch with the duties and obligations established in this Section.

- (2) Cases and disputes involving a noncompliance of OCA’s Director, or a noncompliance of any office of the Judicial Branch with the duties and obligations established in this Section shall be brought before the General Court of Justice.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#), Sec. 5.5]

**Section 4.2. — Energy Savings in the Legislative Assembly.** (22 L.P.R.A § 1053a)

- (a) It shall be the duty and responsibility of the Legislative Assembly to implement strategies aimed at reducing electric power consumption in offices and facilities under its jurisdiction. To such ends, the Legislative Assembly shall take any actions and measures geared toward reducing the annual consumption of electric power, taking into account the savings percentage stated below:
  - (1) In the first year of effectiveness of this Act, savings shall be two percent (2%) of the baseline energy consumption which shall be the energy usage corresponding to fiscal year 2012-13, based on kilowatt-hours consumed, according to PREPA’s records.
  - (2) In the second year of effectiveness of this Act, savings shall be three percent (3%) of the baseline energy consumption which shall be the energy usage corresponding to fiscal year 2012-13, based on kilowatt-hours consumed, according to PREPA’s records.
  - (3) In the third year of effectiveness of this Act, savings shall be five percent (5%) of the baseline energy consumption which shall be the energy usage corresponding to fiscal year 2012-13, based on kilowatt-hours consumed, according to PREPA’s records.
  - (4) In the fourth year of effectiveness of this Act, savings shall be seven percent (7%) of the baseline energy consumption which shall be the energy usage corresponding to fiscal year 2012-13, based on kilowatt-hours consumed, according to PREPA’s records.
  - (5) In the fifth year of effectiveness of this Act, savings shall be eight percent (8%) of the baseline energy consumption which shall be the energy usage corresponding to fiscal year 2012-13, based on kilowatt-hours consumed, according to PREPA’s records.
  - (6) In the sixth year of effectiveness of this Act, savings shall be ten percent (10%) of the baseline energy consumption which shall be the energy usage corresponding to fiscal year 2012-13, based on kilowatt-hours consumed, according to PREPA’s records.
  - (7) For the seventh year of effectiveness of this Act, savings shall be twelve percent (12%) of the baseline energy consumption which shall be the energy usage corresponding to fiscal year 2012-13, based on kilowatt-hours consumed, according to PREPA’s records.
  - (8) From the eighth year and every year thereafter after the effective date of this Act, the Legislative Assembly shall continue efforts and initiatives to reduce electric power consumption in accordance with the annual consumption goals established by the Energy Bureau for the Legislative Assembly in order to achieve the goal established in Section 6.29B of this Act.
- (b) *Noncompliance with the Energy Savings Plan.* — Within a term that shall not exceed one hundred eighty (180) days after the date of approval of this Act, the Legislative Assembly shall complete an inventory of all connections to the electric power system serving it and the offices

served by each electrical connection. The Legislative Assembly shall establish, through an executive order issued by the presiding officers of both Houses, the offices which shall be responsible for each connection. The offices thus charged with each connection shall be responsible for meeting the savings goals established in this Section. The inventory of connections shall be published on the websites of the House of Representatives and the Senate of Puerto Rico. Any office of the Legislative Assembly that fails to comply with the savings percentage rate established in subsection (a) of this Section shall have, as penalty, a budgetary cut on the following fiscal year. Thus, the Energy Public Policy Program shall notify any noncompliance with the energy consumption reduction goals to the Office of Management and Budget before preparing the budget for the fiscal year. The budget cut shall be equal to the amount of the usage, measured in kilowatt-hours, in excess of the savings percentage rate established in subsection (a) for that particular year, multiplied by the electricity rate charged by the electric power supplier for July of the previous year. The budget cut shall be deposited in the Green Energy Fund of Puerto Rico created by virtue of [Act No. 83-2010, as amended, known as the ‘Green Energy Incentives Act of Puerto Rico’](#) or similar provisions in incentive laws.

- (c) Every six (6) months, the offices of the Legislative Assembly shall publish an itemization of their energy consumption and how the same compares with the savings projections required under subsection (a) of this Section. At the beginning of each fiscal year, it shall also publish a comparative chart on energy consumption for the previous three (3) years, as well as a list of the initiatives that were implemented to comply with the energy savings mandate set forth in this Section. This information shall be published on the website of each office of the Legislative Assembly and shall also be submitted to the Bureau.
- (d) Cases and disputes involving noncompliance by the Legislative Assembly or any of its offices with the duties and obligations established in this Section shall be brought before the General Court of Justice.

[Amendments: [Act 17-2019](#), Sec. 5.6]

#### **Section 4.3. — Energy Savings in the Municipal Governments. (22 L.P.R.A § 1053b)**

- (a) PREPA shall bill and charge municipalities for the electric power service, in accordance with the provisions of Section 22 of [Act No. 83 of May 2, 1941, as amended](#). It shall be the duty of every municipal government to implement strategies aimed at reducing electric power consumption in the offices and facilities under its jurisdiction, as well as to promote the greatest energy efficiency possible, in accordance with the annual compliance goals established by the Energy Bureau for the purpose of achieving the goal established in Section 6.29B of this Act.
- (b) Every municipality, whose electric power consumption provided by the Authority exceeds the baseline energy consumption established in accordance with Section 2.10 of this Act, shall be responsible for paying PREPA the amount corresponding to the excess. The consumption excess shall be billed to the corresponding municipality by PREPA and such bill shall be paid following the regular debt collection process established by law.
- (c) The Energy Bureau shall have primary and exclusive jurisdiction to address any case and dispute involving noncompliance by any municipality with the duties and obligations established in Section 22 of [Act No. 83 of May 2, 1941, as amended](#).

- (d) PREPA shall publish, on its website, a list of the annual payments appropriated to each municipality as a replacement of the PILT, as well as the energy consumption of each municipality in comparison with the contribution made in the previous year. This information shall be updated annually and published on PREPA’s website.

[Amendments: [Act 17-2019](#), Sec. 5.7]

## CHAPTER V. — Net Metering.

**Section 5.1. — Omitted.** [Note: Section 2 of [Act No. 114-2007, as amended](#), is hereby amended]

**Section 5.2 — Omitted.** [Note: Section 7 of [Act No. 114-2007, as amended](#), is hereby amended]

**Section 5.3 — Omitted.** [Note: Section 9 of [Act No. 114-2007, as amended](#), is hereby amended]

**Section 5.4 — Omitted.** [Note: Section 10 of [Act No. 114-2007, as amended](#), is hereby amended]

**Section 5.5 — Omitted.** [Note: Section 11 of [Act No. 114-2007, as amended](#), is hereby amended]

**Section 5.6 — Omitted.** [Note: Section 12 of [Act No. 114-2007, as amended](#), is hereby amended]

**Section 5.7. —** Section 9 of [Act No. 114-2007, as amended](#), is hereby renumbered as Section 13.

## CHAPTER VI. — Creation, Structure, Operation, Budget, and General Powers of the Energy Bureau.

### SUBCHAPTER A. — Reserved — [Note: [Act No. 17-2019](#) Sec. 5.8]

**Section 6.1. — Reserved.** — (22 L.P.R.A § 1054)

**Section 6.2. — Reserved.** — (22 L.P.R.A § 1054b)

[Amendments: [Act No. 17-2019](#), Sec. 5.8]

SUBCHAPTER B. — Energy Bureau.

**Section 6.3. — Powers and Duties of the Energy Bureau.** (22 L.P.R.A § 1054b)

- (a) Oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico;
- (b) Establish by regulations the public policy rules regarding electric power service companies, as well as any transaction, action or omission in connection with the electric power grid and the electric power infrastructure of Puerto Rico, and implement such public policy rules. These regulations shall be consistent with the public policy on energy set forth through legislation;
- (c) Establish and implement regulations and the necessary regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico’s electrical system, and establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities; provided, that every power purchase agreement shall meet the standards, terms, and conditions established by PREB in accordance with the provisions of the [Energy Public Policy Act](#) and this Act;
- (d) Oversee the quality, efficiency, and reliability of the electric power services provided by any electric power company certified in Puerto Rico to ensure a robust network that addresses the needs of the Island;
- (e) Guarantee universal access to electric power service and ensure nondiscrimination in the offering or provision of electric power service by reason of race, color, sex, sexual orientation, gender identity, birth, origin, social status, physical or mental disability, political or religious beliefs, military or veteran status, or for being a victim or being perceived as a victim of domestic violence, sexual assault, or stalking;
- (f) Formulate and implement strategies to achieve the objectives of this Act including, but not limited to, attaining the goal of reducing and stabilizing energy costs permanently, controlling volatility in the price of electricity in Puerto Rico, establishing demand response programs, Renewable portfolio standard and energy efficiency standards, and promoting the storage of energy and integration of distributed generation, among others. In exercising its powers and authorities, the Energy Bureau shall require that the prices included in any power purchase agreement, any wheeling rate, and interconnection charge are just and reasonable, consistent with the public interest, and compliant with the parameters established by the Bureau through regulations;
- (g) Regulate the wheeling mechanism in Puerto Rico in accordance with the applicable laws;
- (h) Establish short-, medium-, and long term demand response programs through effective incentive mechanisms for consumers that facilitate a change in their behavior.
- (i) Establish energy efficiency mechanisms and programs to gradually reach reasonable goals that ensure compliance with the energy public policy.
- (j) Establish performance-based incentives and penalty mechanisms.
- (k) Review and approve and, if applicable, modify the rates or fees charged by electric power service companies in Puerto Rico in connection with any matter directly or indirectly related to the provision of electric power services.

- (l) Hold public hearings, require and gather any pertinent or necessary information to properly carry out its powers and duties.
- (m) Ensure that the powers and authorities exercised by PREB over PREPA, including those related to rate review or approval, guarantee that PREPA meets its obligations to bondholders;
- (n) Review and approve and, if applicable, modify the rates or fees charged by electric power service companies or the transmission and distribution network Contractor in Puerto Rico in connection with any matter directly or indirectly related to the provision of electric power services;
- (o) Appoint and hire specialized personnel to exercise its powers and duties.
- (p) Ensure that the powers and authorities exercised by PREB over the Authority, its successor, or the transmission and distribution network Contractor, energy companies and any natural or juridical person that has benefited or may benefit from Puerto Rico’s electrical system, including those related to rate review or approval, guarantee that the Authority meets its obligations to bondholders;
- (q) Promote that the Authority’s or its successor’s debt issues be in the public interest. Have the prior written approval of the Energy Bureau for any public debt issue by the Authority and the proposed use for such financing. The Authority or the Puerto Rico Fiscal Agency and Financial Advisory Authority (FAFAA) shall notify PREB of any proposed debt issue at least ten (10) days before the publication date of the preliminary official statement. PREB shall evaluate and approve that the use to be given to the proceeds of the proposed debt issue is consistent with the Integrated Resource Plan. Said approval shall be issued in writing not later than ten (10) days as of the Authority’s or the Puerto Rico Fiscal Agency and Financial Advisory Authority’s notification to PREB of the proposed debt issue. Within said ten (10)-day period, PREB shall submit a report of its evaluation to both Houses of the Legislative Assembly. If, upon conclusion of said ten-day period, PREB fails to notify its approval or rejection to the proposed debt issue, the Puerto Rico Fiscal Agency and Financial Advisory Authority may continue with the bond issue process.

None of these provisions shall apply to bond issues that[sic] promulgated in accordance with Chapter IV of the “Electric Power Authority Revitalization Act” or subject to authorization under Title III or Title VI of [PROMESA, Public Law No. 114-87](#).
- (r) Appoint and hire specialized personnel to exercise its powers and duties;
- (s) Take any necessary action, in conjunction with the Environmental Quality Board and other regulatory agencies, to regularly evaluate, oversee, and ensure that every certified electric power company complies with Federal and Commonwealth environmental regulations, and with any applicable federal law.
- (t) Determine and require the type of statistical and numerical information that the electric power company responsible for operating the electrical system shall post every day on its website to keep citizens constantly informed of energy affairs including, but not limited to, the daily peak demand in Puerto Rico, the daily delivery of energy per energy company or electric power generation facility or plant, the percentage of distributed generation, the cost of electricity generation per kWh, and any other necessary information or data in connection with the administration of the electric power grid and the operations of electric power transmission and distribution in Puerto Rico;

- (u)** Oversee compliance with any mandatory standard or goal under the Renewable portfolio standard imposed by legislation or regulations;
- (v)** Establish reliability standards for the electric power grid of Puerto Rico in accordance with the parameters recognized by governmental and nongovernmental organizations specialized in electric power service, and oversee compliance therewith.
- (w)** Review and approve proposals to the interconnection regulations and minimum technical requirements (MTRs), additional technical requirements (ATRs), and any other type of requirement established for the interconnection of distributed generators and microgrids to the electric power grid, and oversee compliance therewith;
- (x)** Establish efficiency parameters or standards for the facilities or plants of any electric power generation company, microgrids or energy cooperatives to guarantee the efficiency and reliability of the electric power service, or any other efficiency parameter that is consistent with the best practices in the electric power industry, as deemed necessary by the Energy Bureau and recognized by governmental and nongovernmental organizations specialized in electric power service, and oversee compliance therewith;
- (y)** Conduct inspections, investigations, and audits, if necessary, to achieve the purposes of this Act. The Energy Bureau may delegate this power through a resolution. In such resolution, the Energy Bureau shall establish the limits and the term of such delegation of powers;
- (z)** Conduct periodical studies and investigations on energy generation, transmission, distribution, use, and consumption, whether by using oil and/or its byproducts such as fuel, natural gas, renewable energy sources, waste conversion, and any other mechanism or technology that may be used as energy resource to determine the energy needs of Puerto Rico during any period of time.
- (aa)** Review and approve the energy reserve margin established by PREPA and ensure compliance therewith.
- (bb)** Establish and develop statistical, economic, and planning programs as are necessary to meet the purposes of this chapter, and produce and publish information of a statistical-economic nature on matters pertaining to energy generation, distribution, use, and consumption.
- (cc)** Disclose all sorts of public interest information, and develop, regulate, and implement customer service policies with specific parameters, indicators, and procedures that safeguard the rights of all customers, and citizen participation in the processes of the Energy Bureau;
- (dd)** Review and approve the optimum energy reserve margin needed for Puerto Rico and ensure compliance therewith;
- (ee)** Create an easily accessible and user-friendly website that contains public interest information, as well as data and information related to the purposes of this chapter.
- (ff)** Ensure continuous communication and information sharing between the Energy Bureau, the U.S. Department of Energy, the Environmental Protection Agency (EPA), FERC, and any agency or office with jurisdiction over energy affairs;
- (gg)** Identify and form partnerships with international organizations or associations specialized in energy affairs and regulations that are willing to collaborate and provide the Energy Bureau with assistance in the execution of its powers and functions;
- (hh)** Appear before any private entity, public organization, court, board, committee, administrative organization, department, office or agency of the Government of Puerto Rico or the United States Government in any hearing, proceeding, or matter that affects or could affect the

- objectives, powers, or duties of the Energy Bureau, the regulations it promulgates or the interests of electric power service customers;
- (ii) Adopt and implement rules and procedures to ensure continuous communication and information sharing between the Energy Bureau, the Energy Public Policy Program of the Department of Economic Development and Commerce of Puerto Rico, the Independent Consumer Protection Office, PREPA, and any electric power company certified in Puerto Rico;
  - (jj) Identify and form partnerships with international organizations or associations specialized in energy affairs and regulations that are willing to collaborate and provide the Energy Bureau with assistance in the execution of its powers and functions; including, but not limited to, using the personnel of the Public Service Commission or similar entities of other jurisdictions in the United States or abroad through the National Association of Regulatory Utility Commissioners (NARUC) or any other similar entity.
  - (kk) Appear before any private entity, public organization, court, board, committee, administrative organization, department, office or agency of the Governments of Puerto Rico or the United States in any hearing, proceeding, or matter that affects or could affect the objectives, powers, or duties of the Energy Bureau, the regulations it promulgates or the interests of electric power service customers;
  - (ll) Sue and be sued in complaints or causes of action in its own name against any natural or juridical person that fails to meet or interferes with the requirements, purposes, and objectives of this Act before the Court of First Instance of the Government of Puerto Rico or any other administrative forum of the Government of Puerto Rico. For such purposes, the Bureau shall have legal standing to bring the necessary action before a judicial forum to ensure full compliance with the public policy set forth in this Act;
  - (mm) Enter into contracts and subcontracts for any lawful purpose in order to comply with the energy public policy, and to carry out specialized tasks without forgoing its government function and responsibility, which includes contracting the professional services of consultants, economists, and lawyers, among other professional services, to assist it in its regulatory and oversight function;
  - (nn) Sue and be sued in complaints or causes of action in its own name against any natural or juridical person that fails to meet or interferes with the requirements, purposes, and objectives of this Act before the Court of First Instance of the Government of Puerto Rico or any other administrative forum of the Government of Puerto Rico. For such purposes, the Bureau shall have legal standing to bring the necessary action including, but not limited to, requesting a contempt order against any natural or juridical person that fails to comply with the mandates contained under the jurisdiction of the Energy Bureau, before a judicial forum to ensure full compliance with the public policy set forth in this Act;
  - (oo) Adopt the rules, orders, and regulations needed to carry out its duties, issue orders, and impose fines to comply with the powers granted by law, as well as for the implementation of this Act. These regulations shall be adopted in accordance with [Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act’](#);
  - (pp) File any recourse, issue orders, and seek and grant any legal remedies that may be necessary to enforce the provisions of this Act, as well as its rules, regulations, orders, and

determinations. For instance, among the actions and remedies that PREB may take and grant are the following:

- (1) To hold public hearings;
  - (2) To order the cease of activities or acts in violation of any provision of this Act, the regulations of PREB, or any other legal provision whose interpretation and enforcement is under the jurisdiction of PREB;
  - (3) To impose on and order the parties the payment of costs, expenses, and attorney’s fees, as well as the payment of expenses and fees for other professional and consulting services, as incurred in a proceeding before PREB, in accordance with the parameters established in the Rules of Civil Procedure of Puerto Rico;
  - (4) To direct that all actions shall be taken in compliance with the provisions of this Act, the regulations of PREB, or any other legal provision whose interpretation and enforcement is under the jurisdiction of the Bureau;
  - (5) Contract or subcontract, chargeable to the responsible natural or juridical person, to perform any act under the provisions of this Act, the regulations of PREB, the Authority or its successor, or the transmission and distribution network Contractor; or any order to an energy company; or any other provision of law the interpretation and enforcement of which are under the jurisdiction of the Energy Bureau and that has not been performed as provided by law, regulation, or order;
  - (6) To issue summons under penalty of contempt which shall be signed by the President of PREB and served personally or by certified mail with return receipt requested;
  - (7) To require the production and inspection of records, inventories, documents, and physical facilities of any juridical persons or entities subject to the jurisdiction of PREB or the Energy Public Policy Program of the Department of Economic Development and Commerce;
- (qq) Submit annual reports, on or before March 1, to the Governor and the Legislative Assembly on the adequate performance of the duties and functions set forth herein; and
- (rr) Review the final determinations of electric power companies with regard to complaints and requests for investigations submitted by its customers. All PREB orders shall be issued on behalf of the Puerto Rico Energy Bureau and the Puerto Rico Public Service Regulatory Board. All actions, regulations, and determinations of PREB shall be governed by the applicable laws, the public interest, and the interest of protecting the rights of customers or consumers. The provisions of this Act shall be construed liberally in order to achieve its purposes, and whenever a specific power or authority is granted to PREB, the same shall not be construed as to exclude or impair any other power or authority otherwise conferred thereto. PREB, created herein shall have, in addition to the powers specified in this Act, all those additional, implicit, and incidental powers that are pertinent and necessary to enforce and carry out, perform, and exercise all the aforementioned powers, and to achieve the purposes of this Act.
- (ss) PREB, in conjunction with the Energy Public Policy Program of the Department of Economic Development and Commerce and electric power companies, shall evaluate and make determinations regarding the interconnection of distributed renewable energy and large-scale renewable energy to the transmission and distribution system in order to ensure access thereto justly and equitably.

- (tt) PREB, in conjunction with the Energy Public Policy Program of the Department of Economic Development and Commerce and the Independent Consumer Protection Office, as well as the comments of interested persons and organizations shall establish the regulatory framework that shall guide the development of regulations for community solar projects and microgrids.
- (uu) PREB, with the advice of electric power companies shall determine the maximum capacity and other requirements for community solar projects, using as guidelines the recommendations of organizations such as IREC and NREL adapted to Puerto Rico.
- (vv) PREB shall conduct a study to determine, establish, and regulate specific energy storage goals that address Puerto Rico’s needs.
- (ww) Oversee compliance with vegetation management programs to be implemented by the Authority or its successor, or the transmission and distribution network Contractor, in accordance with the best practices of the industry to protect the network.
- (xx) Oversee that electric power companies adopt cybersecurity measures to effectively prevent and manage cyberattacks that may affect information technology networks and operations in accordance with the industry recognized practices.

[Amendments: [Act No. 4-2016](#); [Act No. 133-2016](#); [Act No. 211-2018](#); [Act No. 17-2019](#), Sec. 5.10]

#### **Section 6.4. — Jurisdiction of the Energy Bureau.** (22 L.P.R.A. § 1054c)

- (a) The Energy Bureau shall have primary and exclusive jurisdiction over the following affairs:
  - (1) The approval of rates and charges charged by energy companies or independent power producers in connection with any electric power service, in accordance with the provisions of Section 6.25 of this Act, as well as in cases and disputes related to the rates that the energy companies charge to its residential, commercial, or industrial customers, and any case or dispute related to the rates or charges imposed by any independent power producer.
  - (2) Cases and disputes related to the review of the electricity bills sent by electric power companies to its customers for electric power services.
  - (3) Cases and disputes regarding noncompliance with the public policy on energy of the Government of Puerto Rico as set forth in the [“Puerto Rico Energy Public Policy Act”](#) and the code of laws in effect.
  - (4) Cases and controversies claiming noncompliance with the mandates of [Act No. 83 of May 2, 1941, as amended, known as the “Puerto Rico Electric Power Authority Act,”](#) and any of the mandates of the [“Puerto Rico Energy Public Policy Act,”](#) with regard to the electric power service or energy-related matters.
  - (5) Cases and disputes regarding wheeling or electric power interconnection with the transmission and distribution network, and any person that is connected, or wishes to connect to the electric power grid in Puerto Rico or any person with a direct or indirect interest in these electric power services.
  - (6) Cases and disputes regarding agreements between the Authority, its successor, or the transmission and distribution network Contractor, independent power producers, and energy companies as well as cases and disputes between independent power producers. This includes, but shall not be limited to, power purchase agreements whereby an independent power producer agrees to provide electric power to an energy company to

- be distributed, and cases in which the reasonableness of the interconnection charges or of the terms and conditions of a power purchase agreement are questioned.
- (b) The Energy Bureau shall have general jurisdiction over the following matters:
- (1) The Energy Bureau shall have regulatory, investigative, and adjudicative jurisdiction over PREPA and any other certified electric power company providing services within the Government of Puerto Rico.
  - (2) Any natural or juridical person that violates the provisions of this Act in connection with energy-related matters or the regulations of the Bureau, including any natural or juridical person or entity exercising control over electric power services to commit said violations.
  - (3) Any natural or juridical person whose actions affect the provision of electric power services, including any person or entity exercising control over such services to affect the provision thereof.
  - (4) Any natural or juridical person that carries out any activity for which a certification, authorization, or permit issued by the Energy Bureau is needed.
  - (5) Any natural or juridical person whose actions or omissions are in prejudice to the activities, resources, or interests over which the Bureau has regulatory, investigative, adjudicative, or oversight powers, including any person exercising control over electric power services in such a manner as to cause said prejudice.
- (c) Complaints for Noncompliance with the Public Policy on Energy:
- (1) At the request of any affected party with legal standing, and as provided in this Act, PREB, may address complaints alleging or claiming that an electric power service company is not complying with the public policy on energy of the Government of Puerto Rico set forth in the [“Puerto Rico Energy Public Policy Act”](#) and the current rule of law. Likewise, PREB may address those complaints regarding legal transactions or acts related to the purchase of energy or fuel; agreements between the Authority or its successor, the transmission and distribution network Contractor, independent power producers, and energy companies; cases and controversies among them; wheeling rates and interconnection charges; and cases and controversies regarding wheeling or electric power interconnection between the Authority, its successor or its subsidiaries or the transmission and distribution network Contractor, and any person that is connected, or wishes to connect, to the electric power grid within the Government of Puerto Rico, or any person with a direct or indirect interest in these electric power services.
  - (2) Any complaint submitted under this Section shall be filed under oath and specifically state the nature of the claim and remedies requested.
  - (3) Once the complaint is filed, PREB may request, during its evaluation and adjudication process, the respondent party to furnish any information it deems pertinent to the controversy. This information shall be available to the petitioner; however, PREB may, at the request of any interested party and pursuant to the provisions of Section 6.15 of this Act, protect information deemed confidential or privileged.
- (d) PREB shall exercise jurisdiction over any matter that is not in conflict with federal statutory and regulatory provisions as well as with those preempted by Federal standards.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#), Sec. 5.11]

**Section 6.5. — Organization of the Energy Commission [Bureau].** (22 L.P.R.A. § 1054d)

- (a) The Commission shall be composed of four (4) associate commissioners and one (1) Chair, all of whom shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico. Commissioners may only be removed for just cause. Commissioners shall receive the same compensation established for a judge of the Court of Appeals of Puerto Rico.
- (b) Three (3) of the five (5) commissioners or a majority of the confirmed or official commissioners shall constitute a quorum at a meeting of the Commission assembled as a whole. The meetings of the Commission shall be scheduled by its Chair.
- (c) The decisions of the Commission shall be made by the consent of the majority of the commissioners. In accordance with the provisions of [Act No. 38-2017, as amended, known as the “Government of Puerto Rico Uniform Administrative Procedure Act,”](#) the decisions or final resolutions of the Commission in adjudicative procedures shall be subject to review by the Court of Appeals of Puerto Rico, unless a law of the United States Government has granted jurisdiction to a federal agency or entity or the U.S. District Court for the District of Puerto Rico.
- (d) The Commission shall have an official seal with the words “Puerto Rico Energy Commission” and the design prescribed by said Commission.

[Amendments: [Act No. 120-2018](#)]

**Section 6.6. — Commissioners.** (22 L.P.R.A. § 1054e)

- (a) The commissioners shall have expertise in energy-related matters and be professional engineers licensed in Puerto Rico holding preferably a master’s or doctoral degree in engineering, or lawyers authorized to practice the profession, or professionals preferably holding a master’s or doctoral degree in economics, planning, or finances, or professionals preferably holding a master’s or doctoral degree in energy-related fields. Not more than three (3) commissioners may practice the same profession. In addition to the education and professional requirements, the commissioners of the Energy Commission shall have at least five (5) years of experience and be knowledgeable in energy-related matters, and have at least ten (10) years of experience practicing their professions.
- (b) Commissioners shall not have any direct or indirect proprietary interest in the juridical persons subject to the jurisdiction of the Energy Commission or the Commonwealth Energy Public Policy Office, or in entities within or without Puerto Rico affiliated to or with interest in said juridical persons.
- (c) No commissioner may participate in any matter or dispute in which a party to such matter or dispute is a natural or juridical person with whom he has had a contractual, professional, work, or fiduciary relation within two (2) years before his appointment. Furthermore, no commissioner shall represent, after ceasing his functions, any person or entity before the Energy Bureau within two (2) years following his separation from office. Any actions taken by a commissioner in discharging his duties shall be subject to the restrictions provided in [Act No. 1-2012, known as the “Puerto Rico Government Ethics Act of 2011,” as amended.](#)

- (d) Commissioners shall refrain from participating in political activities or in activities related to political parties, without impairment of their right to vote.

Without excluding any other activities that, due to their political nature, are prohibited to them, Commissioners shall not:

- i. Participate in political campaigns of any kind or in meetings, gatherings, assemblies, conventions, primaries or other events of a political-partisan nature.
  - ii. Hold office in political bodies or parties.
  - iii. Make monetary contributions, directly or indirectly, to political candidates, entities or parties.
  - iv. Endorse candidates for elective offices or government appointments, or political leaders.
  - v. Make public expressions, comments, or statements on matters or acts of a political-partisan nature.
- (e) The first commissioners appointed by virtue of the ‘Puerto Rico Energy Transformation and RELIEF Act,’ as amended, shall hold their office for the following terms: the Chair shall hold office for six (6) years, one commissioner for four (4) years; and one commissioner for two (2) years. The successors of all commissioners shall be appointed for six (6) years. Any person designated to fill a vacancy shall be appointed only for the remainder of the unexpired term of the commissioner being replaced. Commissioners appointed after the approval of the ‘Puerto Rico Electric Power System Transformation Act’ shall be appointed as follows: the Chair shall hold office for six (6) years, two (2) commissioners for four (4) years; and two (2) commissioners for two (2) years. The successors of all commissioners shall be appointed for six (6) years. Any person designated to fill a vacancy shall be appointed only for the remainder of the unexpired term of the commissioner being replaced. Commissioners holding office as of the approval of the ‘Puerto Rico Electric Power System Transformation Act’ shall continue to hold office until their terms of appointment expire. Upon the expiration of the term of office of any commissioner, he may continue carrying out his duties until his successor is appointed. Commissioners appointed after January 1st, 2019, shall be selected from a list of candidates to be prepared and submitted to the Governor by a recognized executive search firm. The identification of candidates by such firm shall be based on objective criteria such as educational and professional background. The Governor, shall evaluate the list of recommended candidates and select, at his full discretion, one candidate from the list. If the Governor rejects all the recommended persons, said executive search firm shall be required to submit another list within the next thirty (30) calendar days. The Governor may use the latest list submitted for his consideration whenever it is necessary to fill a vacancy.
- (f) The Commission shall hold at least three (3) public meetings every month, notify in advance the date of the holding thereof, and broadcast them live on the Commission’s website. The minutes of the public meetings shall be posted on the Commission’s website to be freely accessed by the people.
- (g) Each commissioner may hire and appoint one (1) administrative assistant and one (1) trusted advisor.

[Amendments: [Act No. 120-2018](#); [Act No. 17-2019](#), Sec. 5.12]

**Section 6.7. — Powers and Duties of Commissioners.** (22 L.P.R.A. § 1054f)

Commissioners shall have the following powers and duties:

- (a) To act as the governing body of PREB;
- (b) Establish PREB’s general policy to attain the objectives of this Act;
- (c) Implement the public policy and objectives of PREB in accordance with this Act;
- (d) Authorize and oversee the implementation and the results of the annual work plan of PREB;
- (e) Draft, adopt, and amend rules and bylaws that govern the internal operations and the discharge of the powers and duties thereof, as well as the norms needed for the functioning, operations, and administration of PREB;
- (f) Keep complete records of all proceedings before its consideration and make them available to the public on PREB’s website;
- (g) Ensure the proper administration of PREB’s operational budget;
- (h) Impose administrative fines within the parameters established by this Act;
- (i) Appear before judicial, legislative, and administrative forums in representation of PREB;
- (j) Hire and appoint personnel to career and trust positions as necessary for the operations and functioning of PREB, which shall be governed by the rules and regulations promulgated by PREB in accordance with [Act No. 8-2017, as amended, known as the “Government of Puerto Rico Human Resources Transformation Act.”](#) However, the mobility principle established in Section 6.4(4) of [Act No. 8-2017, as amended](#), shall not apply to PREB personnel. The recruitment and appointment of personnel shall not be subject to approval by any Executive Branch agency. In the qualification and the description of the duties of the positions, the personnel system shall be organized so as to promote the recruitment of skilled and trained staff through a competitive process that enables compliance with the purposes of this Act. Any recruitment process shall be carried out with the support of the Executive Director of the Bureau;
- (k) Hire trust employees, the number of which shall not be greater than twenty-five percent (25%) of the total number of positions in PREB. This limitation shall not apply to commissioners who, in accordance with this Act, are authorized to hire one (1) administrative assistant and one (1) trust employee per commissioner as expert advisor. Employees holding positions of trust shall be selected taking into consideration the capability, education, and professional experience required to ensure an effective performance of the duties of the position. No employee of PREB, be it of trust or career, may have any relationship within the degrees provided in [Act No. 1-2012, known as the “Government Ethics Act of 2011,”](#) as amended, with the Chair, associate members, or Executive Director of the PSRB, or with PREB Commissioners. Any recruitment process shall be carried out with the support of the Executive Director of the Bureau.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#), Sec. 5.13]

**Section 6.8. — Executive Director of the Energy Bureau.** (22 L.P.R.A. § 1054h)

- (a) A majority of the commissioners shall select the Executive Director of the Bureau based on his proven education and professional experience in energy related matters or public administration.

- (b) The Executive Director and the members of his family unit, as defined in [Act No. 1-2012, as amended, known as the ‘Government Ethics Act of 2011,’](#) shall not have any direct or indirect interest in, nor contractual relation whatsoever with the Authority or its successor, subsidiaries, the transmission and distribution network Contractor and/or any other certified electric power company subject to the jurisdiction of the Energy Bureau, nor in entities within or without Puerto Rico affiliated to or with interest in the Authority or its successor, subsidiaries, the transmission and distribution network Contractor, or said companies. Once his functions have ceased, the Executive Director shall not represent any person or entity before said Bureau in relation to any issue in which he participated while serving on the Bureau, or with respect to any other issue within two (2) years after separation from office. Any action taken by the Executive Director in discharging his duties shall be subject to the restrictions provided in [Act No. 1-2012, as amended, known as the “Government Ethics Act of 2011.”](#)
- (c) The Executive Director shall have the following duties:
- (1) Coordinate with the President of the Energy Bureau all that pertains to administrative and clerical support in areas such as finance, procurement, accounting, and in any administrative task other than formulating or implementing public policy;
  - (2) Establish, at his/her discretion, advisory groups to provide the Commission with specialized technical advice on energy regulation topics and provide for the operations thereof;
  - (3) Delegate, in the event of his/her absence or temporary inability to fulfill his/her duties, to a trusted official of the Commission, until the cause or circumstance that required said temporary designation ceases or is corrected.

[Amendments: [Act No. 17-2019](#), Sec. 5.14]

#### **Section 6.9. — Chair of the Energy Commission.** (22 L.P.R.A. § 1054g)

The Chair of the Energy Commission shall have the following powers and duties, in addition to any other power conferred to him/her by a provision of law or regulations:

- (a) Preside over, call, and establish the agenda for all the meetings of the Commission;
- (b) Identify and hire personnel, contractors, and resources as necessary to exercise the powers and duties of the Commission, and require the Executive Director of PREA to appoint or hire such personnel, contractors, or resources;
- (c) Represent the Commission in all matters related to legislation, legislative reports, and communications with other State or Federal agencies; and
- (d) Represent the Commission in activities, communications and agreements with other heads of agencies of the Commonwealth of Puerto Rico in matters under the jurisdiction of the Commission;
- (e) Appear before any private entity, public organization, court, board, committee, administrative organization, department, office or agency of the Commonwealth of Puerto Rico or of the United States Government in any hearing, procedure or matter that affects or could affect the agency;
- (f) Delegate to the Executive Director or other commissioner the powers established in this Section.

**Section 6.10. — Personnel of the Energy Bureau.** (22 L.P.R.A. § 1054i)

- (a) PREB shall appoint administrative and technical personnel as needed to achieve the purposes of this Act.
- (b) PREB’s technical personnel shall be specialized in the matters under its jurisdiction and carry out the tasks and functions delegated to them by the PREB.
- (c) PREB shall promulgate a code of ethics to regulate the relations between the personnel appointed to PREB and the companies under the regulatory jurisdiction of PREB.
- (d) The activities of all the personnel of PREB shall be subject to the restrictions provided in [Act No. 1-2012, as amended, known as the “Organic Act of the Government Ethics Office.”](#)

[Amendments: [Act No. 211-2018](#)]

**Section 6.11. — Delegation of Powers.** (22 L.P.R.A. § 1054j)

- (a) PREB may issue orders to assign, refer, or delegate the resolution of any adjudicative or non-adjudicative matter to one or more of the commissioners. In said orders, PREB shall specify the name of the commissioner and the specific powers of PREB that are being delegated to him. PREB may delegate to its commissioners the following powers:
  - (1) administer oaths and take depositions;
  - (2) issue summons;
  - (3) receive and evaluate evidence;
  - (4) preside over hearings; and
  - (5) hold conferences to simplify procedures.

Any order issued by one or more commissioners pursuant to this Section shall be notified to PREB before it is made public, and PREB may modify, amend, or render the order ineffective by a majority vote of its commissioners.

- (b) *Hearing Officers.* —

PREB shall have the authority to refer or delegate any adjudicative matter to hearing officers. PREB shall assign and distribute among its hearing officers the tasks and matters to be delegated by PREB, after which the hearing officers shall be responsible for issuing recommendations regarding the adjudication of the case or a procedural incident subject to PREB’s assignment, referral, or delegation. In issuing a decision, PREB shall have full discretion to accept or reject the recommendations of hearing officers. Any hearing officer appointed to preside over a hearing or investigation shall have the powers expressly delegated to him by PREB in the designation order. Hearing officers shall be designated and shall carry out their duties as provided in [Act No. 38-2017, as amended, known as the “Government of Puerto Rico Uniform Administrative Procedure Act.”](#)

- (c) *Administrative Judges.* —

As provided in this subsection, PREB shall be empowered to delegate to administrative judges, with full decision-making powers, the adjudication of any matter, case, and dispute on behalf of PREB, as these may be delegated in accordance with the provisions of this subsection. Administrative judges may be trust employees or contractors of PREB. PREB shall be empowered to assign and distribute among the administrative judges the issues, cases, or disputes delegated in accordance with the provisions of this subsection. In exercising its

discretion, the Energy Bureau may delegate to administrative judges cases and disputes related to the review of customers’ electricity bills; cases and disputes alleging noncompliance by an electric power service company with the regulations of the Energy Bureau in connection with the quality of the services provided to its customers; cases and disputes alleging noncompliance by the Authority, its successor, subsidiaries, the transmission and distribution network Contractor or an electric power service company or customer with its obligations in connection with the interconnection of distributed generation systems or any other matter that PREB may provide. The Energy Bureau may delegate to its administrative judges any case or dispute in which the total value or cost of the remedies sought is twenty-five thousand dollars (\$25,000.00) or less. Administrative judges shall be appointed and shall carry out their duties as provided in [Act No. 38-2017, known as the “Government of Puerto Rico Uniform Administrative Procedure Act.”](#)

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#), Sec. 5.15]

**Section 6.12. — Office of the Energy Bureau.** (22 L.P.R.A. § 1054k)

In order to promote greater transparency and autonomy in the exercise of its functions, PREB offices and facilities shall operate separately from those of any natural or juridical person under its jurisdiction. Such offices shall be located in existing facilities belonging to the Government of Puerto Rico.

[Amendments: [Act No. 211-2018](#)]

**Section 6.13. — Certification.** (22 L.P.R.A. § 1054l)

- (a) Every electric power company in Puerto Rico shall obtain a certification from the Energy Commission in order to provide services. The Commission shall not deny an application for certification to provide services for arbitrary or discriminatory reasons, or for the purpose of preventing competition.
- (b) As of the approval of this Act, the Commission shall adopt the necessary regulations to specify the form, deadline, content, and procedures to file applications for certification, which shall be applied uniformly in accordance with the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act” [Note: Repealed and replaced by [Act No. 38-2017](#)]. Such procedures shall ensure that the application for certification is thoroughly and diligently evaluated within a reasonable short timeframe. Every application filed with the Commission shall be considered granted thirty (30) after the date on which such application was filed, except when, before such term elapses, the Commission orders the stay of such term to obtain more information that enables it to consider the application on its merits.
- (c) Every applicant shall provide attesting evidence of his/her moral probity, financial solvency, and technical experience in the field for which a certification is requested. The Commission shall issue a certification if it determines that, in addition to substantially meeting the uniform criteria thus established, the certification is consistent with the mandate of the applicable legislation, the applicable rules and regulations, the objectives of the public interest sought by this Act, and the protection of the interests of consumers.

- (d) Every electric power company operating in Puerto Rico before the effective date of this Act may apply for a certification within ninety (90) days after the adoption of the certifications regulations drafted and implemented by the Energy Commission. Once the application is submitted, it shall be granted automatically. It shall not constitute a violation of this Act, if an electric power company continues providing the service it provided:
  - (1) Before the adoption of the regulations required by this Section;
  - (2) Before the due date to submit the application for certification as provided in this Section; and/or
  - (3) Before the Commission acts on the application filed by said natural or juridical person to provide said services.
- (e) The Commission, in accordance with the provisions of this Act, may modify, suspend, or revoke certifications issued for just cause to an electric power company after it is notified and given an opportunity to present its arguments in a public hearing or meeting with the Commission.
- (f) The Commission may charge a just and reasonable fee for the evaluation, processing, and issue of certifications to defray administrative expenses incurred in said processes.

**Section 6.14. — Amendment, Suspension, and Revocation of Decisions, Orders, and/or Certifications.** (22 L.P.R.A. § 1054m)

- (a) The Commission may revoke any decision, order, or certification on the following grounds:
  - (1) Knowingly making false or fraudulent statements on the application or any written statement of facts filed in connection with such application;
  - (2) Willingly and repeatedly omitting or failing to substantially comply with the decision, order, or certification of the Commission;
  - (3) Violations of or failure to comply with any of the provisions of this Act;
  - (4) Violations of or failure to comply with any of the rules, orders or regulations of the Commission; or
  - (5) Refusal to provide services to any citizen for reason of race, color, sex, sexual orientation, gender identity, birth, origin, social status, physical or mental disability, political or religious beliefs, military or veteran status, or for being a victim or perceived to be a victim of domestic violence, sexual abuse, or stalking.
- (b) The Commission may order said person to cease and desist said conduct as provided in subsection (a) of this Section.
- (c) Prior to revoking a decision, order, or certification pursuant to the provisions of subsections (a) and (b) of this Section, or issuing an order to cease and desist under the provisions of this subsection, the Commission shall notify the grounds for its decision to the affected party through an order to show cause of the reasons for which said decision, order, or certification should not be revoked. The order to show cause shall require the affected party to appear before the Commission on the date and place indicated thereon to present evidence on the issue specified in the order. The date fixed for appearance shall not be less than ten (10) days from the date of the notification, except in situations where there may be risks to life or property, in which case the order shall provide a shorter term. After the affected party appears before the Commission, if the latter determines that a revocation order or an order to cease and desist

should be issued, it shall do so along with a detailed account of its findings of facts and grounds for the issue thereof and specifying its effective date. Said order shall be notified to the affected party within ten (10) days from the date of issue of such determination.

- (d) The Commission shall have a thirty (30)-day term to notify and issue a final determination suspending, amending, or revoking any decision, order, or certification. Notice shall be provided in writing stating the reasons on which said determination is based.

**Section 6.15. — Rules of Confidentiality.** (22 L.P.R.A. § 1054n)

If any person who is required to submit information to the Energy Commission believes that the information to be submitted has any confidentiality privilege, such person may request the Commission to treat such information as such, subject to the following:

- (a) If the Energy Commission, after the appropriate evaluation, believes such information should be protected, it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.
- (b) To such purposes, the Energy Commission shall provide access to the document or the privileged portion of the document only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.
- (c) The Energy Commission shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the Energy Commission who needs to know such information under nondisclosure agreements. However, the Energy Commission shall direct that a non-confidential copy be furnished for public review.
- (d) The Energy Commission shall swiftly act on any privilege and confidentiality claim made by a person subject to its jurisdiction by means of a resolution to such purposes before any allegedly confidential information is disclosed.

**Section 6.16. — Budget and Regulatory Fees.** (22 L.P.R.A. § 1054o)

- (a) The Energy Bureau shall impose and collect fees pursuant to the provisions of this Section in order to generate sufficient income to defray the operating and administrative expenses of the Bureau.
- (b) The annual fee shall be fixed by the Energy Bureau proportionally on the basis of the gross income generated by any person under its jurisdiction from the provision of electric power services, or electric power transmission services, as determined by the Energy Bureau. These fees shall be paid to the Energy Bureau on a quarterly basis, pursuant to the regulations promulgated by the same. The Energy Bureau shall review annually the fee to be imposed on persons under its jurisdiction, in accordance with this Section.
- (c) Every year, the Electric Power Authority shall set aside five million eight hundred thousand dollars (\$5,800,000) from its income to be transferred to a special account created in the Department of the Treasury to defray the operating expenses of the Energy Bureau. The Authority shall annually remit from these resources the sum of two million nine hundred thousand dollars (\$2,900,000) to the Department of the Treasury by July 15. The balance of

the two million nine hundred thousand dollars (\$2,900,000) shall be remitted to the Department of the Treasury by December 15 of each year. However, on Fiscal Year 2014-2015, the Authority shall pay the first installment of the annual fee, in the amount of two million nine hundred thousand dollars (\$2,900,000) within ten (10) days after the approval of this Act. In addition, the Bureau shall charge the Authority or the Corporation for any services provided in relation to any request of the Corporation in connection with the evaluation and enforcement of a Restructuring Order or Creditors’ Agreement, as well as any verifications made to ascertain compliance with the calculation of the Transition Charge and the Adjustment Mechanism approved under the Restructuring Order or Creditors’ Agreement. To that effect, not later than sixty (60) days after receiving the Energy Bureau invoice, the Authority or its successor shall remit to the Energy Bureau, a sum that shall not exceed five hundred thousand dollars (\$500,000) for the Energy Bureau’s review of the Corporation’s petition. Every year thereafter and not later than sixty (60) days after receiving the Energy Bureau’s invoice, the Authority shall remit to the Energy Bureau, a sum that shall not exceed one hundred thousand dollars (\$100,000) for the verifications made by the Energy Bureau to ascertain compliance with the calculation of the Transition Charges and the

Adjustment Mechanisms approved under the Restructuring Order or Creditors’ Agreement. The Authority shall obtain the necessary funds to pay the Energy Bureau from the revenues arising from the subsidies item on its rate.

(d) Any other person or electric power service company that earns profit from the rendering of electric power services as defined in this Act or as defined by the Energy Bureau shall pay a fee to the Bureau that shall not exceed point twenty five percent (.25%) of its annual gross income earned from the provision of such services in Puerto Rico. No electric power service company that has entered into a power purchase agreement, an interconnection agreement, a wheeling agreement, or any other agreement for rendering electric power services with the Authority or its successor may claim a refund for or include the expenses incurred in connection with the annual fee paid to the Energy Bureau in the computation of rates, the capacity fee, energy fee or any other fee or sum of money that such electric power service company collects from the Authority or its successor under such power purchase agreement, interconnection agreement, or wheeling agreement or an agreement for rendering electric power services. This provision shall apply to any electric power company under the jurisdiction of the Energy Bureau; provided that the contractual obligations with existing cogenerators arising from any agreements that are in effect as of the approval of this Act are not impaired.

(e) Beginning Fiscal Year 2019-2020, the annual budget of the Energy Bureau shall be twenty million dollars (\$20,000,000) which shall be computed on the basis of a regulatory fee to be determined by the Bureau, from the annual gross income of the Electric Power Authority created by virtue of [Act No. 83 of May 2, 1941](#), and electric power service Companies in Puerto Rico. The Electric Power Authority or any electric power service company that operates the transmission and

distribution network shall be required to collect from other electric power companies, pay and transfer the regulatory fee to the Energy Bureau as follows: a first payment of ten million dollars (\$10,000,000) on or before July 1st of each year and a second payment of ten million dollars (\$10,000,000) on or before January 1<sup>st</sup> of each year. Any delay in the payment of the regulatory fee shall entail a penalty equal to the interest rate applicable to private obligations

as established by the Office of the Commissioner of Financial Institutions. The provisions of this Section shall apply to every electric power service Company under the jurisdiction of the Energy Bureau; provided that the contractual obligations to existing cogenerators under agreements in effect as of the effective date of this Act are not impaired. No agreement entered into under [Act No. 120-2018](#), shall exempt contracting companies from the payment of the regulatory fee described in this Section.

- (f) The Secretary of the Treasury shall deposit in a special account denominated as the ‘Special Energy Bureau Reserve Fund,’ the moneys collected by virtue of this Act, which shall be used solely and exclusively to defray the operating expenses of the Energy Bureau and shall be deemed to be de jure allocated for such purposes. Beginning Fiscal Year 2019-2020, the funds collected by virtue of this Act shall be deposited in an account of the Energy Bureau.
- (g) Any person under the jurisdiction of the Energy Bureau shall submit the information required by the Energy Bureau in the manner and on the forms that the Energy Bureau prescribes so that it can identify the amount of the fees established under this Section.
- (h) Persons under the jurisdiction of the Energy Bureau shall comply with and satisfy the payment of the fees imposed within a term that shall not exceed thirty (30) days after notice to such purposes. Any delay in the payment of said fees shall be subject to the payment of interest and penalties as determined by the Energy Bureau through regulations. The payment of such fees shall be made in the manner that the Energy Bureau specifies in any notice of fees.
- (i) The budget of the Energy Bureau shall be independent from the General Budget of the Government of Puerto Rico, the budget of any other entity, agency, instrumentality, or public corporation of the Government of Puerto Rico and shall not be subject to approval by the Executive/Governor or the Legislative Assembly. However, the Bureau shall be required to answer and furnish any information requested by any Executive agency with relevant authority or to any request of the Legislative Assembly, and shall ensure that its budget and expenditures are published in its webpage and that it readily accessible to the general public.

[Amendments: [Act No. 152-2014](#); [Act No. 4-2016](#); [Act No. 17-2019](#), Sec. 5.16]

**Section 6.17. — Audited Statements.** (22 L.P.R.A. § 1054p)

Within one hundred eighty (180) days after the approval of this Act, any person under the jurisdiction of the Commission shall submit audited statements to the Commission so that the latter may determine the amount of the contribution to be made by each person according to the applicable percentage thereof.

**Section 6.18. — Electronic Filing System.** (22 L.P.R.A. § 1054q)

The Puerto Rico Energy Bureau shall establish an electronic filing system whereby persons may access a website to file the corresponding documents to bring an action before PREB, and where the parties may submit any pleadings and documents pertaining to the procedural aspects of the case; and PREB may notify the parties of any orders or resolutions issued. For the purpose of facilitating access to the electronic filing system to persons who lack the means or skills to use the electronic filing system, PREB shall enter into interagency agreements with any other instrumentality of the Government of Puerto Rico or nonprofit organizations so that these may

offer help to the people who resort to their main or regional offices seeking assistance for the use of the website and the electronic filing system, and provide the people with one or more computers to carry out the electronic filing process.

[Amendments: [Act No. 211-2018](#)]

**Section 6.19. — Scheduling and Holding of Administrative Hearings.** (22 L.P.R.A. § 1054r)

The Commission shall prescribe through regulations an administrative hearing circuit system that allows for the scheduling and holding of administrative hearings on pending cases before the Commission in the different regions of the Commonwealth of Puerto Rico.

**Section 6.20. — General Provisions on Administrative Procedures.** (22 L.P.R.A. § 1054t)

Any process for which this Act does not specifically provide, shall be governed by [Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act.’](#) Therefore, Act No. 38-2017, supra, shall govern the procedures pertaining to the adoption of regulations, adjudications, judicial review, the granting of franchises, certifications, grievances from subscribers and between electric power companies, and inspections. Provided, that, given PREB’s compelling need to start operations, the mechanism established in Section 2.13 of Act No. 38-2017, may be used to adopt the first regulations of PREB without the need for the Governor to issue any certification. As provided in the aforementioned Act, the decisions and orders of PREB shall be subject to review by the Court of Appeals of Puerto Rico.

[Amendments: [Act No. 152-2014](#); [Act No. 211-2018](#)]

**SUBCHAPTER C. — Electric Power Service Companies.**

**Section 6.21. — General Obligations of Electric Power Service Companies.** (22 L.P.R.A. § 1054t)

- (a) Every certified electric power company shall provide customers or consumers with an adequate, safe, reliable, efficient, and nondiscriminatory electric power service;
- (b) Every rate or charge required or collected for any service provided or to be provided, and the rules adopted by every electric power service company regarding the provision of such services shall be just, reasonable, and nondiscriminatory; and
- (c) No certified electric power company shall give unjust or unreasonable preference or advantage to any person; neither shall such company subject any person to unjust or unreasonable prejudice or disadvantage in any aspect.

**Section 6.22. — Information to be Filed with the Energy Commission.** (22 L.P.R.A. § 1054u)

- (a) Every electric power service company and every transmission and distribution network Contractor shall submit the following information to the Energy Bureau, subject to the terms provided by the latter:
- (1) Plans that establish the parameters and goals of the company to meet the electricity and public policy needs of the Government of Puerto Rico within a specific time period;
  - (2) Future operating budgets during the period of time determined by PREB through regulations;
  - (3) Studies on service costs that show the relation between the current costs of the company and the income earned on account of rates or charges;
  - (4) Energy demand, efficiency, and/or conservation management plans and goals; load management programs and technologies; gas emission or environmental pollutants reduction; resource diversification; and use of renewable energy sources, as applicable;
  - (5) Reliability reports on the system’s average frequency;
  - (6) Reports describing applications for wheeling filed with PREPA and the results of the applications; and
  - (7) Annual reports describing the conditions and maintenance of the transmission and distribution network; and
  - (8) Any other specific information, data, document, or report that PREB may deem necessary in the exercise of its duties, as applicable to the electric power company.

[Amendments: [Act No. 17-2019](#), Sec. 5.17]

**Section 6.23. — Integrated Resource Plan.** (22 L.P.R.A. § 1054v)

- (a) The electric power company responsible for operating the Electrical System shall submit to PREB an Integrated Resource Plan (IRP) consistent with Section 1.9 of the [Puerto Rico Energy Public Policy Act](#). The electric power company shall devise the IRP with the input of the companies that operate the power plants.
- (b) PREPA shall submit its first IRP to PREB within one (1) year after July 1, 2014.
- (c) Initially, PREB, addressing the comments of interested persons and organizations, shall review, approve and as applicable, modify said plans to ensure full compliance with the public policy on energy of Puerto Rico and the provisions of this Act.
- (d) Upon the approval of the Integrated Resource Plan, the PREB shall supervise and oversee compliance therewith. The Integrated Resource Plan shall be reviewed and updated every three (3) years, in which case the electric power company responsible for operating the Electrical System shall submit to the PREB a proposal to modify and update the Integrated Resource Plan. The Bureau shall review and issue a final determination in accordance with the process established in Section 1.9 of the [Energy Public Policy Act](#) and the regulations adopted by the Bureau for such purposes. After issuing a final determination on the matter, the Bureau shall post on its website a detailed report on compliance with the Integrated Resource Plan and the modifications made thereto after the review process.

Provided, that in the event of a substantial change in energy demand or group of resources, the aforementioned review process shall be carried out before the three (3)-year period provided herein

in order to address and/or mitigate the changes in energy demand or group of resources that are needed to supply energy demand. The Integrated Resource Plan review shall show the changes in the energy market conditions, changes in technology, environmental regulations, fuel costs, capital costs, the incorporation of generation based on renewable energy sources and the components of the electric power grid to comply with the Renewable portfolio standard, distributed generation, energy efficiency and other factors.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#), Sec. 5.18]

**Section 6.24. — Power to Investigate.** (22 L.P.R.A. § 1054w)

- (a) The Energy Bureau shall, from time to time, visit the facilities of certified electric power companies and investigate the necessary documents to verify compliance with the orders, rules, and regulations established by the Energy Bureau.

The Energy Bureau may enter said facilities during reasonable hours to conduct tests and audits, and may install and use in said facilities any device needed to carry out its duties, as well as to take the necessary measures to ensure compliance with the established rules.

- (b) The Bureau may, at any time or place, (i) examine under oath, whether through a formal interview or summons, all officials and employees of a certified electric power company as well as the Puerto Rico Electric Power Authority Revitalization Corporation; (ii) require certified electric power companies, and the transmission and distribution network Contractor, as well as the Puerto Rico Electric Power Authority Revitalization Corporation, to produce any copies of any records, documents, information, or data deemed necessary by the Energy Bureau to fulfill the responsibilities thereof under this Act, subject to any constitutional or statutory right, or applicable privilege; and (iii) issue summons requiring the appearance and testimony of witnesses to obtain the information needed to enforce the provisions of this Act. If any person refuses to comply with a summons of the Energy Bureau, the Bureau may resort to the Court of First Instance and request a court order compelling any person to appear before the Energy Bureau to give testimony, produce evidence, or both, in connection with the matters before its consideration. Summons may be served in the same manner as these are served under the applicable rules of civil procedure.
- (c) The Commission may investigate and determine the value of useful property in the facilities of all certified electric power companies. To conduct this evaluation, it shall take into account the original cost of the property, the depreciation thereof, and any other valuation factor that the Commission may deem to be related to such value.
- (d) If the Commission obtains information about any undue situation, action, or omission that is outside of its jurisdiction, such situation shall be duly referred along with its corresponding account of facts to the agency or entity with competent jurisdiction in order to be duly addressed.
- (e) The Commission shall have jurisdiction to investigate any matter related to compliance with the laws that apply to the enforcement of the public policy on energy and the purposes of this Act.

[Amendments: [Act No. 4-2016](#); [Act No. 17-2019](#), Sec. 5.19]

**Section 6.25. — Review of Electricity Rates.** (22 L.P.R.A. § 1054x)

(a) *In General.* — The Energy Bureau shall be in charge of following the process established herein to review and approve the electric power service companies’ proposed rate reviews. The Energy Bureau shall ensure that all rates are just and reasonable and consistent with sound fiscal and operational practices that provide for a reliable and adequate service at the lowest reasonable cost. The regulations of the Energy Bureau for the rate review process shall comply with such principles.

(b) *Rate Review Process.*

In the case of the Authority, its successor, or the transmission and distribution network Contractor, the rates in effect as of the approval of the Energy Transformation and RELIEF Act shall continue in effect until the same are reviewed by the Energy Bureau in accordance with the provisions of the Energy Transformation and RELIEF Act.

The first rate review process shall begin no later than one hundred eighty (180) days after the date on which the Energy Bureau determines through resolution that the request of the Authority is complete. The provisions of this Section that, due to their nature, only apply to the Authority shall not apply to rate review requests submitted by certified companies. During any rate review process, the burden of proof shall lie on the requesting electric power service company to show that the proposed rate is just and reasonable, consistent with sound fiscal and operational practices that provide for a safe and adequate service at the lowest reasonable cost. The requesting electric power service company shall submit all the information requested by the Energy Bureau including, as applicable, but not limited to evidence and documents related to:

- (1) the efficiency, capacity, and suitability of the facilities and service;
- (2) direct and indirect costs related to the generation, transmission and distribution of energy, including marginal costs, stranded costs and costs attributable to the loss of energy due to theft or inefficiency;
- (3) the expenditures related to the Authority’s debt repayment, itemizing separately the cost of bonds and other obligations that shall be part of the securitization provided in Chapter IV of the Electric Power Authority Revitalization Act;
- (4) all charges and costs included under the ‘Fuel Adjustment’ as of the effective date of this Energy Transformation and RELIEF Act;
- (5) the requesting electric power service company’s capacity to improve the service provided and its facilities;
- (6) the conservation of energy and the efficient use of alternative energy resources and compliance with the Renewable portfolio standard;
- (7) data related to the effect of special laws, subsidies, and contributions; and
- (8) any other data or information that the Energy Bureau deems to be necessary to evaluate and approve rates.
- (9) citizen participation in the rate review process. In the case of retail electricity suppliers, the approved rate shall be itemized in the electricity bill sent to the consumer so as to show each one of the charges that constitute such bill, in accordance with transparent bill requirements rescribed by the Bureau through regulations, which shall comply with the principles provided in Section 1.10 of the [Puerto Rico Energy Public Policy Act](#)

and Section 6 of [Act No. 83 of May 2, 1941, as amended](#). The Bureau shall approve a rate that: (i) allows electric power service companies to recover all operating and maintenance costs, capital investments, financing costs, statutory costs, as well as any other cost lawfully incurred in the provision of electric power services and that, except for statutory costs, have been determined by the Bureau to be prudent, reasonable, and consistent with the sound fiscal and operating practices which help provide a reliable service at the lowest possible cost; (ii) covers the costs of the contribution in lieu of taxes and other contributions and statutory subsidies; (iii) allows electric power companies to perform maintenance works and prudent capital investments as are necessary to provide electric power service in accordance with the parameters and quality standards established by the Energy Bureau; and (v)[sic] remains in effect for, at least, three (3)-year cycles, unless the Energy Bureau *motu proprio* decides to conduct a rate review.

In cases in which the rate includes fuel purchase adjustment and energy purchase adjustment clause, such clauses shall only include the portion of the charges directly related to fluctuations due to changes in the price of fuel and the purchase of energy, respectively, or that variable portion of the fuel and energy price that is not included in the base rate, as the case may be. No other expense or charge may be included under the fuel adjustment or energy purchase adjustment clause.

Every rate modification request approved by the Energy Bureau shall comply with subsection (c) of said Section.

During the rate review process and every three (3) years after the first rate review process, or more frequently, if the Commission deems it necessary, the Commission shall establish a mitigation plan to ensure that the costs it deems to be inconsistent with the industry practices, such as energy theft, account receivables, and losses attributable to the inefficiency of the electrical system are adjusted to the industry’s standards. The Authority shall comply with the mitigation plan within a term that shall not exceed three (3) years, to be determined by the Commission. The Commission shall periodically review the Authority’s compliance with the mitigation plan and publish the progress of the mitigation plan on the Commission’s website.

- (c) *Rate Modification.* — Every rate modification request previously approved by the Energy Bureau shall be filed with the Energy Bureau. The request shall state the grounds for the modification, the effect of such modification on the revenues and expenditures of the requestor, and any other information requested by the Energy Bureau through regulations or resolution. The Energy Bureau may initiate, *motu proprio*, or at the request of the Independent Consumer Protection Office or any other interested party, the rate review process when it is in the best interest of customers. Any modification to a rate proposed, whether to increase or decrease the same, shall undergo a discovery and a public hearing process to be held by the Energy Bureau to determine whether the proposed change is just and reasonable and consistent with sound fiscal and operational practices that provide for a reliable and adequate service, at the lowest reasonable cost. The Energy Bureau shall provide an opportunity to allow the participation of ICPO, the Energy Public Policy Program, the citizens, and interested parties in the process. The review and the order issuance processes shall not exceed one hundred eighty (180) days from the Energy Bureau’s determination by resolution that the rate review request is complete;

provided, however, that the Energy Bureau may extend the review process for an additional term that shall not exceed sixty (60) days.

- (d) *Temporary Rate Adjustment.* — At the request of an electric power company, the Bureau may authorize an electric power service rate adjustment due to emergency or temporary events. Such request must be accompanied by all the documentation and information available that, in the judgment of the electric power company requesting it, warrants the temporary rate adjustment. The Bureau’s preliminary determination authorizing or rejecting the proposed temporary rate adjustment shall be duly grounded, and issued and published not later than ten (10) days after the adjustment has been requested. If a temporary rate adjustment is approved, the Energy Bureau shall direct the requesting electric power company to issue a public notice informing the change and explaining, in general terms, the reasons that led to such temporary rate adjustment. If it is determined that a temporary rate adjustment is warranted, the Bureau shall hold public hearings within a term that shall not exceed thirty (30) days from the effective date of the temporary rate adjustment, where the requesting company and the general public shall have the opportunity to present evidence or expert testimony and documentary evidence supporting their respective positions. The Bureau shall issue a final determination as to whether a temporary rate adjustment is warranted within a term not to exceed sixty (60) days after the hearing process ends. If it is determined that the temporary rate adjustment is warranted, the Bureau shall fix the duration and amount thereof. If the temporary rate adjustment is rejected, the Bureau shall determine whether the rates shall be adjusted for consumers to offset any difference resulting from the period in which the preliminary temporary rate adjustment was in effect. Failure to hold the public hearings shall render the temporary rate adjustment void. The effective term of temporary rate adjustment shall not exceed one hundred eighty (180) days as of the authorization thereof by the Bureau. The temporary rate adjustment herein established herein shall not be considered as a temporary rate.
- (e) *Temporary Rate.* — Within thirty (30) days after the filing of the rate modification request, the Energy Bureau may make, *motu proprio*, or at the request of a requesting certified company, a preliminary evaluation to determine whether a temporary rate should be established. The Energy Bureau shall exercise its discretion in establishing the temporary rate, unless the requestor contests the establishment of the temporary rate or the amount thereof, in which case the Energy Bureau shall decide whether it shall revise the amount of the temporary rate or desist from establishing the same. If the Energy Bureau establishes a temporary rate, such rate shall take effect sixty (60) days after the date of approval of the temporary rate, unless the Energy Bureau determines, at the request of the requestor, that the temporary rate should take effect earlier, but never within less than thirty (30) days after the approval of the temporary rate. Said temporary rate shall remain in effect during the period of time needed by the Energy Bureau to evaluate the rate modification request proposed by the requestor and up to the date on which the new bill is implemented, which shall not exceed sixty (60) days after the approval thereof.
- (f) *Final Determination of the Bureau.* — Upon concluding the public hearing process, the Energy Bureau shall issue its final determination with regards to the rate review request and establish the electricity rate it deems just and reasonable. Such a determination shall be duly grounded and comply with all the safeguards of the due process of law applicable to the final determinations of administrative agencies. The Bureau shall publish and notify its

determination on its webpage, together with the authorized rate duly itemized pursuant to the transparent bill requirements. The newly approved rate shall take effect sixty (60) days after the effective date of the Bureau’s order. The Energy Bureau may extend or reduce such term at the request of the rate change requestor, but it shall never be less than thirty (30) days after the effective date of the Bureau’s order. Upon issuing a final order after the rate review process, the Energy Bureau shall direct the requesting company to adjust customers’ bills so as to credit or charge any discrepancy between the temporary rate established by the Bureau and the permanent rate approved by the Energy Bureau.

- (g) *Inaction of the Energy Bureau.* — If the Energy Bureau fails to act on a rate review request within thirty (30) days after the filing thereof, the modified rate object of the request shall take effect immediately as a temporary rate, unless the requestor requests that a temporary rate should not be established due to the reasons stated in its request. The Energy Bureau shall continue the review process and shall issue the corresponding order within the term specified in this Section. If the Energy Bureau fails to approve or reject within the term of one hundred eighty (180) days after the date on which the Energy Bureau notifies its determination by resolution that the request is complete, the rate proposed shall become final. If the Bureau extends said one hundred eighty (180)-day period, in accordance with the provisions of this Section, and does not approve or denies the proposed rate before the additional term expires, the proposed rate shall become final.
- (h) The Energy Bureau shall publish every month on its website an itemization of all rates or changes approved or modified.

[Amendments: [Act No. 4-2016](#); [Act No. 17-2019](#), Sec. 5.20]

**Section 6.25A. — Rate Determination and Review of Transition Charges and Adjustment Mechanism.** (22 L.P.R.A. § 1054x-1)

- (a) For purposes of this Section, the following terms shall have the meaning set forth in Chapter VI of the Electric Power Authority Revitalization Act: (i) Corporation; (ii) Transition Charges; (iii) Adjustment Mechanism; (iv) Restructuring Bond; (v) Restructuring Resolution; (vi) Financing Costs; (vii) Ongoing Financing Costs; (viii) Transition Charge Revenues; (ix) Servicer; (x) Servicing Agreement; (xi) Upfront Financing Costs; (xii) Customer; and (xiii) Restructuring Property.
- (b) Prior to the issue of any Restructuring Bond, the Corporation shall submit a request to the Commission asking the latter to issue an order or resolution (Restructuring Order) whereby the Commission shall conclude and determine the following:
  - (1) that the clauses of the Restructuring Resolution, including the calculation methodology for the Transition Charges and the Adjustment Mechanism, are consistent with the criteria provided in subsection (d) of this Section, and are sufficient and provide the proper protection for full and timely payment of Restructuring Bonds, in accordance with the terms thereof, and other Ongoing Financing Costs;
  - (2) that the proposed Upfront Financial Costs and the Ongoing Financial Costs, to be recovered from the revenues of the Restructuring Bonds and from the revenues of the

Transition Charge are consistent with this Section 6.25A and Chapter IV of the Electric Power Authority Revitalization Act; and

- (3) that the proposed service charges, to be recovered by the Authority in its capacity as initial Servicer are necessary, reasonable, and sufficient to compensate the Authority for the incremental costs of discharging its functions as Servicer.
- (c) The request shall include a copy of the initial Restructuring Resolution proposed, which shall be consistent with the provisions of this Section 6.25A, Section 34, and Chapter IV of the Electric Power Authority Revitalization Act, and shall include the documents listed in subsection (e) of Section 6.25A. The request shall be deemed to be complete when filed with the Commission along with all of the corresponding complementary documents. If the Commission determines that the request is incomplete, the Commission shall notify said fact to the Corporation within five (5) days, counted from the filing date, and shall identify specifically which of the information required in subsection (e) of this Section the Commission deems to be missing from the request filed by the Corporation. The ‘Corporation’s Request Date’ shall be the latest of (A) the date of filing of the request, or (B) if the Commission notifies the Corporation within said five (5)-day term requiring the Corporation to furnish information that was not included in the request, seven (7) days after said request, even if the Commission requests additional information.
- (d) The methodology to calculate the Transition Charges and the Adjustment Mechanism included in the Restructuring Resolution shall (i) be designed to provide for full and timely payment of Restructuring Bonds, in accordance with the terms thereof, and other Ongoing Financing Costs, and (ii) satisfy the following criteria to allocate the Financing Costs among the Customer classes and to calculate and adjust the Transition Charge:

  - (1) The portion of the Financing Costs to be recovered from each Customer class shall be calculated based on the energy usage history (kWh) data for each class of Customers during the twelve (12) most recent months for which such information is reasonably available, as such information is provided by the Authority to the Corporation and the Commission, and in a manner that is practical to administer and would ensure full and timely payment of the Restructuring Bonds, in accordance with the terms thereof, and other Ongoing Financing Costs;
  - (2) Once the portion of the Financing Costs to be recovered from each Customer class is calculated, the Transition Costs for Customers shall be based on the energy usage history (kWh) data for each class of Customers during the twelve (12) most recent months for which such information is reasonably available, as such information is provided by the Authority to the Corporation and the Commission; provided, that the Corporation may choose to calculate the Transition Charges for residential customers based on service agreements, calculated in a manner that is practical to administer and would ensure full and timely payment of the Restructuring Bonds, in accordance with the terms thereof, and other Ongoing Financing Costs; provided, further, that the allocation of the responsibility of the Transition Charges among Customer classes and Customers does not impair the discretion of the Commission when evaluating the allocation of the responsibility with respect to revenue requirements of the Authority in any rate case.

- (3)** Delinquency of any class of Customers, for any period, shall be added to the revenue requirement for the next period and shall be allocated among all Customer classes, as provided in paragraphs (1) and (2) of this subsection (d). The Commission shall require the Authority (or any other Servicer) to show that the Authority (or any other Servicer) has been prudent in addressing late payment, overdue bills, and non-payment issues; provided, that it is determined that the finding of imprudence does not affect the first sentence of this paragraph (3).
- (4)** When calculating Customer’s energy usage under paragraphs (1) and (2) of this subsection (d), the Corporation may choose to include the estimated load served by net metering or distributed generation (‘behind the meter’), if the methodology for such an inclusion is practical to administer, and would ensure the full and timely payment of the Restructuring Bonds in accordance with the terms thereof and other Ongoing Financing Costs.
- (e)** The request shall include the following:

  - (1)** A model Restructuring Resolution that includes:

    - (i)** A description and documentation supporting the Upfront Financing Costs and the proposed Ongoing Financing Costs, to be recovered from the revenues of the Restructuring Bonds or the Transition Charges, as the case may be;
    - (ii)** The determination of Customer classes among which the Ongoing Financing Costs shall be allocated and the allocation of the Ongoing Financing Costs among Customer classes;
    - (iii)** The calculation of Transition Charges for Customers (excluding residential Customers) based on energy usage history (kWh) data along with sufficient information to allow the Commission to reproduce said Charges;
    - (iv)** The calculation of Transition Charges for residential Customers based on energy usage history (kWh) data, or at the discretion of the Corporation, based on the service agreements, along with sufficient information to allow the Commission to reproduce said Charges;
    - (v)** A provision that delinquencies of any Customer class shall be allocated among all Customer classes as provided in subparagraph (ii) of this subsection (e)(1) and included in the Adjustment Mechanism;
    - (vi)** the Corporation’s determination of whether it shall include the estimated load served by net metering or estimated distributed generation (‘behind the meter’) in determining energy usage in accordance with subparagraphs (i), (ii), and (iii) of this subsection (e)(1) and in the Adjustment Mechanism. If the Corporation determines to include the estimated net metering or estimated distributed generation in determining energy usage in accordance with subparagraphs (i), (ii), and (iii) of this subsection (e)(1), an explanation of the reasons and the determination (with its corresponding justification) stating that the administration of the resulting Transition Charge shall be practicable and that the resulting Transition Charge shall ensure full and timely payment of the Restructuring Bonds in accordance with the terms thereof and other Ongoing Financing Costs, during the effective term of the Restructuring Bonds;

- (vii) the Corporation’s determination, along with the corresponding explanations, regarding the practicality of the allocation or calculation (as the case may be) with respect to the provisions of subparagraphs (ii), (iii), (iv), (v), and (vi), as the case may be, of this subsection (e)(1), to administer and ensure full and timely payment of the Restructuring Bonds in accordance with the terms thereof and all other Ongoing Financing Costs, during the effective term of the Restructuring Bonds;
- (viii) A commitment, enforceable by the Corporation, establishing that not later than ten (10) days, counted from the date of issue of the Restructuring Bonds, the Corporation shall file, or ensure that the Servicer files with the Commission, for information purposes only, a report stating in detail the final terms and conditions of the Restructuring Bonds, and establishing the final estimate of the Upfront Financing Costs and the estimate of the Ongoing Financing Costs during the effective term of the Restructuring Bonds;
- (ix) A commitment that (A) the Corporation shall provide the Commission with a copy of a successor Servicing Agreement, for information purposes only, and that (B) the Corporation shall file or ensure that the Servicer files with the Commission any report prepared by the Servicer, including any notice of any proposed adjustment to the Transition Charges, on the same date that said notice is submitted to the Corporation (such report shall state in detail all the Ongoing Financing Costs that are paid from the Transition Charges in a recurring manner);
- (x) A commitment, enforceable by the Commission, that any report that must be filed with the Corporation by the Trustee of the Restructuring Bonds shall also be filed with the Commission on the same date such reports are filed with the Corporation;
- (xi) A commitment, enforceable by the Commission, that (A) the Corporation and the Servicer shall file a joint report with the Commission, not later than March 1st of each year, stating, with respect to the previous calendar year, the balance of the principal of the Restructuring Bonds, any sum in connection with said Bonds that was paid during said calendar year, and the remainder of Ongoing Financing Costs payable during said calendar year; and (B) after the final and full payment of the Restructuring Bonds and any Financing Costs, the revenues of the Transition Charges deposited in, or to be received in the future by the Trustee, shall be credited and refunded to Customers as prescribed by the Commission, and the Corporation shall furnish any final accounting reports requested by the Commission; and
- (xii) A commitment, enforceable by the Commission, that any notice of a proposed adjustment to the Transition Charges, including the data or any work product used to calculate the Transition Charge, shall be delivered by the Corporation or the Servicer to the Commission at least thirty (30) days before the proposed effective date of the adjustment; provided, that (1) notwithstanding the thirty (30)-day term provided in this subparagraph, any information related to the initial Transition Charge shall be submitted not later than three (3) business

days after the valuation or award of the Restructuring Bonds and said initial Transition Charges shall take effect on the date of issue of the Restructuring Bonds; (2) the Commission’s review of the initial Transition Charges or any adjustment to the Transition Charges shall be limited to the verification of the mathematical accuracy of the calculation methodology used for the initial Transition Charges or the Adjustment Mechanism (as the case may be); and (3) if the Commission determines that the calculation methodology for the initial Transition Charges or any adjustment to the Transition Charges is mathematically inaccurate, any adjustment to correct the mathematical inaccuracy as directed by the Commission shall be made by the Corporation not later than the following application of the Adjustment Mechanism as provided in Chapter IV of the Electric Power Authority Revitalization Act.

- (2) The energy usage history (kWh) data of each Customer class that serves as the basis for the allocations set forth in subparagraphs (ii), (iii), and (iv) of this subsection (e)(1), as the case may be, certified by an Authority’s officer.
- (3) A report prepared by an independent financial consultant with recognized expertise in public electric utility corporations financing, whose representative shall testify before the Commission to support said report, in accordance with paragraph (9) of this subsection (e), stating the energy usage history (kWh) data, the projections of Ongoing Financing Costs and Transition Charges during the effective term of the Restructuring Bonds, and any material assumption used in the report, and concluding that such Transition Charges have been calculated as provided in subparagraphs (ii), (iii), (iv), and (v) of subsection (e)(1), as the case may be, and in accordance with the assumptions included in such report, which shall ensure full and timely payment of Restructuring Bonds, in accordance with the terms thereof, and all other Ongoing Financing Costs, during the effective term of the Restructuring Bonds.
- (4) A breakdown of the estimates of (i) the Upfront Financing Costs related to the issuance of the Restructuring Bonds, and (ii) the estimate of the Ongoing Financing Costs to be incurred during the effective term of the Restructuring Bonds, along with any estimate of the resulting Transition Charges and the estimated proportion that the total Transition Charges bear to the total Customer charges.
- (5) An exercise showing that the proposed transaction is expected to comply with the savings requirements set forth in Section 35 and Chapter IV of the Electric Power Authority Revitalization Act.
- (6) A duly grounded determination that the proposed servicing costs, to be recovered by the Authority as Servicer, shall be sufficient to compensate the Authority for the incremental costs reasonably associated with its functions as servicer, including a copy of the proposed Servicing Agreement.
- (7) All the projections and scenarios of resistance tests provided by the Authority or the Corporation to credit rating agencies in connection with the Transition Charges;
- (8) To the extent that the following have not been included:
  - i) Supporting documents, and non-binding estimates of:
    - (1) payments of the principal of and interest on the Restructuring Bonds and the date of such payments;

- (2) debt service coverage requirement, if any;
    - (3) issuance costs (including attorney fees, placement fees, cancelation fees, servicing fees, and any other costs or expenses);
    - (4) any payment made to the United States of America to maintain or protect the tax exemption of the debt obligations of the Authority pending payment or the Restructuring Bonds;
    - (5) account deposits (including amounts deposited in connection with capitalized interest or debt service fund or reserve account, operating expenses, fund or reserve account, and deposits to PREPA’s Self Insurance Fund; and
  - ii) the identification of the one-time costs (different from the ongoing costs) and an explanation of how said one-time costs shall be included in the Transition Charges (e.g. amortization v. one-time recovery).
- (9) A written testimony, based on sworn statements (which shall include attachments and the request, or any other document furnished therewith), of one or more employees of the Corporation, or the Authority, or any agent or consultant of the Corporation or the Authority, attesting to the conclusions of fact of the request and the determinations required to be made in the documents to be filed along with the request. Such testimony shall:
  - i) describe the Adjustment Mechanism and the calculation methodology thereof; describe each Upfront Financing Cost and the Ongoing Financing Cost that are expected to be incurred;
  - ii) furnish an estimate, along with the corresponding explanation, of how the Transition Charges shall change during the effective term of the Transition Charge;
  - iii) describe the estimated proportion that total Transition Charges bear to total Customer charges;
  - iv) compare the debt service and other Ongoing Financing Costs associated with the Restructuring Bonds, the debt service, and other Ongoing Financing Costs of the outstanding debt of the Authority to be financed with the Restructuring Bonds; and
  - v) explain the projections and the scenarios of the resistance tests provided by the Authority or the Corporation to credit rating agencies in connection with the Transition Charge.
- (10) It shall not be necessary that the draft of the Restructuring Resolution to be filed with the Commission includes models of any other financial document referred to in the Resolution, except for the proposed model for the Servicing Agreement and any other document supporting the required information under Section 6.25A, as required by the Commission, within a term of five (5) days after the filing of the request.
- (f) The process to review a request of the Corporation shall be the following:
  - (1) Within one (1) business day after the request is received by the Commission, the Commission, the Authority, and the Corporation shall publish on their respective websites a summary of the Corporation’s request to the Commission drafted by the former. The Commission shall notify the public of the upcoming public hearing or

hearings to evaluate the request of the Corporation at least fifteen (15) days prior to the holding of such hearings. Said notice shall include the matters to be discussed, as well as the time, date, and place of the hearing. The notice shall also comply with the following: (i) said notice shall be published in two (2) newspapers of general circulation in the Commonwealth at least twice (2) during such fifteen (15)-day period, (ii) said notice shall be exhibited during such fifteen (15)-day period in the main offices of the Commission, the Corporation, and the Authority in a conspicuous place accessible to the public during regular business hours, and (iii) a copy of such notice along with copies of the request, including the form of the initial Restructuring Resolution, and all supporting documents required to be filed along with the request shall be posted on the websites of the Commission, the Corporation, the Authority, and the Government Development Bank for Puerto Rico, safeguarding any confidential or privileged information included therein, if any.

- (2) Within seventy-five (75) days after the Corporation’s Request Date, the Commission shall issue a Restructuring Order stating the findings and determinations related to the Corporation’s request, filed in accordance with subsection (b) of this Section 6.25A or as otherwise required by this Section 6.25A, or shall adopt a resolution rejecting the request and stating the grounds therefor. The Commission shall not limit, qualify, amend, or otherwise modify the Restructuring Resolution.
- (3) The evaluation process to be conducted by the Commission shall be a transparent, swift, and flexible process, so that the citizens may express their opinions in writing during a specific period of time to be determined by the Commission following the process established herein. The evidence file of this procedure shall consist of the request and the documents submitted therewith, including the enclosed testimony and any other documents that the Commission deems to be relevant for this procedure. Any witnesses who have submitted testimonies shall be available to be examined by the Commission under oath on matters related to their testimony. The transcript of said examination shall be included in the evidence file.
- (4) The approval by the Commission of the Corporation’s request shall be final and irrevocable on the earliest of the following: (i) the express approval by the Commission, in accordance with subsection (f)(2), above, or (ii) the date on which the Commission has lost jurisdiction for failure to approve or reject the Corporation’s request, as described below. If within seventy-five (75) days after the Corporation’s Request Date the Commission has failed to adopt the Restructuring Order or has failed to adopt a resolution rejecting the request, such request shall be deemed to be approved as a matter of law, the Commission shall lose any jurisdiction over the request, and the Corporation may adopt the Restructuring Resolution as proposed in the request. Any party wishing to contest the Restructuring Order of the Commission or the Corporation’s request deemed to be approved, may do so following the process established in Section 35 and Chapter IV of the Electric Power Authority Revitalization Act. In any procedure for such purposes, the Court shall evaluate, taking into account the administrative file as a whole, whether the substantial evidence supports the Restructuring Order or the request deemed to be approved, as the case may be, and if so, the Court shall uphold the Restructuring Order or the request deemed to be approved.

- (5) Except as provided in paragraph (2)[sic] of subparagraph (xii) of subsection (e)(1) with respect to the mathematical accuracy of the Transition Charges, none of the provisions of this Chapter shall authorize the Commission to approve, modify, or alter any Transition Payment[sic], or to approve, reduce, or alter any Upfront Financing Costs or Ongoing Financing Costs or to interfere with the payment thereof.
- (g) In both instances, when the Commission issues a Restructuring Order or when a request is deemed to be approved, the Commission shall ensure that the Corporation and the Authority fulfill their obligations under the Servicing Agreement, including the obligation to collect carefully and diligently all late fees and charges. The Commission shall be empowered to direct the Corporation to replace the Authority as Servicer, *motu proprio*, through an order based on substantial evidence, or at the request of the trustee of the bonds or the bondholders, if the Authority fails to comply with its obligations under the Servicing Agreement; provided, that the appointment of the substitute Servicer meets the requirements and other conditions of the Servicing Agreement. None of the provisions herein shall impair the rights of the bond trustee, the bondholders, or any credit enhancement provider of the Restructuring Bonds to replace the Servicer under the terms of any trust agreement or any other financing document related to the Restructuring Bonds.
- (h) Costs related to the Aguirre Offshore Gasport may be financed with the Restructuring Bonds only if the Commission determines that (a) the project in question and the costs associated therewith are consistent with the integrated resource plan of the Authority, and (b) the securitization of said costs is adequate.
- (i) The Corporation shall contract an independent auditor, subject to the approval of the Commission. Said auditor shall file with the Corporation and the Commission, not later than August 15<sup>th</sup> of each year, a report including a verification that the Upfront Financing Costs and the Ongoing Financing Costs paid from the revenues of the Transition Charges during the calendar preceding the report date, are consistent with the financing documents related to the Restructuring Bonds. Likewise, at the discretion of the Commission, the Corporation shall enter into contract with an independent entity (which could be the same auditor), subject to the approval of the Commission, which shall file with the Corporation and the Commission, not later than August 15<sup>th</sup> of each year, a reasonability assessment of costs defined as ‘Financing Costs’ in Section 31 of Chapter IV of the Electric Power Authority Revitalization Act, which have been incurred in the previous year.
- (j) Beginning in 2017, on April 15<sup>th</sup> of each year, the Commission shall file with the Legislative Assembly a report whereby it shall evaluate the Authority and the Corporation’s compliance with their respective obligations under this Section 6.25A. The Commission shall have investigative powers to fulfill its obligation to ascertain compliance by the Corporation and the Authority with the referred to obligations during the previous calendar year.

[Amendments: [Act No. 4-2016](#), Art. 20 added this new Section]

**Section 6.25B. — Performance-Based Incentives and Penalty Mechanisms.** (22 L.P.R.A. § 1054x-2)

It is necessary to encourage energy companies to invest, in a cost effective manner, in infrastructure, technology, the incorporation of distributed generation, renewable energy sources,

and services that inure to the benefit of the electrical system and consumers. Thus, the Energy Bureau shall prescribe by regulations, on or before December 31, 2019, such incentive and penalty mechanisms that take into account electric power companies’ performance and compliance with the performance metrics set forth in the energy public policy.

In developing such performance-based incentives and penalties, the Energy Bureau shall take into account the following criteria, among others:

- (a) the volatility and affordability of the electric power service rates;
- (b) the economic incentives and investment payback;
- (c) the reliability of the electric power service; customer service and commitment, including options to manage electric power costs available to customers;
- (d) customers’ access to the electric power companies’ information systems including, but not limited to, public access to information about the aggregated customer energy and individual consumers’ access to the information about their electric power consumption;
- (e) compliance with the Renewable portfolio standard and rapid integration of renewable energy sources, including the quality of the interconnection of resources located in consumers’ properties;
- (f) compliance with metrics to achieve the energy efficiency standards established in this Act;
- (g) infrastructure maintenance.

Among the mechanisms to be used, the Bureau may consider using, but not limited to, the following:

- i. Decoupling mechanisms;
- ii. Performance-Based Regulation or PBR;
- iii. Time of Use Rates;
- iv. Prepaid Rates.
- v. Unbundled Rates;
- vi. Formula Ratemaking and rate review mechanism;
- vii. Reconciliation Mechanisms.

Electric power service companies, as determined by the Bureau through regulations, including those organized as energy cooperatives or those other entities determined by the Bureau shall be exempt from this provision.

*[Amendments: [Act No. 17-2019](#), Sec. 5.21 added this new Section]*

#### **Section 6.26. — Procedural Rules on Customer Complaint Resolution.** (22 L.P.R.A. § 1054y)

- (a) Within sixty (60) days after the approval of the Commission’s regulations that shall govern the review procedure established in this Section, every certified electric power company shall file with the Energy Commission the procedure to be followed for the resolution of customer complaints. Once such rules are filed, the Commission shall have thirty (30) days to approve the same. If the Commission does not approve such rules, it shall identify any deficiencies in the procedural rules proposed by the electric power service company and require them to be amended in accordance with the findings of the Commission.

- (b) Once the Commission approves the procedural rules of a certified electric power service company, such company shall publish the approved procedural rules on its website.

**Section 6.27. — Procedure to Request Review of Electricity Bills and Rules for Service Suspension.** (22 L.P.R.A. § 1054z)

- (a) Before resorting to the Energy Bureau to request review of an electricity bill, every person shall exhaust, before the certified electric power service company issuing the same, the informal administrative procedure established in this Section and the regulations adopted by the Energy Bureau. The provisions of Chapter III of [Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act,’](#) shall not apply to this informal administrative procedure.

- (1) Any customer may dispute or contest any charge, erroneous rate classification, mathematical calculation, or adjustment in an electricity bill and request an investigation by the certified electric power company within thirty (30) days from the date on which said bill was mailed or sent to the customer by electronic mail. Notwithstanding the foregoing, no customer may use this procedure to dispute or contest the current rate or the Transition Charge of the securitization structure billed by the Authority. In order to object the bill and request the appropriate investigation, the customer shall pay the amount corresponding to the average of the undisputed bills corresponding to the last six (6) months. The certified electric power company shall not be required to initiate such investigation until the established amount has been paid. Public entities or instrumentalities shall have forty-five (45) days to dispute their bills and request an investigation by the electric power service company.
- (2) The objection and request for investigation may be notified to the certified electric power company by certified mail, telephone, fax, or electronic mail, provided that such objection and request are submitted through the specific contacts provided therefor by the certified electric power company, and that the date of the remittal of the objection and request for investigation can be established with certainty.
- (3) Once the dispute has been notified and the corresponding amount deposited, the certified electric power company shall initiate the investigation or the appropriate adjudication process within a term of thirty (30) days from the date on which the customer notified his/her dispute. In the event that the certified electric power company fails to initiate the process within said thirty (30)-day term, the dispute shall be adjudicated in favor of the customer. The certified electric power company shall conclude the investigation or administrative procedure, issue the corresponding resolution, and notify the results to the customer within sixty (60) days counted from the date on which the investigation or adjudication process began. If the certified electric power company fails to issue the referred to resolution or to notify the same to the customer, the dispute shall be adjudicated in favor of the customer. When notifying the results of the investigation, the electric power service company shall inform the customer of his/her right to request reconsideration of said results and the term within which such reconsideration shall be requested.

- (4) If the customer is not satisfied with the result of the certified electric power service company’s investigation, he/she shall request said company, in writing, to have the initial decision reconsidered by a higher ranking officer. All requests for reconsideration shall be filed within a term of twenty (20) days from the notice of the certified electric power service company’s decision on the result of the investigation. The customer may submit and notify his/her request for reconsideration to the electric power service company by certified mail, fax, or electronic mail, provided that the same is submitted through the specific contacts provided therefor by the company.
- (5) The certified electric power service company shall have thirty (30) days after the filing of the request for reconsideration to evaluate the same and notify, in writing, its final decision on the results of the investigation to the petitioner. If the certified electric power company fails to issue the referred to notice in writing within the thirty (30)-day term, the dispute shall be adjudicated in favor of the customer. All final decisions shall clearly state the right of customers to file a request for review with the Commission and a brief description on how to file the same
- (b) Every invoice that a certified electric power service company issues to its customers shall conspicuously advise all customers that they have thirty (30) days to dispute the same, pay the amount corresponding to the average of undisputed bills during the last six (6) months, and request the electric power service company to conduct an investigation, all of this without affecting the service.
- (c) The filing of an objection of a bill and a request for investigation with a certified electric power company shall not release objecting customers from their obligation to pay future electricity bills issued by such company.
- (d) When submitting complaints to the Commission, petitioning customers shall ensure that they have met the requirements of this Section. Likewise, the respondent electric power service company shall establish in its first appearance before the Commission that it has faithfully met the requirements of this Section.
- (e) The Commission shall review de novo the certified electric power company’s final decision on the objection and the result of the investigation.
- (f) If the customer fails to pay the bill and to follow or exhaust the procedure established to dispute bills, the certified electric power company may suspend the electric power service until the customer pays the bill. Prior to suspending the service, the certified electric power company shall send the customer a written warning regarding the eventual service suspension. The certified electric power company shall not mail such warning before the thirty (30)-day term the customer has to pay or object and request an investigation of the bill pursuant to subsection (a)(1) of this Section.
- (g) The certified electric power company shall disconnect service within ten (10) days from the notice of disconnection. The electric power company shall give the customer notice of disconnection of service forty-eight (48) hours prior to disconnection by automated phone call to the phone number associated with the customer’s account and by any electronic method available. It shall be the customer's responsibility to keep his or her contact information up to date for this provision to be effective. Service shall not be disconnected on Fridays, Saturdays, Sundays, holidays, or the business day before a holiday. The electric power company shall not be allowed to charge a reconnection fee if it fails to meet this requirement.

[Amendments: [Act No. 152-2014](#); [Act No. 4-2016](#); [Act No. 17-2019](#), [Act No. 170-2019](#)]

**Section 6.28. — Customer Service.** (22 L.P.R.A. § 1054aa)

- (a) *Customer Service of the Energy Bureau.* — PREB shall promulgate rules or regulations as are necessary to guarantee the protection of the rights of persons or customers that receive electric power services in the Government of Puerto Rico. PREB shall adopt by regulations the customer service rules and policies that shall protect the rights of customers and ensure effective communication with and the participation of all customers PREB shall adopt such regulations in consultation and in conjunction with the Puerto Rico Public Service Regulatory Board. The following initiatives shall be part of the policies that PREB shall establish through regulations:
- (1) PREB shall ensure public dissemination of all sorts of changes in the electric power industry in Puerto Rico by disclosing on its website any public interest information it may have. PREB shall develop and implement a customer education or orientation program regarding the contents of the information so disclosed;
  - (2) PREB shall develop and use viable internal parameters to assess the effectiveness of the service it provides to customers. PREB shall submit an annual report to the Legislative Assembly on or before January 30th with the results of the customer service policy adopted and shall publish said results on its website.
- (b) *Customer Service of Certified Electric Power Companies.* — PREB shall regulate, oversee, and address cases and disputes regarding the quality of the services rendered by certified electric power companies to their customers. Every electric power service company shall adopt and submit the following information for PREB’s evaluation and approval:
- (1) Just and reasonable rules or practices to be followed when providing a service;
  - (2) Just and reasonable rules or practices to assess the service provided;
  - (3) Just and reasonable rules or practices to guarantee the accuracy of the equipment used to provide services;
  - (4) Just and reasonable rules or practices to guarantee the reliability and continuity of the service provided;
  - (5) Just and reasonable rules or practices to protect the health and safety of employees and the public in general, including adequate installation, use, maintenance, and operation of security equipment and other devices;
  - (6) Customer service terms and conditions; and
  - (7) Any other rules or regulations related to services provided by certified electric power companies deemed necessary by the Commission to implement the provisions of this Section.

[Amendments: [Act 211-2018](#)]

**Section 6.29. — Efficiency in Electric Power Generation.** (22 L.P.R.A. § 1054bb)

- (a) *Highly Efficient Fossil Generation.* — Within a term that shall not exceed five (5) years, from the date of enactment of the [‘Puerto Rico Energy Public Policy Act.’](#) the Energy Bureau shall

ensure that at least sixty percent (60%) of the electric power generated in Puerto Rico based on fossil fuels (gas, oil byproducts, oil, and others) is high efficiency, as such term is defined by the Energy Bureau. The term ‘high efficiency’ shall include as essential factors the electric power plant or the facility’s thermal efficiency by the type of fuel used, the cost of fuel, technology, the capacity to reduce the costs of producing one (1) kilowatt-hour (kWh) of the proposed technology, and/or any other industry parameter that guarantees efficiency in energy generation, and in accordance with the Integrated Resource Plan. The percentage required under this Section includes energy generated from fossil fuels sold to the Authority, its successor, or the transmission and distribution network Contractor under power purchase agreements entered into as of the effective date of this Act. Contractors who acquire or operate PREPA generation assets shall modernize the plants or substitute such plants for highly efficient plans, as this term is defined by the Bureau, within a period not to exceed five (5) years after the execution of the Partnership or Sales Contract. After this initial period, Contractors who chose to modernize the plants shall substitute them for highly efficient plants within a period not to exceed five (5) years after the initial period ends. Every newly built or existing generation plant, other than a plant operating exclusively with renewable energy sources shall have capacity to operate with two (2) or more fuels, one of which shall be natural gas, taking into account that as of the approval of the [Puerto Rico Energy Public Policy Act](#), the award of new contracts and/or the granting of new permits and the extension of existing contracts and/or permits to establish or to continue generating carbon-based energy in Puerto Rico shall be prohibited.

- (b) Every electric power generation facility of a certified electric power company in Puerto Rico must meet the efficiency standards established by the Energy Bureau and/or any other standard of the industry that guarantees efficiency in the generation of electric power
- (c) In the case of renewable energy technologies, the following efficiency standards shall apply based on:
  - (1) the use of space and location;
  - (2) the availability of the renewable energy source;
  - (3) the efficiency of individual components;
  - (4) an analysis of the costs and benefits;
  - (5) any other parameter of the industry that maintains the operations and reliability of the electric power generation.
- (d) The Energy Bureau shall review periodically and, if necessary, modify the established efficiency standards and publish them on its website together with the technical analysis that justifies them;
- (e) The Energy Bureau shall approve the strategic plans developed by certified electric power companies to meet these standards, oversee and adopt by regulations the necessary measures to comply therewith.

[Amendments: [Act No. 4-2016](#); [Act No. 17-2019](#), Sec. 5.23]

**Section 6.29A. — Demand Response.** (22 L.P.R.A. § 1054bb-1)

- (a) *Demand Response.* — Within one hundred and eighty (180) days, the Energy Bureau shall develop guidelines for electric power service companies to develop Demand Response or

Demand-Side Management Programs. Once PREB establishes the guidelines, electric power service companies shall submit to the Energy Bureau within six (6) months, a proposal for the plan on demand response in accordance with the established guidelines. These shall include a defined schedule and incentives to make short-, medium-, and long-term programs feasible, focusing on the benefits that residential and commercial customers may receive from the reduction of energy consumption during peak hours.

[Amendments: [Act No. 17-2019](#), Sec. 5.24 added this new Section]

**Section 6.29B. — Energy Efficiency.** (22 L.P.R.A. § 1054bb-2)

(a) *Energy Efficiency.* — The Energy Bureau shall ensure that Puerto Rico achieves the thirty percent (30%) energy efficiency goals by 2040. To achieve this, within one hundred and eighty (180) days, the Energy Bureau shall adopt regulations to establish the energy efficiency mechanisms to be used including, but not limited to, replacing one hundred percent (100%) of public lighting with light emitting diode (LED) lighting or renewable energy; and to establish the annual compliance goals per-sector that are necessary to attain the goal set in this Act. The Energy Bureau may establish energy efficiency programs aimed at achieving the goal set in this Section. To such ends, the Energy Bureau may use the services of a third party to manage energy efficiency programs and assist the Bureau in overseeing compliance with the annual goals established through regulations.

[Amendments: [Act No. 17-2019](#), Sec. 5.25 added this new Section]

**Section 6.30. — Wheeling.** (22 L.P.R.A. § 1054cc)

PREB shall regulate the wheeling mechanism in Puerto Rico at both the transmission and the distribution levels. In doing so, PREB shall establish the rules and conditions to ensure that wheeling does not affect in any way whatsoever (including technical problems and rate increases) nonsubscribers of wheeling services. PREB shall establish the necessary rules for the implementation of a system that allows exempt businesses described in Section 2(d)(1)(H) of Article 1 of Act No. 73-2008, as amended, known as the ‘Economic Incentives Act for the Development of Puerto Rico,’ or similar provisions in other incentive laws, as well as electric power service companies, microgrids, energy cooperatives, municipal ventures, and community solar, to purchase electric power from other entities through wheeling services. Likewise, PREB shall consider, among others, the following factors when regulating the wheeling service:

- (a) The state of the transmission and distribution infrastructure, the loss of energy related to this stage of operations, and the cost thereof.
- (b) The reasonable conditions that must be established to guarantee the protection and the proper and efficient maintenance of the transmission and distribution infrastructure.
- (c) The criteria that must be considered in determining the rates to be charged for transmission and distribution services, so that the costs remain at a reasonable level, thus making the use of this mechanism feasible, and promoting production of energy and the competitiveness of Puerto Rico in terms of service costs and availability, thus safeguarding the interests of the People, including the distance between the electric

- power company and energy subscribers without adversely affecting wheeling nonsubscribers.
- (d) In determining wheeling rates there shall be included a contribution from power producers for grid maintenance, as well as ancillary services in proportion to the amount of energy injected into the grid, the distance between the producer and the private customer, and any other necessary technical considerations recognized worldwide that make wheeling feasible taking into account the particularities and geographic and physical limitations of the electric power infrastructure of Puerto Rico.
  - (e) The best practices of other jurisdictions that have implemented the wheeling mechanism and the convenience of applying them in Puerto Rico.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#); Sec. 5.26]

**Section 6.31. — Extension.** (22 L.P.R.A. § 1054ee)

In exercising its regulatory duties and technical knowledge in the energy field, the Energy Bureau may extend the period to modernize the plants or to substitute them for highly efficient plants, established in Section 6.29 of this Act, for an additional term not to exceed one (1) year so that at least sixty percent (60%) of the electric power generated in Puerto Rico from fossil fuels (natural gas, oil, or oil byproducts, and others) is high efficiency; provided, that the Bureau determines it is necessary to fully implement high efficiency generation based on different fuels.

[Amendments: [Act No. 4-2016](#); [Act No. 17-2019](#); Sec. 5.27]

**Section 6.32. — Agreements between Electric Power Service Companies.** (22 L.P.R.A. § 1054ff)

- (a) The Energy Bureau shall evaluate and approve all agreements between electric power service companies, including independent power producers, prior to the execution thereof. This includes, but shall not be limited to, the evaluation and approval of power purchase agreements whereby an independent power producer shall provide energy to the electric power service company responsible for operating the Electrical System. However, when a power purchase agreement is part of a PREPA Transaction, the Energy Compliance Certificate shall suffice in accordance with the provisions of [Act No. 120-2018, as amended](#).
- (b) The provisions of this Section shall not apply to power purchase agreements that have been entered into by the Authority prior to the approval of this Act. However, any extension of or amendment to a power purchase agreement executed prior to the approval of Act No. 57-2014 shall comply with the [Puerto Rico Energy Public Policy Act](#) and shall be subject to the approval of the Energy Bureau.
- (c) The Energy Bureau shall adopt and promulgate regulations that establish the guidelines and standards to which the agreements of the electric power service companies, including the agreements between the Authority, its successor, or the transmission and distribution network Contractor and any electric power service company or independent power producer shall adhere; and the terms and conditions that shall be included in every power purchase and interconnection agreement, including a reasonable cost per kilowatt-hour (kWh) according to

the type of generation technology. During the process of analyzing and drafting these regulations, the Energy Bureau shall request and consider the comments and feedback of the electric power companies, the Energy Public Policy Program, electric power companies, independent power producers, and the public in general.

The guidelines and standards established by the Energy Bureau through regulations shall have the purpose of ensuring compliance with the principles of this Act; the [Puerto Rico Energy Public Policy Act](#); [Act No. 83 of May 2, 1941, as amended, known as the ‘Puerto Rico Electric Power Authority Act.’](#) and the public policy of the Government of Puerto Rico.

- (d) In evaluating every proposal for an agreement between electric power service companies, the Energy Bureau shall take into account the provisions of the integrated resource plan. The Energy Bureau shall not approve an agreement that is inconsistent with the Integrated Resource Plan, particularly in all that pertains to renewable energy, distributed generation, conservation and efficiency goals established in the integrated resource plan as well as in the Energy Public Policy.
- (e) The Commission shall have thirty (30) days after the date on which a project agreement is submitted for its review under this Section, to review it and determine (i) if it approves it, (ii) if it declares it contrary to the public interest, or (iii) if the project agreement should be evaluated in depth. Provided, that if the Commission fails to issue a resolution with one of these three possible determinations within thirty (30) days, it shall be understood that the project agreement has been approved. If the Commission decides that the project agreement should be evaluated in depth, it shall issue a final resolution and determine whether it approves or declares the project contrary to the public interest within a term that shall not exceed ninety (90) days. If the Commission fails to issue its final resolution within said ninety (90)-day term, it shall be understood that the project agreement has been approved. The resolutions issued by the Commission regarding the approval or declaration against the public interest of these agreements shall be posted on the Commission’s website.
- (f) In evaluating every proposal for an agreement between electric power service companies, the Energy Bureau shall verify whether or not the interconnection jeopardizes the reliability and safety of the electric power grid and require the elimination of any term or condition under the agreement’s proposal that is contrary to or jeopardizes the safe and reliable operations of the electric power grid. The Energy Bureau shall not approve any agreement when technical evidence shows that the project in question or the contractual conditions thereof would jeopardize the reliability and safety of the electric power grid of Puerto Rico.
- (g) The Energy Bureau shall ensure that the rates, fees, rents, or charges paid to independent power producers are just and reasonable, and protect the public interest and the treasury. The Energy Bureau shall also oversee that the charge to be paid for interconnecting to the transmission and distribution network, including construction fees and wheeling rates, as well as any other requirement applicable to independent power producers or other electric power service companies that wish to interconnect to the transmission and distribution system is just and reasonable. During this process, the Energy Bureau shall ensure that the charges allow for an interconnection that does not affect the reliability of the electric power service and that promotes the protection of the environment, compliance with the mandates of the Act, and does not adversely affect customers.

- (h) In evaluating power purchase agreement proposals, the Bureau shall require the electric power service company responsible for operating the Electrical System to submit the ‘Supplementary Study’ for the project subject of the proposed agreement or the pertinent technical analysis supporting the agreement. If a project does not require a ‘Supplementary Study,’ the electric power service company responsible for operating the Electrical System shall issue a certification to the Energy Bureau stating the reasons for which the circumstances and characteristics of the project do not warrant a ‘Supplementary Study’ or technical evaluation.
- (i) The electric power service company responsible for operating the Electrical System shall issue any ‘Supplementary Study’ within ninety (90) days after the date on which the electric power service company or independent power producer filed a request for an interconnection evaluation. If the electric power service company responsible for operating the Electrical System believes that a ‘Supplementary Study’ or any other technical analysis is unnecessary, it shall issue a certification stating the reasons for which the circumstances and characteristics of the project do not warrant a ‘Supplementary Study’ or other technical evaluation, within forty-five (45) days as of the date on which the electric power service company or independent power producer filed the request for an interconnection evaluation with the electric power service company responsible for operating the Electrical System. If the electric power service company responsible for operating the Electrical System fails to submit to the Energy Bureau the ‘Supplementary Study’ or certification, as the case may be, for the project along with the agreement’s proposal, the Energy Bureau shall impose the sanctions and remedies it deems pertinent on the electric power service company responsible for operating the Electrical System and request the Energy Public Policy Program to submit to the Energy Bureau a memorandum evaluating the project and the proposed agreement and to issue a duly substantiated recommendation.
- (j) All power purchase agreements approved by or under which the Energy Bureau issues an Energy Compliance Certificate pursuant to [Act No. 120-2018](#) shall be published on the Energy Bureau’s website.

[Amendments: [Act No. 4-2016](#); [Act No. 17-2019](#); Sec. 5.28]

**Section 6.33. — Mediation and Arbitration of Energy Issues.** (22 L.P.R.A. § 1054gg)

- (a) Mediation — Any person negotiating an agreement with the electric power service company responsible for operating the Electrical System, or an independent power producer regarding wheeling, capacity rates, interconnection, power purchase, or any other matter established by the Energy Bureau through regulations may, at any point during the negotiation, request the Energy Bureau to intervene as a mediator and assist in the resolution of any differences arising in the course of the negotiation. This Section shall not apply to the negotiation processes for PREPA Transactions authorized under [Act No. 120-2018](#).
- (b) Arbitration — In the event that the parties involved in a mediation process described in subsection (a) of this Section fail to reach an agreement, or in lieu of a mediation process, the parties may agree to submit the dispute to arbitration before the Commission. The agreement or consent of the parties to undergo any or all disputes between them to arbitration shall be made in writing and signed by both/the parties or their authorized representatives.

- (1) Any request for arbitration submitted to the Commission shall include the agreement for arbitration signed by the parties, and specify:

  - (i) The issues or disputes whose resolution the parties are requesting to the Commission;
  - (ii) The allegations of facts that are not in dispute and those that are in dispute;
  - (iii) The position of each of the parties with respect to the issues in dispute;
  - (iv) A detailed list of all witnesses that the parties intend to present in the arbitration process along with a summary of their testimonies. In the case of expert witnesses the curriculum vitae of each one of them, as well as their expert report shall also be submitted;
  - (v) A detailed list of each document or evidence that the parties intend to present in the arbitration process, along with a description of the purpose of presenting each document or evidence; and
  - (vi) The remedy sought.
- (2) Award of the Request for Arbitration.

  - (i) The Commission shall award the issues or disputes set forth by the parties in the request for arbitration, provided that said disputes are comprised within the scope of the agreement for arbitration signed by the parties.
  - (ii) The Commission may require any of the parties to the arbitration process described herein to furnish or provide information as may be necessary for the Commission to address the matter in dispute. If any party refuses or fails unreasonably to respond to any request of the Commission, then the Commission may proceed to resolve the dispute on the basis of the best information available to it, from whatever source derived.
  - (iii) The Commission shall issue the arbitration award on or before one hundred eighty (180) days after the filing of the response to the request for arbitration, unless: (1) exceptional circumstances impair the proper adjudication of the dispute within such term, or (2) the parties to the arbitration process agree in writing to the extension of said term.
- (c) The refusal of any party to cooperate with the Commission in carrying out its functions as an arbitrator or mediator or to continue negotiating in good faith in the mediation shall be considered a reckless act and the Commission may take reasonable measures to protect the other parties.
- (d) Within one hundred eighty (180) days after the approval of this Act, the Commission shall adopt regulations as necessary for the procedure and rules to be followed during the mediation and arbitration processes. Prior to the adoption and effectiveness of said regulations, the Commission may issue an administrative order to apply the regulations adopted to such effects by the American Arbitration Association or any other applicable regulations to the mediation and arbitration processes before its consideration. The Commission shall facilitate and provide agreement models or arbitration clauses that may be used by the parties to agree to submit to the arbitration process established in this Section.

[Amendments: [Act No. 17-2019](#), Sec. 5.29]

**Section 6.34. — Construction and Extension of Electric Power Facilities.** (22 L.P.R.A. § 1054hh)

- (a) In General. — Any certified electric power company that wishes to build or expand its facilities shall comply with the [Energy Public Policy Act](#) and file with the Bureau a notice of intent to carry out such project in accordance with the Bureau’s rules and regulations. The Bureau shall reply to a notice of intent within one hundred eighty (180) days after the filing thereof.
- (b) Evaluation Criteria. — The Bureau shall evaluate the notices of intent to build an electric power generation facility in accordance with the regulations to be established and promulgated by the Bureau for such purposes. In evaluating the notices of intent, the Bureau shall evaluate whether such construction work meets any of the objectives previously established in the integrated resource plan or if it satisfies any actual urgent need for electricity infrastructure in Puerto Rico, in which case the procedure established to amend the Integrated Resource Plan shall be followed. The Bureau shall issue a resolution stating whether such construction work is necessary, adequate, and consistent with the public interest and the energy public policy. The Bureau may not deny a notice of intent based on arbitrary or discriminatory reasons
- (c) The issue of a favorable resolution for the project by the Commission shall not exempt the proponent from complying with any municipal, State, or Federal procedure established and needed for interconnecting to or operating such facility in the electricity infrastructure of Puerto Rico.

*[Amendments: [Act No. 17-2019](#), Sec. 5.30]*

**Section 6.35. — Transfer, Acquisition, Merger and Consolidation of Certified Electric Power Companies.** (22 L.P.R.A. § 1054ii)

- (a) In General. — No sale, acquisition, merger, or consolidation of electric power companies or the facilities thereof shall be completed if the Energy Bureau does not issue a certification stating that such transaction is consistent with the integrated resource plan, and the best interests of Puerto Rico, and does not involve the capture or control of electric power services by an electric power service company or the creation of a monopoly over electric power services by a private electric power service company. No electric power service company or the subsidiary or affiliate thereof may control fifty percent (50%) or more of the power generation assets’ capacity, except for the Electric Power Authority in the case of legacy power generation assets. The maximum percentage of the power generation assets’ capacity that an electric power Service Company, or the subsidiary or affiliate thereof may control may be revised by the Bureau to prevent the establishment of a monopoly in generation, but in no event it may reach (50%) or more of the power generation assets’ capacity
- (b) The Commission shall adopt regulations to specify the form, contents and procedure to file and evaluate applications for certification under this Section.
- (c) The Commission shall evaluate applications based on the size of the facility or facilities subject to the transaction, its generation capacity, the impact of such transaction on the electric power industry and electric power customers, and any other parameter that the Commission may deem necessary, according to the best practices in the electric power industry, to conduct an objective and transparent evaluation of the application.

- (d) The Commission shall adjudicate on the merits every request for authorization filed under this Section within one hundred eighty days (180) days after the filing thereof. The Commission shall treat the process to address and evaluate applications for certification as an ex parte formal adjudicative procedure, governed by the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act” [Note: Repealed and replaced by [Act No. 38-2017](#)] and the regulations adopted by the Commission.

[Amendments: [Act No. 17-2019](#), Sec. 5.31]

**Section 6.36. — Penalties for Noncompliance.** (22 L.P.R.A. § 1054jj)

The Energy Bureau, in accordance with the powers, duties, and authorities granted thereto by this or any other law of the Government of Puerto Rico, may:

- (a) Impose administrative fines for violations of this Act, or the regulations and orders issued thereunder, committed by any person or electric power company subject to its jurisdiction, ranging from ten thousand dollars (\$10,000) up to one hundred twenty-five thousand dollars (\$125,000) per day for each violation. Notwithstanding the foregoing, said fines shall never exceed five percent (5%) of annual gross sales (including any service fee in the case of private operators), fifteen percent (15%) of annual net income, or ten percent (10%) of the net assets of the sanctioned energy person or electric power company. The greater of the aforementioned amounts corresponding to the previous or most recent taxable year shall be the amount of the fine.
- (b) If the person or regulated electric power company continues in violation of this Act or the regulations or orders issued thereunder, the Energy Bureau may impose additional fines of not less than fifteen thousand dollars (\$15,000) nor more than two hundred fifty thousand dollars (\$250,000) per day for each violation. In such case, the Energy Bureau by unanimous determination may impose fines up to twice the limits on the basis of sales, income, or assets set forth in subsection (a) of this Section.
- (c) The fines imposed by the Energy Bureau on a private operator shall be paid by the Operator out of its own funds and be considered disallowed costs for the purposes of the contractual relationship with the State; therefore, fines shall not be paid with the revenues from the consumer fee or any other source impacting it.

The fines imposed on the Electric Power Authority shall be paid with revenues received by the public corporation from sources other than consumer fee revenues. If these revenues are not sufficient to pay the fines, such fines shall be covered by the operating budget of the public corporation.

The Energy Bureau shall deposit any amount collected on account of the administrative fines it imposes in a direct and separate account to be periodically credited to electric power service customers as part of the quarterly fuel cost reconciliation process.

- (d) Any person who intentionally violates any provision of this Act, or omits, disregards, or refuses to obey, observe, and comply with any rule or decision of the Energy Bureau shall commit a felony and upon conviction shall be punished by imprisonment for a term not to exceed one (1) year and six (6) months, or by a fine of not less than one thousand five hundred dollars (\$1,500) nor more than twenty-five thousand dollars (\$25,000), at the discretion of the Court. In the event of repeat violations, the established penalty shall

increase to a fine of not less than fifty thousand dollars (\$50,000) nor more than one hundred thousand dollars (\$100,000), at the discretion of the Court.

- (e) The Energy Bureau may resort to the pertinent forums to seek any remedy, including account garnishment, to ensure enforcement of the penalties imposed or any other power thereof in accordance with this Act.
- (f) Upon imposing a sanction under this Section, the Energy Bureau may direct any agency, body, office, public corporation, program, or entity of the Government of Puerto Rico that owes a debt to the regulated operator to deposit the amount owed with the Energy Bureau, up to the amount of the sanction, to ensure that it is fully paid. Once the imposed sanction becomes final and binding, the Energy Bureau may collect the penalty from any funds under its custody corresponding to the sanctioned regulated operator.

[Amendments: [Act No. 17-2019](#); [Act No. 2-2025](#)]

**Section 6.37. — Annual Reports.** (22 L.P.R.A. § 1054kk)

Before March 1 of each year, PREB shall publish and submit to the Governor and the Legislative Assembly of the Government of Puerto Rico the annual report required under Section 6.3 of this Act. Such report shall contain the following information:

- (a) Status of energy affairs of the Island and Integrated Resource Plan in the short- and long-terms;
- (b) Recommendations on possible actions to be taken by the Government to ensure adequate supplies of energy resources and the efficiency of the system in general;
- (c) the percentage of distributed generation, Renewable Portfolio Standard, and energy efficiency metrics achieved, among others, and the recommendations to achieve the metrics set forth in the Act;
- (d) A breakdown of the monthly rate of energy consumption itemized by type of rate, and the process used to fix such rates, if the same have been reviewed or modified within the last calendar year;
- (e) PREB’s annual work plan and the results of its execution; and
- (f) Any other information deemed pertinent and necessary.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#); *Sec. 5.33*]

**Section 6.38. — Interpretation of this Act.** (22 L.P.R.A. § 1054ll)

The provisions of this Act shall be construed liberally in order to achieve its purposes, and whenever a specific power or authority is granted to the Commission, the same shall not be construed as to exclude or impair any other power or authority otherwise conferred to it.

**Section 6.39. — Reserved.** (22 L.P.R.A. § 1054mm)

[Amendments: [Act No. 17-2019](#), *Sec. 5.34 repealed former Section 6.39*]

SUBCHAPTER D. — Independent Consumer Protection Office.

**Section 6.40. — Creation of the Independent Consumer Protection Office.** (22 L.P.R.A. § 1054nn)

- (a) The Independent Consumer Protection Office, hereinafter the ‘Office’ or ‘ICPO,’ is hereby created to educate, advise, assist, and represent customers of the services under the jurisdiction of the Puerto Rico Public Service Regulatory Board. Pursuant to the [Reorganization Plan of the Puerto Rico Public Service Regulatory Board](#) and [Act No. 211-2018](#), the Independent Consumer Protection Office is hereby merged with the Public Service Regulatory Board. The personnel designated to the Independent Consumer Protection Office by virtue of the ‘Puerto Rico Energy Transformation and RELIEF Act’ shall be transferred to the Public Service Regulatory Board created by virtue of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board. Any transfer of personnel shall be made in accordance with the provisions of [Act No. 8-2017, as amended](#).
- (b) The Office shall have the administrative support of the Public Service Regulatory Board, and shall operate as an entity independent from PREB, the Authority, any other electric power company certified in Puerto Rico, the Telecommunications Bureau, the Transport and other Public Services Bureau, and any other entity regulated by any of the latter.
- (c) The Office shall be composed of the personnel and consultants that the Public Service Regulatory Board deems necessary to fully carry out the duties and functions of the Office as provided in this Act. The Office shall have full autonomy and independence to carry out its functions. No person may interfere or otherwise influence the personnel or consultants of the office to engage in any action or omission related to a matter under the office’s consideration. Any person who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a term of imprisonment not to exceed six (6) months, or by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or both penalties at the discretion of the court, without prejudice to any other civil or criminal actions that may be brought for violations of any state or federal law.
- (d) The Office shall have a website containing information regarding the electric power industry, telecommunications, transport, other public services and any other pertinent information regarding matters under its consideration, which shall be shown in a manner that the average consumer is able to understand. The Office shall share and post all data and information to keep interested persons informed about their rights.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#); Sec. 5.35]

**Section 6.41. — Organization of the Independent Consumer Protection Office.** (22 L.P.R.A. § 1054pp)

- (a) The Public Service Regulatory Board, shall ensure that the ICPO has the proper office space and facilities for its operations. The Public Service Regulatory Board shall have the duty to hire the professional personnel and services of the ICPO, subject to the provisions of the laws,

regulations, and executive orders of the Government of Puerto Rico and subject to the limits of the budget to be appropriated to the ICPO.

- (b) No employee of the Office, whether a career or trust employee, may be related within the fourth degree of consanguinity and second of affinity to the Chair, associate members, or the Executive Director of the PSRB, or the Commissioners of the Energy Bureau, the Telecommunications Bureau, and the Transport and other Public Services Bureau.
- (c) No career or trust employee of the ICPO or the members of his family unit, as defined in [Act No. 1-2012, as amended, known as the ‘Organic Act of the Government Ethics Office,’](#) may have a direct or indirect interest in, or a contractual relationship with the Authority and/or any certified electric power company in Puerto Rico, or in entities in or outside of Puerto Rico affiliated to and with interest in the Authority or such companies, or any other related company or under the jurisdiction of the Telecommunications Bureau, and the Transport and other Public Services Bureau.
- (d) No career or trust employee of the ICPO may intervene in a matter or dispute in which a party to such matter or dispute is a natural or juridical person with whom said employee has had a contractual, professional, work, or fiduciary relationship within two (2) years before his appointment.
- (e) Any action of the personnel of the Office shall be subject to the restrictions provided in [Act No. 1-2012](#).

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#); Sec. 5.36]

#### **Section 6.42. — Powers and Duties of the ICPO.** (22 L.P.R.A. § 1054qq)

The Office shall have the following powers and duties:

- (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;
- (d) File complaints or legal recourses with the Energy Bureau, the Puerto Rico Telecommunications Bureau, and the Puerto Rico Transport and other Public Services Bureau on behalf and in representation of customers who have no other legal representation, with regard to disputes in connection with any issue affecting the service, the rate, or any other matter that may affect the interests or rights of electric power, telecommunications, and transport services’ customers. Prior to filing complaints in representation of customers, it shall verify that said customer has complied with the pertinent administrative provisions to make the claim. In the event of a conflict of interests between the different classes of customers with

regard to any cause of action or dispute, the priority of the ICPO shall be to represent and defend residential and small-business commercial 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;
- (i) Participate or appear as petitioner or intervenor in any action brought before the General Courts of Justice or a Federal court in connection with the rates, bills, public policy, and any other issue that may affect electric power, telecommunications, and transport services’ customers;
- (j) Sue and be sued;
- (k) Have access to documents, records, and information to which the Energy Bureau, the Puerto Rico Telecommunications Bureau, the Puerto Rico Transport and other Public Services Bureau, and the Energy Public Policy Program attached to the Department of Economic Development and Commerce of Puerto Rico have access, except for privileged documents, records and information, as provided in the Rules of Evidence;
- (l) Conduct, on its own motion or through contract, studies, surveys, or investigations, or hear expert testimonies in connection with matters that affect the interests of electric power, telecommunications, and transport services’ customers;
- (m) Review and issue comments on any proposed legislation or regulations that affect electric power, telecommunications, and transport services’ customers;
- (n) Submit on or before March 1st of each year to both Houses of the Legislative Assembly of the Government of Puerto Rico an annual report stating the tasks undertaken by and the achievements of the Office in favor of consumers;
- (o) Adopt regulations, norms, and rules as necessary to properly conduct its internal operations;
- (p) Assist, advise, and cooperate with state and federal agencies to protect and promote the interests of electric power, telecommunications, and transport services’ customers;
- (q) Evaluate the operation and laws that affect the electric power, telecommunications, and transport services’ customers, including small businesses, in order to make recommendations for amendments and to propose new bills to the Governor and the Legislative Assembly that are in the best interests of customers.
- (r) Organize and hold conferences or activities related to the problems that affect electric power, telecommunications, and transport services’ customers; and
- (s) Take all actions necessary and incidental to the discharge of the duties, powers, and responsibilities established in this Section.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#); Sec. 5.37]

**Section 6.43. — Budget of the Office.** (22 L.P.R.A. § 1054rr)

The Office shall receive an annual appropriation of one million two hundred thousand dollars (\$1,200,000), which shall originate proportionally from the amount appropriated to the Energy Bureau, the Puerto Rico Telecommunications Bureau, and the Puerto Rico Transport and other Public Services Bureau.

[Amendments: [Act No. 211-2018](#); [Act No. 17-2019](#); Sec. 5.32]

CHAPTER VII. — General Transitory Provisions.

**Section 7.01. — Omitted.** (22 L.P.R.A. § 1055) [Note: Section 2 of Act No. 33-1985, as amended, known as the “Act to Establish Minimum Procedural Requirements for the Suspension of Essential Public Services,” is hereby amended]

**Section 7.02. — Repeal and Effect.**

- (a) Section 4 of Article 1 of Act No. 73-2008, as amended, known as the “Economic Incentives Act for the Development of Puerto Rico,” is hereby repealed.
- (b) Act No. 128 of June 29, 1977, as amended, is hereby repealed.
- (c) Act No. 69 of June 8, 1979, is hereby repealed.
- (d) Section 2.2 of [Act No. 82-2010, known as the “Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act,”](#) is hereby repealed.
- (e) Act No. 233-2011 is hereby repealed.
- (f) Furthermore, the provisions of this Act shall have the effect of:
  - (1) Modifying any statutory or regulatory provision in effect where reference is made to the Puerto Rico Energy Office or the Energy Affairs Administration so that it rather reads or refers to the Commonwealth Energy Public Policy Office.
  - (2) Modifying any statutory or regulatory provision in effect regarding energy affairs in which reference is made to the Puerto Rico Renewable Energy Commission so that, it rather reads or refers to the Puerto Rico Energy Commission.
  - (3) Repealing any statutory or regulatory provision in effect that is in conflict or inconsistent with the provisions of this Act.

**Section 7.03. — Inconsistent Provisions.** (22 L.P.R.A. § 1056)

- (a) In the event that the provisions of this Act are in conflict or inconsistent with the provisions of any other law, the provisions of this Act shall prevail.
- (b) Sections 26 and 27 of [Act No. 83 of May 2, 1941, as amended](#), shall not limit, impair, or hinder the powers and duties of the Energy Commission in exercising its authority.

**Section 7.05. — Separability Clause.** (22 L.P.R.A. § 1051 note)

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

**Section 7.06. — Effectiveness.** This Act shall take effect immediately after its approval.

Note. This compilation was prepared by the [Puerto Rico Office of Management and Budget](#) staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text and the collection of Laws of Puerto Rico Annotated LPRA. The state links acts are property of [Legislative Services Office](#) of Puerto Rico. The federal links acts are property of [US Government Publishing Office GPO](#). Compiled by the Office of Management and Budget Library.

See also the [Original version Act](#), as approved by the Legislature of Puerto Rico.