

***“Puerto Rico Electric Power Authority Act”***

Act No. 83 of May 12, 1941, as amended

(Contains amendments incorporated by:

Act No. 27 of June 10, 1959  
Act No. 58 of June 6, 1960  
Act No. 62 of June 17, 1966  
Act No. 39 of May 23, 1967  
Act No. 112 of June 28, 1969  
Act No. 5 of June 28, 1973  
Act No. 36 of May 25, 1973  
Act No. 106 of June 28, 1974  
Act No. 59 of May 27, 1976  
Act No. 3 of February 1, 1979  
Act No. 57 of May 30, 1979  
Act No. 46 of May 12, 1980  
Act No. 148 of June 18, 1980  
Act No. 4 of June 8, 1981  
Act No. 144 of August 2, 1988  
Act No. 34 of July 24, 1989  
Act No. 29 of July 26, 1991  
Act No. 32 of July 22, 1992  
Act No. 84 of August 13, 1994  
Act No. 47 of May 23, 1995  
Act No. 164 of August 11, 1995  
Act No. 124 of August 11, 1996  
Act No. 164 of August 23, 1996  
Act No. 152 of July 19, 1998  
Act No. 145 of August 9, 2002  
Act No. 194 of August 17, 2002  
Act No. 272 of December 8, 2002  
Act No. 297 of December 25, 2002  
Act No. 28 of January 1, 2003  
Act No. 189 of August 18, 2003  
Act No. 300 of December 8, 2003  
Act No. 255 of September 7, 2004  
Act No. 370 of September 16, 2004  
[Act No. 2 of January 5, 2006](#)  
[Act No. 223 of October 4, 2006](#)  
[Act No. 79 of July 29, 2007](#)  
[Act No. 86 of July 30, 2007](#)  
[Act No. 131 of September 27, 2007](#)  
[Act No. 138 of October 1, 2007](#)  
[Act No. 162 of December 7, 2009](#)

[Act No. 222 of December 30, 2010](#)

[Act No. 233 of December 11, 2011](#)

[Act No. 234 of December 11, 2011](#)

[Act No. 236 of December 11, 2011](#)

[Act No. 238 of December 11, 2011](#)

[Act No. 29 of June 25, 2013](#)

[Act No. 57 of May 27, 2014](#)

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

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

[Act No. 22 of April 7, 2016](#)

[Act No. 37 of June 26, 2017](#)

Act No. 107 of May 30, 2018

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

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

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

[Act No. 33 of May 22, 2019](#)

[Amendments non-incorporated:

Act No. 207 of August 5, 2018 (amended Sec. 4)

Act No. 271 of December 15, 2018 (amended Sec. 4)

Act No. 121 of August 15, 2020 (amended Sec. 22)]

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

**Section 1.** — (22 L.P.R.A. § 191)

That this Act may be cited as the “Puerto Rico Electric Power Authority Act”.

*[Amendments: Act 19-1942]*

DEFINITIONS

**Section 2. — Definitions.** (22 L.P.R.A. § 192)

The following terms, whenever used or referred to in this Act, shall have the following meanings, except where the context clearly indicates otherwise:

**(a) Creditor’s agreements.** – Shall mean any agreement executed (including annexes, exhibits, and schedules attached thereto) by and among the Authority and various of the principal creditors, as amended or supplemented, whereby certain terms and conditions of the current debt are modified and the Authority may commit to (i) implementing certain administrative, operational, and governance reform measures; (ii) modernizing electric power generation; (iii) optimizing electric power transmission and distribution; and (iv) achieving 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) Federal agency.** — Shall mean the United States of America, the President of the United States of America, any department thereof, or any corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States of America.

**(c) Authority or PREPA.** — Shall mean the Puerto Rico Electric Power Authority created by this Act.

**(d) Bonds.** — Shall mean the bonds, term bonds, convertible bonds, obligations, notes, interim bonds, receipts, certificates, or other evidences of indebtedness or obligations that PREPA is authorized in accordance with the provisions of this Act.

**(e) Commission or Bureau.** — Shall mean the Puerto Rico Energy Bureau established by virtue of the [Reorganization Plan of the Puerto Rico Public Service Regulatory Board and Act No. 211-2018](#), which is a specialized independent entity in charge of regulating, overseeing, and enforcing the public policy on energy of the Government of Puerto Rico, formerly the Energy Commission created under [Act No. 57-2014, as amended](#). Any reference in this Act to the “Commission or Energy Commission” shall be deemed to refer to the Puerto Rico Energy Bureau

**(f) Conservation.** — Shall mean any reduction in electric power consumption resulting by changes in customer consumption patterns.

**(g) Energy efficiency.** — Shall mean the reduction in energy use attributable to substituting appliances and equipment, the updating of technology or the most efficient operation of existing materials, equipment, or any other program developed and implemented to reduce electric power consumption.

**(h) Undertaking.** — Shall mean any one or a combination of two or more of the following for continuing the development of energy production, to wit: works, facilities, structures, irrigation, electricity, heating, lighting, power or equipment with all parts and appurtenances thereof, and lands, rights thereon, and rights and privileges in connection therewith, and any and all other property or services which PREPA shall deem to be necessary, proper, incidental or convenient in connection with its activities including, but not limited to, irrigation and hydroelectric supply and distribution systems, plants for generating electricity by water power or by any other means, including steam, energy renewable sources, and stations, reservoirs, dams, canals, tunnels, conduits, transmission and distribution lines, and other facilities and appurtenances necessary, useful, or customarily used and employed in the production, diversion, collection, storage, conservation, utilization, transportation, distribution, sale, exchange, delivery, or other disposition of electric power, electric equipment, supplies, services or other activities in which PREPA shall engage or wishes to engage pursuant to its purposes.

**(i) Renewable energy.** — Shall have the same meaning as the term “green energy”, defined in [Act No. 82-2010](#), as amended or any successor law.

**(j) Official or employee.** — Officials, employees, or individuals working in the Electric Power Authority or any entity or subsidiary thereof.

**(k) Essential public service facilities.** — Shall mean health facilities, police and armed forces stations, fire stations, emergency management offices, prisons, waste water supply and treatment facilities, public educational institutions owned or used by the government and any other facility, whether owned or used by the government, designated by the Energy Commission as an “Essential Public Service Facility” by regulations.

**(l) Board.** — Shall mean the Governing Board of PREPA.

**(m) Modernization.** — Shall mean projects for the development of new generation plants or the replacement of existing plants pursuant to the most recent Integrated Resource Plan approved by the Bureau.

**(n) Citizen participation.** — Shall mean the various mechanisms that allow customers of PREPA and electric power generation and/or distribution companies certified in Puerto Rico to have a forum to express their concerns, make suggestions, and be included in the decision-making process. 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.

**(o) Integrated resource plan or IRP.** — Shall mean a plan that considers all reasonable resources to satisfy the demand for electric power services during a specific period of time, 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, demand response, and distributed generation by an industrial, commercial, or residential customer. Every integrated resource plan shall be subject to the rules established by the Bureau and shall be approved by the same. Every plan shall be devised with broad citizen participation and all other interested groups.

**(p) Independent producer.** — 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 the electric power generated in excess to PREPA. This shall also include distributed generators.

**(q) Demand response.** — Shall mean programs to manage the electric power grid load in order to reduce or shift electricity usage during peak periods and/or grid reliability issues. Demand Response Programs may direct load control (such as air conditioners and water heaters) rates to encourage a reduction in consumption during certain hours in which the reliability of the grids could be jeopardized and any other designed program that may be implemented through smart meters and other technologies.

**(r) Hydroelectric System of the Puerto Rico Irrigation Service, South Coast.** — Shall mean the hydroelectric works, as well and transmission and distribution lines and all facilities forming the electric system built or acquired pursuant to the provisions of the Public Irrigation Law, approved September 18, 1908, [22 L.P.R.A. §§ 251-259] and laws amendatory thereof or supplementary thereto.

**(s) System of Utilization of the Water Resources.** — Shall mean all the works and property forming the development of water resources and electrical system built or acquired, or in process of being built or acquired, or in process of being built or acquired by the Government of the Commonwealth of Puerto Rico, together with the rights, water rights, and water-power rights, used, useful, or appropriate in connection with said development and system so far accomplished, or with the continuance and expansion of said development and system by means of revenue-producing undertakings, under the provisions of Act No. 60, approved July 28, 1925, Joint Resolution No. 36, approved April 29, 1927, Act No. 36, approved April 25, 1930, Act No. 93, approved May 6, 1938, Act No. 7, approved April 6, 1931, Joint Resolution No. 5, approved April 8, 1931, Act No. 8, approved July 12, 1932, Joint Resolution No. 7, approved March 29, 1935, Joint Resolution No. 27, approved April 17, 1935, Act No. 41, approved August 6, 1935, Act No. 1, approved September 22, 1936, Act No. 94, approved May 6, 1938, and Act No. 21, approved

June 17, 1939, all of which are Acts and Joint Resolutions of the Legislative Assembly of Puerto Rico.

**(t) Solicitation of contributions.** — It shall be understood as any request personally made by a member of the Board, official or employee while carrying out the duties of his/her office, for a contribution in cash or in kind to be made for the benefit of a political party, movement, or political action committee or candidate for any elective office.

**(u) Bondholder or any similar term.** — Shall mean any outstanding bond or bonds registered to bearer or unregistered, or the registered owner of any outstanding bond or bonds which, at the time are registered in the name of a person other than to bearer.

**(h) Utilization of the Water Resources.** — Shall mean the body established pursuant to law by the Commissioner of the Interior of Puerto Rico for the purpose of handling the activities provided for by Act No. 60, approved July 28, 1925, Joint Resolution No. 36, approved April 29, 1927, Act No. 36, approved April 25, 1930, Act No. 93, approved May 6, 1938, under which the Commissioner of the Interior of Puerto Rico, in accordance with the provisions of Act No. 58, approved April 30, 1928, included all matters relative to the operation, including surveys and technical direction of new constructions, extensions and improvements, of the "Hydroelectric System of the Puerto Rico Irrigation Service, South Coast".

Words importing the singular number shall include the plural number and vice versa, and words referring to persons shall include firms, partnerships of all kinds, and corporations.

*[Amendments: Act 19-1942; [Act 57-2014](#); [Act 4-2016](#); [Act 211-2018](#); [Act 17-2019](#)]*

## CREATION AND COMPOSITION OF THE AUTHORITY

### **Section 3. — Creation and Organization of the Authority** (22 L.P.R.A. § 193)

**(a)** There is hereby created a body corporate and politic constituting an autonomous public corporation and governmental instrumentality of the Government of Puerto Rico by the name of the “Puerto Rico Electric Power Authority.”

**(b)** The Authority herein created is and shall be a government instrumentality subject to the control of its Governing Board, but it is a corporation having legal existence and personality separate and independent from that of the Government of Puerto Rico. The Authority and its Governing Board shall be regulated by the Bureau and shall submit all the information required and requested in the form and manner prescribed by the Bureau. The debts, obligations, contracts, bonds, notes, debentures, receipts, expenditures, accounts, funds, undertakings, and assets of the Authority, its officials, agents, or employees shall be deemed to be those of said corporation and not of the Government of Puerto Rico or any office, bureau, department, commission, instrumentality, municipality, branch, agent, official, or employee thereof.

*[Amendments: Act 19-1942; Act 62-1966; [Act 17-2019](#); [Act 57-2014](#)]*

## GOVERNIG BOARD

**Section 4. — Governing Board.** (22 L.P.R.A. § 194) [(\*) *Explanatory note: This Section was amended by Act No. 207-2018 and Act No. 271-2018 but the official translation is not available. Please consult the Spanish version]*

The powers of the Authority shall be exercised and its general policy and strategic management shall be determined by a Governing Board, hereinafter the Board, which shall be its governing body.

(a) *Appointment and Composition of the Board.* — The Governing Board shall be composed of seven (7) members. The Governor of the Commonwealth of Puerto Rico shall appoint, with the advice and consent of the Senate, three (3) of the seven (7) members who shall compose the Board. The members appointed by the Governor with the advice and consent of the Senate shall be selected from a list of at least ten (10) candidates to be prepared and submitted to the Governor by a recognized executive search firm for board of director recruitment for institutions of similar size, complexity, and risks as the Authority. The identification of candidates by such firm shall be based on objective criteria such as educational and professional background. The educational and professional background criteria shall include, at least, the following fields: electrical engineering, business administration, economics and finance, or law, and not less than ten (10) years of experience in their field. Also, they shall have expertise in energy affairs and shall not be public employees, except for being professors at the University of Puerto Rico. The list shall include, to the extent practicable, at least five (5) residents of Puerto Rico. The Governor, at his full discretion, shall evaluate the list of recommended candidates and select three (3) persons from the list. If the Governor rejects any or all the recommended persons, said executive search firm shall be bound 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 arising as a result of the resignation, death, disability, dismissal, or substitution outside of the original term of the member being substituted. The mechanism for candidate identification by a recognized executive search firm shall be in effect for fifteen (15) years, after which the Legislative Assembly shall evaluate whether such mechanism shall continue in effect or is rendered ineffective. If the Legislative Assembly renders such mechanism ineffective, it shall determine the new appointment method to be used. The mechanism provided in this Act shall continue in effect until the Legislative Assembly provides otherwise.

Three (3) of the seven (7) members shall be selected by the Governor at his sole discretion, one (1) of which shall be independent. The independent member shall have expertise in energy affairs and shall not be an employee of the Government of Puerto Rico. The term of his appointment shall be the same as the one established herein for the other members of the Board.

The remaining member shall represent the interests of customers and shall be selected in an election supervised by the Department of Consumer Affairs (DACO, Spanish acronym) to be held in accordance with the procedure established in subsection (c) of this section. The Authority shall provide the facilities and financial resources needed for such purpose. The customer interests representative shall have an educational and professional background of not less than ten (10) years of experience in his field, among other requirements. The educational and professional background criteria shall include at least the following fields: electrical engineering, business administration,

economics, and finances. The candidate shall also have expertise in energy affairs and may not be a public employee, except as professor of the University of Puerto Rico system.

The members appointed by the Governor with the advice and consent of the Senate shall serve for a five (5)-year term. Likewise, such five (5)-year term shall apply to both the independent member appointed by the Governor, at his sole discretion, and to the customer interests representative. However, the other two (2) members appointed by the Governor, at his sole discretion, shall be of free removal and shall hold office for the terms established by the Governor, and may be substituted by him at any moment.

None of the members of the Governing Board shall be appointed or elected to such office for more than three (3) consecutive terms. The provisions of Section 5.1 of [Act No. 1-2012, as amended](#), shall not apply to Board members.

Any vacancy in the office of the members appointed by the Governor shall be filled by their appointment for the remaining term of the original appointment, in the same manner in which they were originally selected. The designation of a substitute shall be made within six (6) months after the vacancy occurs. However, any vacancy in the office of the members elected to represent customers shall be filled in accordance with the election process regulated by DACO, within one hundred twenty (120) days as of the date on which the vacancy occurred, and a new five (5)-year term shall begin to run.

The independent members and the elected member shall be subject to the independence requirements under the New York Stock Exchange (NYSE) Corporate Governance Standards. No person may become a member of the Board (including the members representing customer interests) if he: (i) is an employee, retiree, or has any direct or indirect substantial economic interest in any private company with which the Authority has entered into contracts, or with whom it engages in transactions of any kind, including borrowing money or providing raw material; (ii) within three (3) years before holding office, has had a business relationship with or any commercial interest in any private company with which the Authority has entered into any contracts or with whom it engages in transactions of any kind; (iii) is an employee, member, advisor, or contractor of the Authority’s labor unions; or (iv) has failed to provide a certification of having filed income tax returns during the five (5) preceding taxable years, a certification of having no outstanding debt issued by the Department of the Treasury, a certification of having no debts outstanding with the Authority, a Certificate of Criminal Record issued by the Puerto Rico Police Department, as well as negative certifications of the Child Support Administration (ASUME, Spanish acronym) and the Municipal Revenues Collections Center (CRIM, Spanish acronym) or has failed to meet all other requirements applicable to any person interested in becoming a public official; and (v) no member appointed by the Governor may be an official of PREPA or an official or director of the “Puerto Rico Electric Power Authority Revitalization Corporation”. Provided, That being a customer of the Authority shall not prevent a person from becoming a member of the Board.

Board members shall receive for their services the compensation determined unanimously by the Board. If unanimity cannot be reached, then the Governor shall determine the compensation of the members. Such compensation shall be comparable to that earned by Board members in energy utility companies of similar size, complexity, and risks as the Authority, taking into account the nature of the Authority as a public corporation of the Government of Puerto Rico and, in any case, that is sufficient to attract qualified candidates.

Notwithstanding the foregoing, the members of the Board who are employees of the Government of Puerto Rico shall not receive any compensation whatsoever for their services, only a reimbursement for their expenses. To receive reimbursements for their expenses, each member of the Board shall submit a document evincing the meeting, task, or expense for which the reimbursement is requested, and the purpose of such meeting, task, or expense. These documents shall be published on PREPA’s website.

The Board’s compliance with the industry’s governance standards shall be evaluated at least every three (3) years by a recognized consultant with expertise in the matter and broad experience providing advice to boards of directors of entities whose income, complexity, and risks are similar to those of the Authority. Said report shall be submitted to the Governor. The executive summary with the findings and recommendations of said report shall be published by the Authority on its website.

**(b) *Organization of the Board; quorum; designation of the Executive Director.*** — Within thirty (30) days after its appointment, the Board shall meet, organize, and select its Chair and Vice-Chair. At that same meeting, it shall appoint and fix the compensation of an Executive Director, and shall also appoint a Secretary, neither of whom shall be a member of the Board. The works of the Board may be carried out in one (1) or more working committees, whose composition and duties shall be determined by the Chair of the Board.

The Board may delegate to the Executive Director or other officials, agents, or employees of the Authority such powers and duties as it may deem appropriate. The Executive Director shall be the executive officer of the Authority and shall be responsible for the implementation of its policy and the general supervision of the administrative and operational phases of the Authority.

The Board shall be empowered to contract, through the Executive Director, any independent advisors it needs from time to time to carry out its duties under this Act in the best manner possible. The Authority shall have a general auditor who shall be an employee of the Authority, but who shall report his findings directly to the Board, have independent judgment, provide the Board with the necessary information, and periodically meet with the Audit Committee created by virtue of this Act.

Four (4) members of the Board shall constitute a quorum to conduct business and for any other purpose. All Board agreements shall be reached by not less than a majority of the members present at the meeting where quorum has been constituted even if one of the board members present disqualifies himself. Quorum shall be constituted at the beginning of the meeting and such meeting may continue even if one of the members leaves after it has begun. However, no decision shall be made if there is no quorum when the vote is taken.

Until the election to choose the representative of customer interests is being held, pursuant to this new Board structure, the position of the member to be elected shall remain vacant. However, after this act takes effect, the members of the Board appointed by the Governor shall constitute quorum for a period of one hundred and eighty (180) days, until the members who require the consent of the Senate are appointed and confirmed and the elected member is chosen. During this period, the decisions shall be made by the majority of the members holding office.

The regular and special meetings of the Board shall be simultaneously broadcasted on the Internet and subsequently posted on PREPA’s website, except for those meetings or portion thereof when the following subjects are discussed: (i) confidential information in accordance with the Rules of Evidence of Puerto Rico; (ii) information related to collective bargaining agreements,



labor-related disputes, or issues related to personnel such as appointments, evaluation, disciplinary actions, and dismissal; (iii) ideas with regard to the negotiation of potential PREPA contracts or a determination to rescind or terminate contracts in effect; (iv) information of strategies regarding lawsuits of PREPA; (v) information of internal investigations of the Authority while these are being conducted; (vi) aspects regarding the intellectual property of third parties; (vii) trade secrets of third parties; (viii) issues that PREPA should keep confidential in accordance with any confidentiality agreement; or (ix) matters of public security involving threats against the Authority, its assets, or employees. Likewise, Board members and individuals participating at meetings not broadcasted due to the aforementioned reasons shall keep the matters discussed in said meetings confidential until there is no longer a need for confidentiality or they are required by law to disclose such information. To the extent possible, such meetings shall be broadcasted live at the commercial offices of the Authority, and the recording thereof shall be available on the Authority’s website on the business day following the meeting. Any recording shall be readily available on the Authority’s website for at least six (6) months after the date on which it was initially posted. Once such term elapses, recordings shall be filed in a place where the citizenry may access them for further review.

The Authority shall notify on its website and its commercial offices, the schedule of the regular meetings of the Board as well as the agenda of both the last and the next Board meetings. Furthermore, the minutes of the work carried out during regular and special meetings of the Board shall be posted on the Authority’s website, once these are approved by the Board in a subsequent meeting. Prior to posting such minutes, the Board shall also approve the version of each minute to be published, deleting: (i) confidential information in accordance with the Rules of Evidence of Puerto Rico; (ii) information related to collective bargaining agreements, labor-related disputes, or personnel-related issues such as appointments, evaluation, disciplinary actions, and dismissal; (iii) ideas relating to the negotiation of potential Authority contracts or a determination to rescind or terminate contracts in effect; (iv) information of strategies regarding lawsuits of the Authority; (v) information of internal investigations of the Authority while these are still being conducted; (vi) aspects regarding the intellectual property of third parties; (vii) trade secrets of third parties; (viii) issues that the Authority should keep confidential in accordance with any confidentiality agreement; or (ix) matters of public security of the Authority, its assets, or employees, or involving threats against the abovementioned. The Secretary shall propose, for the Board’s approval, the text of the minutes and the text to be deleted from the version to be published. It shall be understood as ‘minute’ a written account of the matters transacted, addressed, or agreed on by the Board.

In the case of a conflict between the provisions of this section and the provisions of Act No. 159-2013 as amended, directing all the public corporations and instrumentalities of Puerto Rico to broadcast their Board’s meetings on their websites, the provisions of this Act shall prevail.

The Authority shall post on its website all contracts, including the exhibits and attachments thereof, executed by the Authority, stating in detail the parties, purpose, and object of said contracts. Contracts shall be published within ten (10) calendar days upon the execution thereof. The Authority shall publish all contracts even if these are exempt from being filed with the Office of the Comptroller of the Government of Puerto Rico. However, the Authority shall not disclose confidential information, such as the Social Security number of the contractor, information constituting trade secrets, or issues similar to those listed above which would not be disclosed if they were discussed at a Board meeting.

At least once a year, the Board shall hold a public meeting to answer questions and address the concerns of customers and the citizenry in general. People attending such meeting may ask questions to the members of the Board about issues related to the Authority. Such meeting shall be notified at least five (5) business days in advance in a newspaper of general circulation and on the Authority’s website. The Board member who represents customers may call additional public meetings with the people he represents in accordance with his duties as Board member. Such meetings shall be coordinated with the Chair of the Board.

**(c) Procedure to elect representatives of customers’ interests. —**

**(1)** DACO shall approve regulations to implement the election procedure provided in this section. Said regulatory procedure shall comply with the provisions of the Uniform Administrative Procedures Act, Act No. 170 of August 12, 1988, as amended, and the contents thereof shall be consistent with this Act.

**(2)** On or before one hundred twenty (120) days prior to the expiration of the term of the representative of customers’ interests in the Governing Board of the Authority, the Secretary of DACO shall issue a notice of elections, whereby the requirements to be nominated as a candidate for the representative of residential customers’ interests shall be specified. The notice of election shall be published by means of media advertisement, on the Authority’s and DACO’s websites, and mailed to customers along with the Authority’s bill.

**(3)** The Secretary of DACO shall design and distribute the Request for Nominations form, in which every person aspiring to become a candidate shall state under oath, his name, personal circumstances, street and mailing address, telephone number, place of work, occupation, relevant work experience, education, and PREPA account number. The request for nomination as representative of customers’ interests shall include the signature of at least thirty (30) residential customers, as well as their names, addresses, and PREPA account numbers, and of ten (10) commercial customers, and ten (10) industrial customers including their PREPA account numbers and the name, title, and signature of one (1) authorized official from said customer who endorses the nomination of the aspirant. Furthermore, aspirants shall submit a letter bearing the letterhead and signature of one (1) official of each commercial or industrial customer certifying the endorsement of such aspirant. Such request forms shall be available on the Authority’s and DACO’s websites to be filled out in digital format by the aspirants.

The Secretary of DACO shall include in the regulations a mechanism to validate endorsements pursuant to the purposes of this Act. The regulations shall provide that the results of the endorsement validation process shall be certified by a notary. Likewise, such regulations shall include the requirements to be met by aspirants in accordance with this Act and other applicable laws. Every aspirant must be a bona fide Authority customer.

**(4)** On or before ninety (90) days prior to the expiration of the term of the representative of customers’ interests, the Secretary of DACO shall certify as candidates the seven (7) aspirants who have submitted the highest number of endorsements and have met all other requirements established in this subsection. Provided, That each one of the selected candidates may designate a person to represent him in the process and during canvassing.

**(5)** On or before sixty (60) days prior to the expiration of the term of the representative of customers’ interests, the Secretary of DACO, in consultation with the Secretary of the

Authority’s Governing Board, shall proceed with the design and printing of ballots, and the canvassing. The design of the ballot for the representative of customers’ interests shall include a space for the signature of the customer casting the vote and a space for the customer to write his account number and the mailing address where the Authority’s electricity bill is received. The ballots for commercial or industrial customers shall include a space where the customer shall write his account number, and where the name, title, and signature of an officer authorized to cast the vote in representation of said customer shall be included. The ballot shall advise that the vote shall not be counted if the customer fails to sign or write his account number on the same.

**(6)** Ballots shall be distributed by mail along with the electricity bill to each customer. In the case of customers who receive their bills electronically, they shall receive a ballot at the mailing address registered under the account. The invoice or the envelope where the ballot is included shall also contain a prepaid and self-addressed envelope to the address established by DACO for the receipt of envelopes. However, prior to commencing the distribution of ballots by mail, the official designated by DACO shall certify the number of printed ballots under oath before a notary. The number of printed ballots shall be equal to the number of customers entitled to vote in the election, plus five percent (5%). Likewise, the official designated by DACO shall keep a record of ballots sent and, once the distribution process concludes, he/she shall certify the number of sent ballots under oath before a notary.

**(7)** Each one of the candidates selected as representatives of customer interests shall designate one person to represent him during the process, and such persons, together with a representative of the Secretary of DACO and a representative of the Secretary of the Board shall compose the Election Committee, which shall be chaired and directed by the representative of the Secretary of DACO.

**(8)** The Election Committee shall prepare and post prominently on the Authority’s website any information of the candidates that enable customers to pass judgment on such candidates abilities.

**(9)** The Election Committee shall enter into public service collaboration agreements with the different mass communication media in Puerto Rico to promote the election process among PREPA’s customers and to introduce all aspirants, under equal conditions.

**(10)** The Election Committee, within ten (10) days after the deadline to receive ballots, shall begin the canvassing and notify the results thereof to the Secretary of DACO, who shall certify the candidate-elect and notify such certification to the Governor of Puerto Rico and the Chair of the Board.

**(d) Role of the Board; code of ethics; fiduciary duties. —**

**(1)** Role of the Board.— The main role of the Governing Board is to lead the strategic management of PREPA and, at the same time, delegate to the Executive Director the administrative duties and works of the public corporation. The following are among the duties and responsibilities of the Board:

**(A)** Define, in collaboration with the Executive Director, the strategic management of PREPA, its top priorities and values, and oversee compliance therewith, without involving itself in the daily administrative affairs of PREPA, which are delegated

to the Executive Director. Each value and goal shall be linked to performance benchmarks and objectives, and mechanisms to oversee compliance therewith.

**(B)** Develop, update, and devise policies that are consistent with the duties, roles, and responsibilities of the members of the Board and its support personnel in order to ensure an effective governance and oversight of the public corporation, according to the best practices of governance of electric power companies.

**(C)** Develop and keep a clear and transparent accountability framework. To such purposes, the Board shall establish the expectations and assess the performance results of its members, the Executive Director and his/her staff, ensuring that they are consistent with PREPA’s mandate policies, goals, and values, and the best industry practices.

**(D)** Give instructions to PREPA’s officials and employees to ensure compliance with PREPA’s mission, policies, goals, and values. Provided, that no member of the Board may give instructions on an individual or personal manner to PREPA’s employees. Any instruction shall be given by the whole Board and abide by a determination or instruction of said body.

**(E)** Establish and maintain updated a participatory and dynamic governance model, for which it shall study and use as reference the best industry practices and the governance models of comparable electric power companies.

**(F)** Implement the operational measures and savings specified in the Creditors’ Agreement in relation to each one of the items included therein, as well as any other identified savings and opportunities, comply with the Authority’s rate as authorized by the Commission, and achieve operational efficiency, as well as the diversification and modernization needed to provide customers with reliable energy at the lowest reasonable cost.

**(G)** Within one year after its constitution, approve bylaws establishing the mission, vision, values, and corporate strategy of the Authority in accordance with Act No. 83, *supra*, and the Creditors’ Agreement. The Board shall update such document annually, to the extent necessary.

The Board shall hire advisors as are necessary to properly carry out its duties.

**(2) Code of Ethics.** — The Board shall adopt a Code of Ethics that shall govern the conduct of its members and staff. Among its objectives, the code of ethics shall require that the conduct of the members of the Board and its staff be governed at all times by the public interest and the interest of customers, and the best practices of the energy industry, and not by the pursuit of personal gain or profits for other natural or juridical persons; require and oversee that there is no conflict of interests and immediately clarify any apparent conflict of interests that may call into question the loyalty and fiduciary duty of the members of the Board and its staff with the interests of the Authority and of its customers; require that every Board member shall be duly prepared to attend regular and special meetings, and be able to deliberate on the Authority’s matters; and provide the tools to prevent, orient, guide, and adjudicate on all that pertains to compliance with the ethical duties and responsibilities of all individuals regulated by the code of ethics of the Board. In addition, the code of ethics shall be designed in accordance with the best governance practices of the electric

power industry and consistent with the applicable ethical rules, such as the provisions of the [“Puerto Rico Government Ethics Act of 2011”](#).

**(3) *Fiduciary Duties.*** — All actions of the Board and its members shall be governed by the highest duties of loyalty, due care, competence, and diligence for the benefit of the Authority and the public interest of providing an essential public service of quality to customers through just and reasonable rates consistent with sound fiscal and operational practices that provide for an adequate service at the lowest reasonable cost to ensure the reliability and safety of the System. Members shall not represent any creditor nor interests other than those of the Authority.

**(e) *Audit Committee.*** —

**(1) Creation.**— As of July 1, 2014, the Board shall appoint an Audit Committee composed of three (3) members of the Board, one of which shall be the Chair of the Committee.

**(2) Duties.**— The Committee shall have the following duties:

**(A)** Adopt statutes that shall govern its duties and responsibilities using the best practices in Audit Committees at the national and/or international level;

**(B)** choose, determine the compensation, and supervise the works of independent external auditors of PREPA;

**(C)** Conduct or authorize investigations in connection with any issue of PREPA’s management or employees;

**(D)** require any information, including oral testimonies or documents needed to carry out its duties;

**(E)** meet regularly and periodically with the management and administrators to keep abreast of the operations and transactions of PREPA; and

**(F)** Implement the operational measures and savings specified in the Creditors’ Agreement in relation to each one of the items included therein, as well as any other identified savings and opportunities, comply with the Authority’s rate as authorized by the Commission, and achieve operational efficiency, as well as the diversification and modernization needed to provide customers with reliable energy at the lowest reasonable cost.

**(G)** Within one year after its constitution, approve bylaws establishing the mission, vision, values, and corporate strategy of the Authority in accordance with Act No. 83, supra, and the Creditors’ Agreement. The Board shall update such document annually, to the extent necessary.

**(f) *Performance and conduct.*** — Without limiting the general provisions regarding conduct, and the ethical and fiduciary duties provided for in this Act, including the confidentiality duty provided in subsection (b) of this section, no member of the Board shall:

**(1)** Contribute money or make contributions either directly or indirectly to political organizations, candidates or parties while holding office;

**(2)** seek political office or engage in a political campaign to hold or support someone who runs for an elective public office or any position in the management or organization of a political party or to participate in partisan political campaigns of any kind while holding office;

**(3)** make public statements, comments, or remarks regarding partisan political issues or acts while holding office;

(4) coerce, obligate, command, or require other Board members, officials, or employees to make financial contributions or carry out or engage in partisan political activities while they are on duty, or

(5) solicit while on duty, or coerce, obligate, or require other Board members, officials, or employees to vote or further the political interests of his/her party or candidate of preference.

Without it being construed as a limitation to the powers bestowed upon the Governor of Puerto Rico under Act No. 3-2017, the Governor may dismiss any Board member for the following reasons:

(1) Engaging in the conduct prohibited in the preceding paragraph;

(2) incompetence, clear professional inability, or negligence in the performance of functions and duties;

(3) immoral or unlawful conduct;

(4) being convicted of a felony or misdemeanor involving moral depravity or crimes against the public treasury or function;

(5) clear abuse of the Authority or of the discretion bestowed upon him/her under this or any other act;

(6) wanton and willful obstruction of the works of the Board;

(7) destruction of the Authority’s property;

(8) work under the influence of alcohol or controlled substances;

(9) fraud;

(10) violations of the [Puerto Rico Government Ethics Act](#);

(11) abandonment of duties, or

(12) failure to meet the requirements to become a member of the Board, as provided in this chapter.

Board members may also be removed from office due to physical or mental disability which prevents them from performing their duties, in this case it shall not be considered a dismissal.

Without impairment to the constitutional authority of the Legislative Assembly to oversee the operations and performance of the agencies, instrumentalities, and public corporations of the Government of the Commonwealth of Puerto Rico, the Legislative Center for Fiscal Analysis and Innovation, created under Act No. 147-2015, is hereby authorized to conduct an evaluation every two (2) years of the performance of the Board and make recommendations with regard to the potential dismissal of any of the members thereof for noncompliance with his/her duties and responsibilities. The results of said evaluation shall be filed with the Office of the Clerk of the House of Representatives and the Office of the Secretary of the Senate every two (2) years, to be counted as of the effective date of this act, but not later than February 1st.

**(g) Responsibility of Board members and officials.** — Without impairment to any rights granted under Act No. 104 of June 29, 1955, as amended, known as the “Act on Claims and Lawsuits Against the Commonwealth”, no present or future member of the Board, official, agent, or employee of the Authority shall be held civilly liable for any action taken in good faith in the discharge of his/her duties and responsibilities under this Act, unless it is established that he/she engaged in conduct constituting an offense, deceit or gross negligence, nor shall be liable for any

costs incurred in relation to any claim for which they enjoy immunity as provided herein. Furthermore, the Board, any of its individual directors, as well as any official, agent, or employee of the Authority shall be indemnified for any civil liability adjudicated under the laws of the United States of America, unless it is established that he/she engaged in conduct constituting an offense, deceit, or gross negligence.

**(h) *Interference with administrative function*** . — No elected official of the Executive or the Legislative Branch or of the municipalities may, directly or indirectly, interfere in the performance or decision-making duties of the Board or the executive officers of the Authority, including, but not limited to interfering to affect the result or decisions of the executive officers or the Board on labor relations disputes or determinations; human resources decisions such as appointments and compensations; collective bargaining agreements; determinations in connection with rate review, contracting, service disconnection; determinations regarding the content or implementation of the capital improvement program, and other operational matters or inherent functions of the executive officers and the Board. Moreover, no such elected officials shall interfere in the processes and decision making of the Energy Commission, except in the case of a formal communication or notification of such official as part of his/her official duties and/or whenever his/her interference is necessary to protect life, property, or public safety during emergencies.

[Amendments: Act 19-1942; Act 62-1966; Act 36-1973; Act 3-1979; Act 84-1994; Act 47-1995; Act 222-2010; Act 29-2013; [Act 57-2014](#); [Act 4-2016](#); [Act 37-2017](#)]

[Amendments non-incorporated in this Section 4: Act No. 207-2018; Act No. 271-2018; [Act 17-2019](#)]

## EXECUTIVE DIRECTOR

**Section 4A. — Executive Director, Executive Officers.** (22 L.P.R.A. § 195) [Note: [Act 17-2019](#) renumbered former Section 5 as Section 4A]

**(a)** The Executive Director shall be appointed by the Board exclusively on the basis of experience, capability, and other qualifications best suited to achieve the purposes of the Authority. The Executive Director may be dismissed by the Board, at its discretion. No person may become Executive Director if he/she has failed to provide a certification of having filed income tax returns during the five (5) preceding taxable years, a certification of having no outstanding debt issued by the Department of the Treasury, a certification of having no outstanding debts with the Authority, a Certificate of Criminal Record issued by the Puerto Rico Police Department, as well as a negative certificate of debt issued by the Child Support Administration (ASUME, Spanish acronym) and the Municipal Revenues Collections Center (CRIM, Spanish acronym).

**(b) *Creation and designation of executive officers***. —

In addition to the position of Executive Director, the Board shall create or designate the positions of other executive officers as are necessary; such positions shall be for the term and have all those other employment conditions deemed necessary according to the office, to carry out the purposes and duties of the Authority. Among the executive officers there shall be included the members of the upper and middle management holding positions that, due to their relevance, the

Board determines should be governed by the provisions of this section. The Executive Director shall select persons who have the capability and professional experience required by each position according to objective criteria defined by the Board. Personnel transactions involving executive officers shall be governed, wherever this Act does not provide therefor, by the rules applicable to the private sector. The compensation of executive officers shall be comparable to that received by professionals holding similar positions in electric utility companies of similar size, complexity, and risks as the Authority, and may be dismissed by the Executive Director or the Board, at their discretion, with or without cause, but shall never be dismissed for discriminatory reasons.

**(c) Performance and conduct.** —

When evaluating the selection and the annual performance of the individuals holding executive officer positions, the Board, in the case of the Executive Director, and the Executive Director, in the case of all other executive officers, shall be guided by criteria such as experience, education, professionalism, competence in the discharge of his/her duties, effective performance, and any other criteria clearly defined by the Board. Without limiting the general provisions regarding improper conduct provided in this Act, neither the Executive Director nor any other executive officer shall:

- (1) Contribute money or make contributions either directly or indirectly to political organizations, candidates, or parties while holding office;
- (2) seek political office or engage in a political campaign to hold or support someone who runs for an elective public office or any position in the management or organization of a political party or to participate in partisan political campaigns of any kind while holding office;
- (3) make public statements, comments, or remarks regarding partisan political issues or acts while holding office;
- (4) coerce, obligate, command, or require other Board members, officials, or employees to make financial contributions or carry out or engage in partisan political activities while they are on duty; or
- (5) solicit while on duty, or coerce, obligate, or require other Board members, officials, or employees to vote or further the political interests of his/her party or candidate of preference.

[Amendments: *Act 19-1942*; [Act 57-2014](#); [Act 4-2016](#)]

**Section 4B. — Energy Control Center and its Director.** (22 L.P.R.A. § 195a) [Note: [Act 17-2019](#) renumbered former Section 5A as Section 4B]

**(a)** In order to protect the reliability in the management of the electric power grid, prevent discrimination against electric power companies interconnected to the electric power grid, and ensure greater independence in the operations of the electric power grid, the Board shall appoint, with the advice of the Executive Director, a Director of the Energy Control Center who shall answer directly to the Executive Director. With the assistance of the Director of the Energy Control Center and the Executive Director, the Board shall establish and maintain mechanisms that ensure the autonomous operation of the Energy Control Center. The Board may dismiss the Director of the Energy Control Center from office, but only for just cause and after he/she has been given notice and an opportunity to be heard. The Director of the Energy Control Center shall be an engineer specialized in the field relevant to his/her office and have at least ten (10) years of proven experience in the management of electric power grids. The Director may not: (1) have had a



business relationship with or direct interest in PREPA within two (2) years before his/her appointment to such office; (2) have been a member of a local or central directing body of a political party registered in the Commonwealth of Puerto Rico during the year immediately preceding his/her appointment; (3) be an employee, member, advisor, or contractor of PREPA’s labor unions; or (4) has failed to provide the certification of having filed income tax returns during the five (5) preceding taxable years issued by the Department of the Treasury, the certification of having no debts outstanding with PREPA, the Criminal Record issued by the Puerto Rico Police Department, as well as a negative certificate of debt issued by the Child Support Administration (ASUME, Spanish acronym) and the Municipal Revenues Collections Center (CRIM, Spanish acronym).

(b) The Director of the Energy Control Center shall collect and provide PREPA with daily information regarding energy itemization, to be published on PREPA’s website in accordance with the provisions of Section 2.2 of this Act.

[Amendments: [Act 57-2014](#)]

## POWERS OF THE AUTHORITY

**Section 5. — Powers and Authorities.** (22 L.P.R.A. § 196) [Note: [Act 17-2019](#) eliminated former Section 5 and substituted for a new Section 5]

The Authority is hereby conferred, and shall have and exercise, the rights and powers necessary or convenient to achieve the aforementioned purposes, including the following:

- (a) To have perpetual existence as a corporation.
- (b) To adopt, alter, and use a corporate seal, of which judicial notice shall be taken.
- (c) To prescribe, adopt, amend, and repeal bylaws and regulations: (1) to govern the manner in which its general business shall be conducted, and to exercise and perform the powers and duties granted to and imposed on it by law; (2) to guarantee the safety of persons or property, to regulate the use and enjoyment of its property and of such other property under its administration; (3) to use and consume electric power; and (4) to inspect and manipulate equipment, enterprises, facilities, devices, instruments, wires, meters, transformers, and any other similar objects owned by PREPA used in connection with the production, transmission, distribution, and use and consumption of electric power. The regulations so adopted shall have the force of law once the provisions of Act No. 38-2017, the “Government of Puerto Rico Uniform Administrative Procedure Act,” are complied with.
- (d) To have full control over and intervene in any venture undertaken or acquired, including the power to determine the nature of and the need to incur all expenditures and the manner in which such expenditures shall be incurred, authorized, and defrayed, but subject to the regulations of the Bureau; provided, that all actions taken by PREPA’s management, employees, and Governing Board shall be subject to the provisions of the Government Ethics Act, and to the highest fiduciary duties to the people of Puerto Rico.
- (e) To sue and be sued in all courts of justice subject to the limitations established herein.

**(f)** To enter into contracts and execute any instruments as are necessary or convenient in the exercise of any of its powers.

**(g)** To prepare, or cause to be prepared plans, projects, and expense budgets for the construction, reconstruction, extension, improvement, expansion, or repair of any undertaking or any part or parts thereof, and from time to time modify such plans, projects, and budgets.

**(h)** To acquire in any lawful manner including, but not limited to acquisition by purchase, whether by agreement or eminent domain, lease, bequest, devise, or gift, and to hold, maintain, use, and operate any undertaking or parts thereof.

**(i)** To acquire in the manner stated in the preceding subsection, produce, impound, develop, manufacture, treat, hold, conserve, use, transmit, distribute, deliver, exchange, sell, lease, and otherwise dispose of, water, electric power, equipment, and such other things, supplies, and services as the Authority deems

necessary, proper, incidental, or convenient in connection with its activities; **(j)** To acquire, hold, and use any property, real, personal, or mixed-use, tangible or intangible, or any interest therein, it deems necessary or convenient for carrying out the purposes of the Authority, and (subject to the limitations set forth in this Act) to lease as lessor, or exchange any property or interest therein at any time acquired by it;

**(k)** To construct or reconstruct any undertaking or any part or parts thereof, and any additions, improvements, and extensions to any undertaking of the Authority by contract or contracts, or under through, or by means of its own officials, agents, and employees.

**(l)** To propose and collect just, reasonable, nondiscriminatory rates and fees, and other charges approved by the Bureau, for the use of the facilities of the Authority, or for electric power services, or other commodities sold, loaned, or provided by the Authority, that are sufficient to cover reasonable expenses incurred by the Authority in the development, improvement, extension, repair, conservation, and operation of its facilities and properties, for the payment of the principal of and interest on its bonds, and for fulfilling the terms and provisions of the agreements entered into with or for the benefit of purchasers or holders of any bonds of the Authority and other creditors;

**(m)** To provide citizen participation mechanisms and establish a continuing education program for its employees and the general community to promote energy conservation and efficiency, subject to the rules established by the Bureau. For such purposes, the Authority may enter into collaboration agreements with other public and civic entities, nongovernmental organizations, and other institutions interested in facilitating the coordination and reducing the costs of the continuing education programs and the mechanisms to allow and promote citizen participation.

**(n)** To appoint executive officers and those officials, agents, and employees and vest in them such powers and duties, and to fix, change, and pay such compensation for their services as the Authority may determine.

**(o)** To borrow money, make and issue bonds for any of its corporate purposes, and to secure payment of its bonds and of any and all other obligations by pledging or placing a lien on all or any of its contracts, revenues, and income; provided, however, that the Authority may place liens on real or personal property as necessary to comply with federal regulations that allow for United States Government funding or guarantees through any of the agencies thereof to be able to participate in federal programs. No lien whatsoever may be placed on the assets of the Authority insofar as the agreement or agreements entered into with the bondholders or other agreements

entered into with the creditors of the Authority do not allow under [PROMESA, Public Law No. 114-187](#). Except for the bonds and other financing instruments related to the Authority’s restructuring pursuant to the agreements entered into with the creditors of the Authority, whose debt parameters shall be governed by the provisions of Chapter IV of [Act No. 4-2016](#), and the Creditors’ Agreement, before borrowing any money or issuing bonds for any of its corporate purposes, the Authority shall require the Bureau’s approval showing that the proposed financing shall be used to fund projects and defray the costs associated therewith in accordance with the Integrated Resource Plan.

**(p)** To make and issue bonds for the purpose of consolidating, refunding, purchasing, paying, or redeeming any of the outstanding bonds or obligations issued or assumed by it or any bonds or obligations the principal or interest of which is payable in whole or in part from its revenues.

**(q)** To accept grants from, and enter into contracts, leases, agreements, or other transactions with, any federal agency, the Government of Puerto Rico, or political subdivisions of the Government of Puerto Rico, and to expend the proceeds of any such grants for any corporate purposes.

**(r)** To sell, or otherwise dispose of, any real, personal, or mixed-use property, or any interest therein, that in the judgment of the Board is no longer necessary for carrying on the business of the Authority or for effectuating the purposes of this Act; provided, that any of the conditions established in the applicable laws, regulations, and rules are complied with.

**(s)** To enter into any lands, bodies of water, or property, to make surveys, soundings, and studies to effectively carry out its duties under this Act, when there is no other alternative, upon written notice within, at least, five (5) days in advance to the owners or holders thereof. Such entry shall be made at a time most convenient to the owner or holder of the premises in question, and must be made within the shortest time possible so that the use and enjoyment thereof by its owner or holder is not unduly affected.

**(t)** To assign and transfer surplus personal property, free of charge, to other government entities or municipalities, provided, that any of the conditions established in the applicable rules and regulations are complied with.

**(u)** Upon the prior approval of the Bureau, to create, whether in Puerto Rico or in a different jurisdiction, or contract with companies, partnerships, or subsidiary corporations, whether for profit or nonprofit, affiliated or associated, in order to, among others:

- i.** Separate or divide into one or more subsidiaries the Authority’s generation, transmission, and distribution functions,
- ii.** Participate in Public-Private Partnerships in accordance with [Act No. 29-2009, as amended](#), and [Act No. 120-2018, as amended](#),
- iii.** Develop, finance, build, and operate industrial projects and other infrastructure directly related to the maximization of the Authority’s electricity infrastructure (to have a stable electrical system with the latest technology, clean, reliable, and highly efficient),
- iv.** Acquire, hold, and dispose of securities and shares, contracts, bonds, or other interests in other companies, entities, or corporations, and exercise any and all powers and rights that such interest allows; provided, that in the Board’s judgment, such action is necessary, appropriate, or convenient to attain the Authority’s purposes or to exercise its powers, and
- v.** Sell, lease, assign, or otherwise convey any property of the Authority or to delegate or transfer any of its rights, powers, functions, or duties, to any such companies, entities, or

corporations that are subject to its total or partial control, except for the power of eminent domain.

(v) Formulate, adopt, amend, and repeal rules and regulations as are necessary or convenient to exercise and carry out its powers and duties.

(w) Conduct competitive request for proposals processes or execute Partnership contracts, in accordance with [Act No. 120-2018, as amended, known as the “Puerto Rico Electric Power System Transformation Act,”](#) and [Act No. 29-2009, as amended, known as the “Public-Private Partnership Act,”](#) and the parameters required by the [“Puerto Rico Energy Public Policy Act”](#) and this Act to develop, finance, build, operate, and provide maintenance, in whole or in part, to the electric power grid and the power plants, and other facilities and infrastructure thereof, as well as to promote new generation, transmission, distribution, customer service optimization projects, and any other necessary project consistent with the Integrated Resource Plan.

(x) Any sum owed by the Authority to any agency, instrumentality, or public corporation of the Government of Puerto Rico may be credited to any outstanding debt of such agency, instrumentality, or public corporation with the Authority; provided, that such credit does not violate the trust agreements entered into with the bondholders.

(y) To take any actions or measures as are necessary or convenient to exercise the powers granted thereto under this Act or by any other law.

(z) To assist the Expert Advisory Committee on Climate Change created by the “Puerto Rico Climate Change Mitigation, Adaptation, and Resilience Act,” when the Committee so requests it, in devising the Climate Change Mitigation, Adaptation, and Resilience Plan required by Section 9 of said Act.

The powers and authorities of the Electric Power Authority may be delegated and transferred as part of a Partnership Contract under the provisions of [Act No. 29-2009](#) and [Act No. 120-2018](#).

**Section 6. — Duties and Responsibilities.** [Note: [Act 17-2019](#) eliminated former Section 6 and substituted for a new Section 6]

(a) To provide and allow electric power to be provided in a reliable, clean, efficient, resilient, and affordable manner thus contributing to the general wellbeing and the sustainable development of the people of Puerto Rico;

(b) To guarantee that a universal electric power service is provided;

(c) To conduct business responsibly and efficiently, and applying sound fiscal and operating practices;

(d) To rise to energy and environmental challenges by using available scientific and technological advances, and incorporate the best practices in the electric power industries of other jurisdictions;

(e) To facilitate the interconnection of distributed renewable energy producers to the electric power grid;

(f) To ensure the continuity and reliability of the electric power service;

(g) To fully comply with the rules, regulations, orders, mandates, requests, and penalties as established by the Bureau, in the discharge of its duties to regulate and oversee the electrical system of the Island, and refrain from taking any action that may deny, suspend, impair, delay, or hinder the orders of the Bureau;

**(h)** To comply with all applicable environmental legislation and regulations including, but not limited to, the Mercury and Air Toxic Standards (M.A.T.S.), which are monitored by the U.S. Environmental Protection Agency (EPA).

**(i)** To establish, with the approval of the Bureau, an electricity bill for each customer class of the Authority or successor thereof. Such bill shall itemize clearly the categories of the different charges and credits assessed to the customer, including but not limited to, fuel purchase adjustment and adjustment for energy purchase from energy producers, net metering credit, the contribution in lieu of tax and subsidies created under special laws, the Transition Charges (as such term is defined in Chapter IV of [Act No. 4-2016](#)) and the Base Rate Charge, which shall include the account service and management fee, energy consumption charge, operating expenses, energy theft, electricity loss, debt payment not included in the Transition Charge, accounts receivables from the public sector, accounts receivables from the private sector, and any other charge that has an impact on the customers’ bill. Any other detail in connection with rates and charges that the Bureau deems should not be included in the bill shall be published and explained on the websites of the Authority and the Bureau. The bill shall be totally transparent and shall be approved by the Bureau; provided, that it complies with the rules established by this Act. The bill shall not include or encompass any other charge or fee under the fuel purchase and energy purchase items other than that approved by the Bureau in accordance with the mandates of this Act and the [Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014, as amended](#).

**(j)** Provide documents and information of the Authority as requested by the customers, except: (i) confidential information in accordance with the Rules of Evidence of Puerto Rico; (ii) information related to collective bargaining agreements, labor-related disputes, or personnel-related issues such as appointments, evaluation, disciplinary actions, and dismissals; (iii) ideas relating to the negotiation of potential Authority contracts or a determination to rescind or terminate contracts in effect; (iv) information of strategies regarding lawsuits of the Authority; (v) information of internal investigations of the Authority while these are still being conducted; (vi) aspects regarding the intellectual property of third parties; (vii) trade secrets of third parties; (viii) issues that the Authority should keep confidential in accordance with any confidentiality agreement, insofar as such agreement is not inconsistent with the public interest; or (ix) matters of public safety of the Authority, its assets, or employees, or involving threats against the aforementioned. In compliance with this duty, in addition to the original copy of the documents where such information appears, the Authority shall publish and make available to customers the documents that organize and provide such information in a manner that facilitates the handling thereof by persons without expertise in the disciplines addressed therein so that they may understand them. The Authority’s public information shall include, but not be limited to, its monthly financial report, including data per customer class, the price per type of fuel as well as the average, the cost per kilowatt-hour of each customer class during the three (3) preceding months, the production cost per kilowatt-hour, and per generation plant, PREPA’s operating expenses for the last month, and the generation distribution per type of technology and fuel;

**(k)** To keep and maintain a website with free access, whereby the Authority shall provide at least the following:

- i.** A platform to pay bills, examine the consumption history, verify the usage pattern, and obtain information related to their bill, such as the reading of the meter at the beginning and at the end of the billing cycle, dates and number of days in the billing cycle, and meter

constant, the rates, the date of the next reading, as well as any other information that enables the verification of the reading;

**ii.** Information of the electric power infrastructure, including information regarding public and private generators, so that customers may be able to evaluate the status of the electric power infrastructure and the Authority as public instrumentality;

**iii.** A copy of all the contracts and resolutions of the Governing Board; **iv.** Any document related to the revenues, sales, expenses, disbursements, assets, liabilities, accounts receivable, and any other financial information of the Authority;

**v.** The price per barrel, or its equivalent, per type of fuel, the average rate per kilowatt-hour for each customer sector, the cost of generation per kilowatt-hour and per power plant, all operating costs and expenses, an itemization of the operating costs related to electric power generation, transmission, and distribution, the service cost to each customer class, generation per type of technology, and any other information about the operations of the Authority;

**vi.** A breakdown of the electricity demand projected and determined by the Energy Control Center of PREPA;

**vii.** The data related to the energy generation capacity and reserve margin;

**viii.** The status of the internal procedures of the Authority to implement the changes required by means of legislation to reform Puerto Rico’s electrical system;

**ix.** Access to a platform where customers may request any information and public documents of the Authority that are not available through the website;

**x.** A copy of the agreement or agreements entered into with the bondholders by virtue of PROMESA; and

**xi.** The monthly financial reports that shall be published on the website on or before thirty (30) days after the month covered in the report concludes.

The information described in the aforementioned paragraphs v, vi, and vii shall be posted in real-time.

**(l)** To notify the public, at least forty-eight (48) hours in advance, of any scheduled service interruption through its website, social media, and any other communications media.

**(m)** To submit a report to the Governor, the Bureau, and both Houses of the Legislative Assembly, not later than May 31 of every year, stating the measures taken during the preceding calendar year to address the emergencies that may arise with respect to the upcoming hurricane season and other atmospheric disturbances, including floods that may affect the electrical system of the Island. Likewise, said report shall present the adopted plans or protocols to be followed in case of fires in facilities and establishments of the Authority. It shall also include any preventive measure identified for the conservation of the power lines in the event of an earthquake. The report shall include, but not be limited to, the following information:

**i.** Improvements to the Electric Power Authority’s Revised Operating Plan for Emergencies due to Atmospheric Disturbances;

**ii.** development of an emergency plan to face a possible earthquake;

**iii.** Adopted plans or protocols to be followed in case of fire in the authority’s facilities and establishments;

**iv.** Status of the tree trimming program in order to protect power transmission lines, while protecting our trees and preventing them from being damaged;

- v. Decision-making protocol to enforce the shutting down of the electrical system;
  - vi. Trainings offered to the Authority’s essential personnel to qualify it on the procedure to be followed in case of emergencies arising from atmospheric disturbances, fire in the Authority’s facilities or establishments, or earthquakes, as well as a certification attesting that all the personnel performing supervisory functions in the operating areas has been duly advised on the norms of the operating emergency plan in effect; and
  - vii. Contingency plans to address the situation after a storm, a hurricane, a fire in the Authority’s facilities or establishments, or an earthquake, directed to normalizing or reestablishing the electrical system as soon as possible.
- (n) To develop and comply with an integrated resource plan in accordance with the parameters and requirements established by the Bureau in accordance with the energy public policy.
- (o) When charges contained in a bill include three (3) or more past due invoices for services that, due to error or omission of the Authority, were not previously billed, the Authority shall offer a reasonable payment plan to the customer according to his financial capacity. The foregoing notwithstanding, the Authority shall have a maximum term of one hundred eighty (180) days to bill for any service rendered. Once such term elapses, the Authority may not charge for services rendered but not billed. The Authority shall have a maximum term of one hundred twenty (120) days from the date of issue of the electricity bill to notify customers of billing errors. Once said term elapses, the Authority may not claim retroactive charges for said billing errors, such as those of an administrative or operational nature, or for an erroneous reading of electric power service consumption meters. This shall only apply to residential customers; it shall not apply to commercial, industrial, or institutional customers, or any other class of customer, or to periodic charges or adjustments included in the rate approved by the Bureau or the Transition Charges of the securitization structure. In those cases where customers keep the meters out of the readers’ visual reach, or in an event of force majeure, such as hurricanes, among others, which prevent the reading of meters, this measure shall not apply to electricity bills issued based on consumption estimates. Likewise, it is hereby prohibited to report delinquent accounts of residential customers to credit bureaus as a collection or payment demand, except in the case of undisputed accounts from customers whose balance and recurrence of nonpayment, after more than two demands for payment have been made, and after all the collection mechanisms usually employed by any business when their customers fail to pay for services have been exhausted, show their intent not to meet their payment obligations with the Authority or otherwise imply their intent to defraud the Authority.
- (p) Every bill sent by the Authority to its customers shall advise them of their right to dispute a bill (except for the Transition Charges of the securitization structure) and request the Authority to conduct an investigation. The Authority shall provide, on its website and at every regional and commercial office, information about the procedure, terms, and requirements to dispute a bill and request the Authority to conduct an investigation, and subsequently resort to the Bureau to request review of the Authority’s decision. Likewise, on its website and at every regional and commercial office, the Authority shall provide information about the procedure, terms, and requirements to request the Bureau to review any of the Authority’s decisions regarding customer bills.

*[Amendments: Act 19-1942; Act 112-1969; Act 272-2002; Act 189-2003; Act 370-2004; Act 223-2006; Act 86-2007; Act 131-2007; Act 138-2007; Act 162-2009; Act 238-2011; [Act 57-2014](#); [Act 4-2016](#); [Act 17-2019](#)]*

**Section 6A. — PREPA Rate Review Process.** (22 L.P.R.A. § 196a)

(a) *Review of Proposed Rate.* — Every rate proposed by the Authority shall be reviewed by the Energy Commission prior to taking effect, subject to the terms provided in the [Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014](#), and this section. The rate review process 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.

(b) *Procedure in the Authority.* — Before filing a rate review proposal, the Authority shall hold hearings before the Governing Board of the Authority or before any administrative judge or judges or hearing officers designated for such purposes at the request of the Governing Board. When thus designated, the administrative judge or hearing officer shall conduct the hearings in accordance with procedural rules established for such purposes. If applicable, the Authority shall notify the hearing calendar to the public by posting a notice to that effect on the website of the Authority and placing advertisements in the media, within at least fifteen (15) days before the date on which the public hearings are to be held. If public hearings are held, the Authority shall file with the Commission a detailed report on said proceedings, which shall be included in the record of the request for rate review.

When notifying the holding of the public hearings referred to in the preceding paragraph, the Authority shall notify the Independent Consumer Protection Office (ICPO). ICPO shall be in charge of verifying and coordinating with the Authority that a reasonable opportunity for citizen participation is provided in the public hearings on the rate review. As part of said function, ICPO shall ensure that the following criteria are met:

- (i) The Authority notified the public of the holding of a public hearing within at least (15) days in advance;
- (ii) The Authority provided sufficient and easily understandable information to the attendees on the proposed reviews and the basis therefor; and
- (iii) The attendees are provided with reasonable and sufficient opportunities to ask questions and express their concerns according to the process previously agreed on with the Authority.

No public hearing may be held without an ICPO representative. However, if the position of ICPO Director is vacant, the functions of ICPO at the public hearings provided for in this subsection shall be carried out by the person to whom the Governor delegates temporarily for such purposes. The Authority shall provide the personnel and equipment needed to record the public hearings in their entirety and shall be custodian of all recordings.

ICPO shall prepare detailed minutes of each public hearing and provide the Authority with a copy thereof. The minutes prepared by ICPO shall be part of the file submitted by the Authority to the Energy Commission during the review process of the proposed rate.

The provisions of Act No. 21 of May 31, 1985, known as the “Uniform Rate Revision and Modification Act”, and the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedure Act,” shall apply to the Authority’s rate modification and review processes insofar as they are consistent with the provisions and requirements on rate modifications and review established in this section. To the extent the provisions of Act No. 21, *supra*, are inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

(c) *Initial rate review.* — Rates in effect as of the effective date of the Puerto Rico Energy Transformation and RELIEF Act shall continue in effect until they are reviewed by the Energy



Commission in accordance with the provisions of this section and the Puerto Rico Energy Transformation and RELIEF Act. The first rate review process shall end not later than one hundred eighty (180) days after the Commission determines through a resolution that the Authority’s request is complete. During said process, the burden of proof shall lie on the Authority which shall be required to show that such rate 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 Authority shall submit all the information requested by the Commission, which shall include but not be limited to, any documents pertaining to:

- (i) The efficiency, capacity, and suitability of the facilities and the service;
- (ii) Direct and indirect costs related to the generation, transmission, and distribution of energy, including stranded costs and costs attributable to the loss of energy due to theft or inefficiency;
- (iii) Expenditures related to the Authority’s debt repayment;
- (iv) All charges and costs included under “Fuel Adjustment” as of the effective date of the Energy Transformation and RELIEF Act;
- (v) The Authority’s capacity to improve the service provided and its facilities;
- (vi) The conservation of energy and efficient use of alternative energy resources;
- (vii) Data related to the effect of special laws, subsidies, and contributions; and
- (viii) Any other data or information that the Commission deems necessary to evaluate and approve rates.

The Commission shall issue a resolution indicating whether the request is complete or shall require additional information within fifteen (15) days after the request’s filing date.

The Commission shall approve a rate that: (i) is sufficient to guarantee the payment of principal, interest, reserves, and all other requirements of bonds and other financial obligations that have not been defeased as part of the securitization provided in Chapter IV of the Electric Power Authority Revitalization Act and reasonable costs of providing the services of the Authority; (ii) complies with the terms and provisions of the agreements entered into with or in benefit of buyers or holders of any bonds or other financial obligations of the Authority; (iii) covers the costs of the contribution in lieu of taxes and other contributions and subsidies required to the Authority under special laws; (iv) remains in effect during three (3)-year cycles, except for periodic adjustments authorized by the Commission as part of the rate approved, and unless the Commission *motu proprio* decides to conduct a review; (v) takes into consideration the operational and administrative efficiencies and savings provided in the Creditors’ Agreements as reasonably estimated in good faith by the Authority and determined as of the filing date of the proposal with the Commission. As part of every rate proposal, the Authority may propose one or more charges in the rate that show in a transparent manner the amounts to be paid by customers on account of the obligations of the Authority to bondholders and other creditors. Except for the Transition Charge of the securitization structure, which shall be governed by the provisions of Chapter IV of the Electric Power Authority Revitalization Act and Section 6.25A of [Act No. 57-2014](#) (22 L.P.R.A. § 1054x-1), the Commission shall review such charges according to the financial obligations of the Authority so that they may be sufficient to guarantee the annual payment of the debts contracted with bondholders.

The Authority shall propose an adjustment charge to recover variable costs in the purchase of fuel and the purchase of energy. Said fuel and energy purchase adjustment charge shall only include costs directly related to the purchase of fuel and energy. Under no circumstances, the

repayment of the line of credit (including interest) shall be part of the costs directly related to the purchase of fuel and energy. In addition, the Authority shall propose separately the charges and adjustments corresponding to the costs of subsidies and the contribution in lieu of taxes, net metering credit, and those other charges or credits that, when itemized individually, allow for greater transparency in the bill. Charges corresponding to the costs of subsidies and the contribution in lieu of taxes shall be consistent with the provisions of Section 22 of [Act No. 83 of May 2, 1941, as amended, known as the “Puerto Rico Electric Power Authority Act”](#).

The Commission shall approve under the “fuel adjustment” and “energy purchase adjustment” charges only the costs directly related to the purchase 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 denominated nor included as “fuel adjustment” or “energy purchase adjustment”.

Every three (3) years, or more frequently, if the Commission deems it necessary, it shall approve and establish a mitigation plan to ensure that the costs it deems to be inconsistent with 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 every mitigation plan approved by the Commission within a term that shall not exceed three (3) years or a shorter term established by the Commission.

The Authority and the Commission shall establish a plan for the implementation of the new transparent bill, as provided in Sections 6A and 6B of this Act. However, the Transition Charge of the securitization structure may become effective according to the payment schedule of said transaction and pursuant to the terms thereof, whether as part of the current bill of the Authority or in the new transparent bill in accordance with Sections 6A and 6B.

**(d) Rate modification request.** — Once the process provided in subsection (c) of this section concludes, the Authority shall file the rate modification request with the Commission for its approval. The request shall state the grounds for the change, the effect of such modification on the revenues and expenditures of the Authority, and any other information needed for the evaluation requested by the Commission by regulations or request. In addition, the Commission may initiate, *motu proprio*, the rate review process when it is in the best interest of customers. Any rate modification whether to increase or decrease the same shall undergo an evidentiary and a public hearing process to be held by the Commission to determine whether the proposed change is just. The review process shall not exceed one hundred eighty (180) days from the Commission’s determination by resolution that the Authority’s request is complete, unless the Commission extends the review process up to sixty (60) additional days, pursuant to [Act No. 57-2014](#).

At the Authority’s request, the Commission may approve a rate modification due to emergency circumstances, as provided in Act No. 21 of May 31, 1985, as amended, known as the “Uniform Rate Revision and Modification Act”. These emergency rates shall not be considered temporary rates as defined in this Act or in [Act No. 57-2014](#), and shall remain in effect while the emergency lasts, but never for a term exceeding one hundred eighty (180) days after their approval. Other provisions of Act No. 21 of May 31, 1985, as amended, and the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedure Act”, shall apply to rate review and modification processes of the Authority, insofar as they are consistent with the provisions and requirements for rate modification and review established in this Act. Insofar as

the provisions of Act No. 21 are inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

**(e) Temporary rate.** — Within thirty (30) days after the filing of the rate modification request, the Commission may make, *motu proprio*, or at the request of the Authority, a preliminary evaluation to determine whether a temporary rate should be established. The temporary rate shall be established at the discretion of the Commission. If the Commission establishes a temporary rate, such rate shall take effect sixty (60) days after the date of approval of the temporary rate, unless the Commission determines, at the request of the Authority, that it 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 Commission to evaluate the rate modification request proposed by the Authority and issue a final order thereon, and up to the date on which the new bill is implemented, which shall not exceed sixty (60) days after the approval of the rate, unless the Commission extends such term for just cause.

**(f) Rate modification approval.** — If after the public hearing process the Commission determines that the proposed rate change is just and reasonable, it shall issue an order to such purposes and notify the rate change on its website, along with the new rate itemization. The new approved rate shall take effect sixty (60) days after the Commission issues the order, unless the Commission determines, at the request of the Authority, that it shall take effect before sixty (60) days. If the Commission determines that the proposed rate change is unjust or unreasonable, it shall issue a duly grounded order stating so. In such case, the rate modification object of the request shall not proceed and the rate whose modification was sought shall continue in effect. Upon issuing any order after the rate review process, the Commission shall order the Authority to adjust customer’s bills to credit or charge any difference between the temporary rate established by the Commission and the new rate approved as a result of the rate review process. In the event a person ceases to be a customer during the effective term of the temporary rate, the Authority shall be required to issue a refund and shall be entitled to collect any difference between the temporary rate established by the Commission and the new rate approved as a result of the rate review process. In the event a person ceases to be a customer during the effective term of the temporary rate, the Authority shall be required to refund and shall be entitled to collect any difference between the temporary rate established by the Commission and the new rate approved as a result of the rate review process.

**(g) Inaction of the Commission.** — If the Commission 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 Authority or the requesting certified company requests that a temporary rate should not be established due to the reasons stated in its request. The Commission shall continue the review process and shall issue the corresponding order within the term specified in this section. If the Commission fails to approve or reject within the term of one hundred eighty (180) days after the date on which the Commission notifies its determination by resolution that the request of the Authority is complete, the rate proposed by the Authority or the requesting certified company shall become final, unless the Commission extends such term in accordance with the provisions of subsections (b) and (c) of this section.

**(h)** An itemization of all the rates approved or modified by the Commission shall be posted on its website.

[Amendments: [Act 57-2014](#); [Act 4-2016](#)]

**Section 6B. — Integrated Resource Plan.** *[Note: [Act 17-2019](#) eliminated former Section 6B and substituted for a new Section 6B]*

In accordance with Section 1.9 of the [Puerto Rico Energy Public Policy Act](#), when the Authority is the entity responsible for the operation of the Electrical System, it shall be required to draft and submit an Integrated Resource Plan (IRP) to the PREB. In such cases, the Authority shall be required to comply with the provisions of Section 1.9 of the [Puerto Rico Energy Public Policy Act](#), as well as with any rules, regulations, or orders issued by the Bureau.

**Section 6C. — Repealed.** *[Note: [Act 120-2018](#), Sec. 12 repealed this Section]*

## OFFICERS AND EMPLOYEES

**Section 7. — Officers and Employees.** (22 L.P.R.A. § 197)

(a) Appointments, removals, promotions, transfers, discontinuances, reinstatements, suspensions, leaves of absence and changes in grade, compensation or title of the officers and employees of the Authority shall be made and permitted as provided in rules and regulations to be prescribed by the Board in pursuance of a general plan similar, insofar as the Board shall deem it consistent with the best interests of the Authority, of its employees and of its service to the public, to that which may be in effect for employees of the Commonwealth Government under the Civil Service Laws of Puerto Rico. The members, officers, and employees of the Authority shall be entitled to reimbursement for, or per diem payment in lieu of, such necessary travel expenses as shall be authorized or approved pursuant to rules and regulations of the Board. Officers and employees of any board, commission, agency, or department of the Commonwealth of Puerto Rico may be appointed to similar positions in the Authority without examination. Any such Commonwealth officers and employees that shall have been so appointed who, prior to said appointment, were beneficiaries of any existing pension, retirement or savings and loan fund system or systems, shall continue to have, after said appointment, the rights, privileges, obligations, and status, with respect thereto that are prescribed by law for officers and employees holding similar positions in the Commonwealth Government, unless within six (6) months after this act takes effect or six (6) months after said appointment, whichever is later, they or any of them shall signify the intention to relinquish them, in which case they shall then have those of resigned or separated officers or employees of the Commonwealth Government; and all employees so appointed to positions in the Authority who, at the time of their appointment, held or shall have held positions in the Commonwealth Government or any rights or status under the rules and classifications of the Puerto Rico Civil Service Commission, shall have the same status with respect to employment or re-employment in the service of the Commonwealth Government as they had at the time they entered the service of the Authority or since better or higher right or status as the Civil Service Commission shall consider to be consistent with advancement attained in the Authority. All officers and employees appointed to positions in the Authority, who, at the time of their appointment, had, or shall later acquire, some right or status under the rules and classifications of the Puerto Rico Civil Service Commission for appointment to any similar position in the Commonwealth Government

shall have, upon request, the same rights, privileges, obligations, and status, with respect to becoming beneficiaries of any existing pension, retirement or savings and loans fund system or systems, as if they had been appointed to similar positions in the Commonwealth Government. The Authority shall be subject to the provisions of Act No. 8, approved April 5, 1941, as subsequently amended.

**(b)** No person shall hold office as a Member, officer, employee, or agent of the Authority who has a direct or indirect financial interest in any privately owned public utility in Puerto Rico engaged in the production, distribution, or sale of electric energy, or in any entity in or outside of Puerto Rico affiliated with or having any interest in any such public utility in Puerto Rico; or who has a direct or indirect financial interest in any industrial or commercial enterprise engaged in the production, distribution, or sale of any commodity or service of a character commercially opposed to, or in competition in Puerto Rico with, the production, distribution, or sale of electric energy produced by hydroelectric means; Provided, That where such incompatibility affects a Member of the Authority, the position of such Member shall become vacant, and the vacancy so created shall be filled for the time that said incompatibility exists, by the appointment by the Governor of Puerto Rico of the head of any Department of the Commonwealth Government.

**(c)** No person shall use his/her official capacity or authority to coerce, obligate, command, or require other officials or employees to make financial contributions or carry out or engage in partisan political activities or solicit while on duty, or coerce, obligate, require other officials or employees to vote or further the political interests of the party or candidate of his/her preference.

**(d)** No person shall direct or promote, while on duty, activities or the creation of groups that, directly or indirectly, further the electoral, financial, or political interests of any political party or candidate.

**(e)** No person shall solicit, directly or indirectly, for partisan political purposes: financial contributions, as defined in subsection (t) of Section 2, things of value, use of facilities, or services from any person or organization to whom he/she has awarded a contract or with respect to which was involved in the awards of contracts, compensation, job, donation, loan, or benefit funded with state, municipal, or federal funds.

**(f)** No supervisor may solicit, accept, or collect any contribution from an official or employee supervised directly or indirectly or over whom he/she has control with respect to the job, promotion, demotion, and/or working conditions of such official or employee.

**(g)** The prohibitions stated in subsection (e) shall not include voluntary contributions made by the persons or organizations stated therein, in accordance with the code of laws in effect, defined by constitutional or statutory provisions, or case law in effect and applicable thereto, which are made outside of working hours and off the premises of government instrumentalities.

**(h)** Officials or employees are hereby banned from committing themselves, either directly or indirectly, to give a job, position, work, compensation, contract, loan, or benefits originating from public funds as payment, favor, or reward in exchange for contributions received for partisan political purposes.

**(i)** Officials or employees are hereby banned from depriving or threatening to deprive any person, official, or employee of obtaining or keeping a job, position, work, compensation, contract, loan, or benefits originating from public funds, for making or failing to make contributions to candidates or political parties.

(j) At the request of an interested party, the Department of Justice shall initiate, through the Public Integrity Division, an investigation under the provisions of this section.

(k) Once said investigation is concluded, if the Department of Justice deems that any of the provisions of this Act has been violated, it shall file a Complaint and conduct an adjudicative proceeding in accordance with Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedure Act”.

(l) Any official or employee adversely affected by any proceeding conducted by the Department of Justice shall have the right to file a petition for review with the Court of Appeals in accordance with the “Uniform Administrative Procedure Act”, supra.

(m) Any official or employee who violates the provisions of subsections (c) to (i) of this section may be punished by an administrative fine of not less than five thousand dollars (\$5,000) nor more than twenty thousand dollars (\$20,000).

(n) An official or employee who violates the provisions of subsections (c) through (i) of this section may be summarily suspended from employment, and once the complaint investigation established in subsection (k) is concluded, he/she may be suspended without pay for a term of up to eighty-nine (89) days or dismissed, depending on the seriousness of the violation.

(o) Any person who obtains a financial benefit as a result of a violation of partisan political prohibitions may be assessed a penalty for such violation equal to three times the value of the economic benefit received.

(p) None of the provisions of this section may be construed as limiting the right of every citizen under the Constitution of the Commonwealth of Puerto Rico, the Constitution of the United States of America, or the laws of the Commonwealth of Puerto Rico to exercise freedom of speech or freedom of association regarding political, ideological, or partisan political issues or the right to seek office or be a candidate for an elective office.

*[Amendments: Act 19-1942; [Act 4-2016](#)]*

## TRANSFERS OF SYSTEM OF THE UTILIZATION OF THE WATER RESOURCES

### **Section 8.** — (22 L.P.R.A. § 198)

There is hereby transferred and delivered, or there shall be so transferred and delivered to the Authority, all the property, real, personal, and mixed, tangible and intangible, of whatsoever kind and wheresoever situated, constituting the "System of the Utilization of the Water Resources" including all the funds, rights, franchises, privileges and assets of every character and description pertaining thereto, subject to all obligations and encumbrances, legal or equitable, with which the same may be burdened.

*[Amendments: Act 19-1942]*

## TRANSFER OF RECORDS

### **Section 9. — [Transfer of Records] (22 L.P.R.A. § 199)**

The transfers provided by Section 8 hereof shall take effect ninety (90) days after this act becomes effective. As soon as possible thereafter, the Utilization of the Water Resources and the Department of Transportation and Public Works of Puerto Rico shall transfer and deliver to the Authority all contracts, books, maps, plans, papers, books of account, and reports of whatever description relating to the operation, maintenance, designing, or construction of any existing or contemplated undertaking, and the Authority is authorized to take possession for its uses and purposes of all such contracts, books, maps, plans, papers, books of account, and records.

*[Amendments: Act 19-1942]*

### **Section 10. — [Continuity of Obligations] (22 L.P.R.A. § 200)**

The Authority shall not take any action which shall have the effect of impairing the obligation of any contractual duties imposed upon or assumed by the People of Puerto Rico under authority of existing law. From and after the effective date of the transfers provided by Section 8 of this act, the Authority shall assume all contracts and obligations of any department or agency of the People of Puerto Rico which may have been entered into or incurred for, or in the name of, or on behalf of, the Utilization of the Water Resources; and all such contracts and obligations shall inure to the benefit and credit of the Authority.

*[Amendments: Act 19-1942]*

### **Section 11. — [Appropriations and Acts Confirmed] (22 L.P.R.A. § 201)**

All appropriations by the Legislature of Puerto Rico, whether by act or by joint resolution, to or for the benefit of the Utilization of the Water Resources or for the purpose of the development of the water resources of Puerto Rico, are hereby approved, confirmed, and ratified, and all sums so appropriated and all sums set aside or required to be set aside to or for the Utilization of the Water Resources or for the development of the water resources of Puerto Rico, except only appropriations to or for the benefit of public irrigation systems built and operated by the Commonwealth Government pursuant to special laws and all sums set aside or acquired to be set aside for said systems, shall be available to the Authority for the purposes for which they were so appropriated and set aside.

*[Amendments: Act 19-1942]*

## MONEYS AND ACCOUNTS OF THE AUTHORITY

### **Section 12.** — (22 L.P.R.A. § 202)

All moneys of the Authority shall be deposited in qualified depositories for funds of the Commonwealth Government, but they shall be kept in a separate account or accounts in the name of the Authority. The disbursements shall be made by it pursuant to regulations and budgets approved by the Board.

The Secretary of the Treasury of Puerto Rico shall, upon consultation with the Authority, establish the accounting system required for the proper statistical control and record of all expenses and income belonging to or managed or controlled by the Authority. The said Secretary of the Treasury shall require that the accounts of the Authority be kept in such manner as appropriately to segregate, insofar as advisable, the accounts in respect of the different classes of operations, projects, undertakings, and activities of the Authority, and he shall consider the advisability of requiring the Authority to adopt in whole or in part the system of accounts from time to time prescribed by the Federal Power Commission, or other Federal Authority, for public utilities owning properties and engaged in business similar to the properties and business of the Authority, and the necessity of keeping in accordance with such system of accounts, complete accounts of costs of generation, transmission, and distribution of electric energy and of the total cost of electric generation, transmission and distribution works constructed or otherwise acquired by the Authority and a description of the major components of said costs, together with records of such other physical data and operating statistics as may be helpful in determining the actual cost and value of the services and practices, the methods, facilities, equipment, appliances, and the standards and sizes, types, location and geographical and economic integration of the plants and systems under the control of the Authority which may be best suited to promote the public interest, the efficiency and the wider and more economical use of electric energy; Provided, also, That the said Secretary of the Treasury or his representative shall from time to time, examine the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters which relate to its financial condition, and shall report thereon to the Board of the Authority and the Legislature.

*[Amendments: Act 19-1942]*

## ACQUISITION OF LANDS BY THE PEOPLE OF PUERTO RICO FOR THE AUTHORITY

### **Section 13.** — (22 L.P.R.A. § 203)

By request of the Authority, the Governor of Puerto Rico or the Secretary of Transportation and Public Works shall be empowered to acquire, be it through an agreement, or the exercise of the power of eminent domain, or by any other legal means, on behalf and representation of the Commonwealth of Puerto Rico, any property deed or interest thereon, that the Board of the Authority deems necessary and convenient for its own purposes. The Authority may place, at the



disposal of said officials, such funds that may be needed to pay for said property, and once it is acquired, shall reimburse any amount paid that has not been previously delivered to the Commonwealth Government. Upon making said reimbursement to the Commonwealth Government (or in a reasonable time, if the total cost or price has been advanced by the Authority, as determined by the Governor), the title of said property thus acquired shall be transferred to the Authority. The Secretary of Transportation and Public Works, with the approval of the Governor, may make those he deems pertinent for the exploitation and control of said property by the Authority in benefit of the Commonwealth Government during the period of time that elapses before said deed has been transferred to the Authority. The power that it is hereby conferred, shall not limit or restrict, the power of the Authority to acquire properties in any form or limitation whatsoever. The title of any property of the Commonwealth of Puerto Rico acquired in the past or that may be in the future, and is deemed necessary or convenient for the purposes of the Authority, may be transferred to it by the official in charge of said property, or who has custody thereof, under the terms and conditions that shall be fixed by the Governor or the official or agency he/she designates. The power that is hereby conferred to the Governor, shall not limit nor restrict the power of the Authority to initiate on its own the procedure of eminent domain, when its Board of Directors deems it convenient. Furthermore, the Authority shall meet the requirements established by the Planning Board in cases of public improvements.

*[Amendments: Act 19-1942; Act 297-2002]*

## GRANT OF LAND BY MUNICIPALITIES AND POLITICAL SUBDIVISIONS TO THE AUTHORITY

### **Section 14.** — (22 L.P.R.A. § 204)

All municipalities and political subdivisions of Puerto Rico, notwithstanding any contrary provision of law, are authorized to grant and convey to the Authority, upon its request and upon reasonable terms and conditions, any property or interest therein (including property already devoted to public use) which the Authority may deem necessary or convenient to effectuate the purposes of the Authority. The Authority shall have the right and power to construct or place any part or parts of any of its undertakings across, in, over, under, through or along any street, public highway, or any lands which are now or may hereafter be property of the Commonwealth Government or any municipality or political subdivision thereof, without obtaining any franchise or other permit therefor. The Authority shall restore any such street, highway, or lands, as nearly as may be, to their condition or state at the beginning of the work, and shall not use the same in a manner to impair unnecessarily their usefulness.

When it becomes necessary to relocate installations or undertakings of the Authority on the public highway or in any other place by reason or as a result or consequence of the execution, construction, expansion, repair or improvement of a public work undertaken by the Department of Transportation and Public Works, or by any other government agency, public corporation or municipality, including the Government of the Capital, the cost of such relocation shall be considered a part of the cost of such public work and shall be paid or reimbursed to said Authority

by the corresponding entity executing the work, according to the system in force with respect to payments belonging to the execution of a public work; Provided, That when the federal government may make any contribution toward defraying such expenses of relocation, the requirements necessary to make possible such contribution shall be met; and Provided, further, That if the relocation is used for an improvement or expansion of the affected system, the Authority shall assume the resulting additional cost.

Provided, That upon building the underground distribution systems within the territorial limits of any municipality, when it is necessary for the optimum development thereof, or when the Electric Power Authority builds new installations, any agency, public corporation or private entity whose lines are installed on the posts of the electric system owned by the Authority, it shall be required to remove them within the term provided in this chapter, without impairing the previously contracted obligations.

The Authority or the government entity that proposes the work shall notify the agency, public corporation or private entity of its intention to build or install new facilities underground, at least one hundred twenty (120) days prior to executing the work; the entities thus notified shall inform the Authority and the municipality of its acceptance to participate along with the proponent of the work, of the process or development of the underground installation or its development, within the term of thirty (30) days from the receipt of the notice remitted by the Authority or the proponent of the work. The development shall include, but without being limited to the study, design, construction, inspection and installation of the service. If the entity should opt to not participate of the underground installation process along with the Authority or corresponding government entity, it must then remove its cables within the non-renewable term of ninety (90) days from the end of the term provided for its answer regarding its acquiescence to participate in these processes.

If the agency, public corporation or private entity accedes [sic] to participate in the process of developing or installing the cables underground in conjunction with the developer of the project, and subsequent to its confirmation decides that it will not comply with the works as agreed, it shall have the obligation to thus notify it, and shall remove its cables within twenty (20) days after its refusal.

It shall be the obligation of these entities, once notified, to participate in the development of the work and perform the underground installation of the power lines within the term described, in coordination with the Authority or the proponents of the work, or remove them at their own cost. If they do not participate in the development, underground installation or removal of the cables within the established term, said entities shall be imposed a penalty equal to two hundred and fifty thousand dollars (\$250,000), or three times the cost of the underground works, or the construction of a new installation of the electrical system, whichever amount is greater; furthermore, in said case, the proponent party of the project shall be liable for the removal thereof, chargeable to the corresponding agency, public corporation or private entity. Once the cables that belong to said entities have been removed, no further liability for damages shall be imposed, unless there is negligence, on the party in charge of the works for losses of any nature caused to third parties or suffered by said entities as a direct or indirect result of the transfer or removal of its cables and the posts owned by the Authority on which the same are installed.

*[Amendments: Act 19-1942; Act 58-1960; Act 145-2002; Act 28-2003]*

## CONSTRUCTION AND PURCHASE CONTRACTS

### **Section 15.** — (22 L.P.R.A. § 205)

(1) The Authority and its subsidiaries are exempt from the provisions of the 2011 Reorganization Plan of the General Services Administration of Puerto Rico, including the provisions of Chapter V. The Authority and its subsidiaries shall establish their own procurement and auxiliary service system; and shall adopt the necessary regulations to govern this merger within sound administration and economic standards. If the Authority chooses to avail itself of the aforementioned Reorganization Plan, the provisions thereof, including those related to the Exclusive Register of Bidders, shall not apply to the fuel purchasing procedures to generate power. Furthermore, the regulations to be adopted shall provide for a swift and efficient procurement system.

(a) All purchases made and contracts for supplies or services, except professional services, entered into by the Authority, including its capital construction contracts, shall be made by calling for bids with sufficient time before the date the bids are opened so that the Authority can guarantee proper knowledge and appearance of competitive bidders. Upon comparing proposals and making adjudications, due consideration shall be given to such factors, in addition to whether the bidder has complied with specifications, as to the ability of the bidder to carry out construction work of the nature involved in the contract under consideration; the relative quality and adaptability of the materials, goods, equipment, or services; the financial responsibility of the bidder and his/her expertise, experience, reputation of business integrity and ability to render repair and conservation services; and the deadline for the delivery or performance offered. The Authority may approve regulations for the presentation of bids.

(2) Competitive bidding shall not be necessary:

(a) When the estimated amount for the acquisition or work does not exceed two hundred thousand dollars (\$200,000).

(b) An emergency requires immediate delivery of the material, supplies or equipment or the performance of the services.

(c) Spare parts, accessories or supplemental equipment or services are required for previously furnished or contracted equipment or services.

(d) Professional or expert services or work are required and the Authority deems it in the best interests of good administration for such works or services to be contracted without such announcements.

(e) Whenever prices are noncompetitive because there is only one supply source or because the prices of the goods or profit margin of such goods are regulated by law.

(f) When in the judgment of the Board a request for proposals (RFP) process shall be carried out for the acquisition of goods, equipment, supplies, or services to promote greater competition, reduce the risk of collusion, and promote the best possible terms and conditions to achieve greater savings and reduce the operating costs and expenses of the Authority.

(g) When fuel purchased for use in the generation of power in facilities owned by the Electric Power Authority is acquired from foreign governments, organizations, enterprises, agencies, departments, or other entities or corporations, partnerships, or other private enterprises or

entities; provided, that the annual volume of fuel to be purchased under this clause shall be of up to one hundred percent (100%) of the estimated annual fuel needs of the Authority. Also, under this clause, the Authority may purchase such crude oil or by-products thereof to be processed by local refineries and use in its generation facilities. The Authority and the local refineries shall negotiate the terms and conditions under which the purchase or processing of said crude oil or its by-products shall be carried out.

**(h)** In the acquisition of fuel such as, but not limited to natural gas, coal, and crude oil and its by-products that complies with sulfur content standards as required by consent agreements entered into by the Electric Power Authority and the Federal Environmental Protection Agency for the generation of electric power, such acquisition shall be made through the price request process. Acquisitions from any entity, government, and company may be carried out, provided, that the same prove that they have business volumes directly related to the fuel.

**(i)** When the Electric Power Authority acquires crude oil, its by-products, or natural gas to be processed by refineries and used by the Authority in its generation facilities, the latter and the refineries shall negotiate the terms and conditions under which the acquisition or processing of said crude oil, its by-products, or natural gas shall be conducted.

**(j)** When the Electric Power Authority contracts an advisor for the acquisition of crude oil or its by-products, which may happen on a month-to-month basis to satisfy the needs of the Authority, in seeking the achievement of economies of scale and better performance under the fiduciary duty set forth in the advisory contract; provided, that the Authority shall establish transparent mechanisms for the acquisition of fuel under this clause for which it shall adopt the necessary regulations.

In such cases covered by clauses (a) through (i) of this subsection, the purchase or acquisition of materials, works, supplies, equipment, parts, accessories, fuel, or the procurement of professional or expert services or works may be made on the open market pursuant to the usual business practices. In the cases covered under clauses (f) through (i), the purchase may be conducted through the Government Development Bank for Puerto Rico.”

**(3)** The purchase of fuel without requiring bids referred to in clauses (f) through (i) of subsection (2) shall be made pursuant to the following conditions:

**(a)** That for each purchase or contract, the Authority shall make an analysis on the advantages and benefits to be derived from the contractual relationship between itself and any of the aforementioned entities, governments, and enterprises, and after thus concluding that said purchase is favorable to the public interest.

**(b)** That every contract for the purchase of fuel executed between the Authority and any of the aforementioned entities, governments, and enterprises, pursuant to subsection (2) of this section, shall be approved by the Government Development Bank for Puerto Rico before its execution in accordance with the regulations to be approved by the Authority to such effects.

**(c)** That the financing of fuel purchases and the negotiations of the terms of such purchase under the provisions of this section shall be conducted through the Government Development Bank for Puerto Rico (GDB), acting as fiscal agent, in accordance with the parameters established in its organic act and the regulations thereunder. The fixed price insurance coverage for the purchase of fuel to be used for generating electric power in facilities owned by the Electric Power Authority (known as hedging) shall be negotiated by the Government

Development Bank for Puerto Rico (GDB) in accordance with the parameters established in its organic act and the regulations approved thereunder.

*[Amendments: Act 19-1942; Act 39-1967; Act 59-1976; Act 46-1980; Act 148-1980; Act 144-1988; Act 164-1995; Act 194-2002; [Act 234-2011](#); [Act 236-2011](#); [Act 4-2016](#)]*

## BONDS OF THE AUTHORITY

### **Section 16.** — (22 L.P.R.A. § 20)

(a) By authority of the Government of Puerto Rico, which is hereby granted, the Puerto Rico Electric Power Authority may issue and sell its own bonds from time to time and have outstanding at any one time, exclusive of bonds issued solely for the purpose of exchanging the same in return for the cancellation of bonds either issued by the Authority or assumed by it, bonds not in excess of five million (5,000,000) dollars, in aggregate principal amount of its bonds, in addition to all sums that the Legislature of Puerto Rico has authorized or may authorize separately for particular purposes; Provided, however, That refunding bonds of the Authority issued solely for the purpose of applying the proceeds thereof to the payment for, or purchase of, bonds issued by the Authority or assumed by it, shall not be included in computing any such limitation until six (6) months after their sale.

(b) The bonds may be authorized by resolution or resolutions of the Board, and may be of such series, may bear such date or dates, may mature at such time or times not exceeding fifty (50) years from their respective dates, may bear interest at such rate or rates not exceeding the maximum rate allowed by law at the time; may be in such denomination or denominations, may be in such form either coupon or registered bonds, may carry such registration or conversion privileges; may be executed in such manner; may be payable in such medium of payment and at such place or places; may be subject to such terms of redemption, with or without premiums; may be declared or become due at such time before the maturity date thereof; may provide for the replacement of mutilated, destroyed, stolen or lost bonds; may be authenticated in such manner and upon compliance with such conditions, and may contain such other terms and covenants as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the Authority shall determine; Provided, That refunding bonds may be exchanged for outstanding bonds of the Authority on such terms as the Board may deem to be in the best interests of the Authority. Notwithstanding the form and tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all bonds of the Authority shall at all times be, and shall be understood to be, negotiable instruments for all purposes.

(c) The bonds of the Authority bearing the signature of members of the Board or officers of the Authority in office on the date of the signing thereof, shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all of the members of the Board or officers of the Authority whose signatures or facsimile signatures appear thereon shall have ceased to be such members of the Board or such officers of the Authority. The validity of the authorization and issuance of the bonds shall not be dependent on or affected in any way by any proceedings relating to the construction, acquisition, extension, or improvement of the

undertaking for which the bonds are issued, or by any contracts made in connection with such undertaking. Any resolution authorizing the bonds may provide that any such bond may contain a recital that it is issued pursuant to this Act, and any bond containing such recital under authority of any such resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of this Act.

**(d)** Pending the execution and delivery of definitive bonds, temporary or interim bonds, receipts or certificates may be issued in such form and with such provisions, as may be provided in such resolution or resolutions.

**(e)** Any resolution or resolutions authorizing any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds:

**(1)** As to the disposition of the entire gross or net revenues and present or future income of the Authority, including the pledging of all or any part thereof to secure payment of the bonds;

**(2)** as to the rates to be charged for water and electric energy, and the application, use, and disposition of the amounts that may be raised by the collection of such rates and from other receipts of the Authority;

**(3)** as to the setting aside of reserves for amortization funds, and the regulation and disposition thereof;

**(4)** as to limitations on the right of the Authority to restrict and regulate the use of any undertaking or part thereof;

**(5)** as to limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;

**(6)** as to limitations on the issuance of additional bonds;

**(7)** as to the procedure by which the terms of any resolution authorizing bonds or any other contract with the bondholders may be amended or abrogated, and the amount of the bonds the holders of which must consent thereto, and the manner in which such consent may be given;

**(8)** as to the amount and kind of insurance to be maintained on the undertakings of the Authority; and the use and disposition of insurance moneys;

**(9)** as to covenanting against pledging all or any part of the revenues and income of the Authority to which its right then exists or the right to which may thereafter come into existence;

**(10)** as to events of default and terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

**(11)** as to the rights, liabilities, powers, and duties arising upon the breach by the Authority of any of its covenants, conditions, or obligations;

**(12)** as to the vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the bonds; as to the powers and duties of each trustee or trustees, and the limitation of the liabilities thereof; and as to the terms and conditions upon which the holders of the bonds or any proportion of percentage of them may enforce any covenants made under this Act or duties imposed hereby;

**(13)** as to the manner of collecting the rates, fees, rentals, or other charges for the services, facilities, or commodities of undertaking of the Authority, and the combining in one bill of the rates, fees, rentals, or other charges for the services, facilities, or commodities of any two or more of such undertakings;

(14) as to the discontinuance of the services, facilities, or commodities of any undertakings of the Authority, in the event that the rates, fees, rentals, or other charges for the services, facilities, or commodities of such undertaking are not paid, and

(15) as to any other acts and things not inconsistent with this Act that may be necessary or convenient for the security of the bonds, or as may tend to make the bonds more marketable.

(f) Neither the members of the Board nor any person executing the bonds shall be liable personally on [for] the bonds or be subject to any liability by reason of the issuance thereof.

(g) The Authority is authorized to purchase any outstanding bonds issued or assumed by it with any funds available therefor, at a price not more than the principal amount or the current redemption price thereof and the accrued interest. All bonds so purchased shall be cancelled.

*[Amendments: Act 19-1942; Act 29-1991]*

## RIGHT TO RECEIVERSHIP UPON DEFAULT

### **Section 17.** — (22 L.P.R.A. § 207)

(a) In the event that the Authority shall default in the payment of the principal of, or interest on, any of its bonds after the same shall become due, whether it be a default in the payment of principal and interest or in the payment of interest only at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the Authority or the Board, officers, agents, or employees thereof shall default in any agreement made with the holders of the bonds, any holder or holders of the bonds (subject to any contractual limitation as to a specific percentage of such holders), or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to any court of competent jurisdiction in Puerto Rico for the appointment of a receiver of the undertakings, or parts thereof, the income or revenues of which are pledged to the payment of the bonds so in default, whether or not all the bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right or to exercise any remedy in connection with such bonds. Upon such application the court may appoint, and if the application is made by the holders of twenty-five (25%) per centum in principal amount of such bonds then outstanding, or by any trustee for holders of bonds in such principal amount, shall appoint a receiver of such undertakings.

(b) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of such undertakings and each and every part thereof, and may exclude the Authority, its Board, officers, agents, and employees and all persons claiming under them, wholly therefrom and shall have, hold, use, operate, manage, and control the same and each and every part thereof, and, in the name of the Authority or otherwise, as the receiver may deem best, shall exercise all the rights and powers of the Authority with respect to such undertakings as the Authority itself might do. Such receiver shall maintain, restore, insure, and keep insured, such undertakings and from time to time shall make all such necessary or proper repairs as such receiver may deem expedient, shall establish, levy, maintain, and collect such rates, fees, rentals, and other charges in connection with such undertakings as such receiver may deem necessary, proper and reasonable, and shall collect and receive all income and revenues and deposit the same in a separate

account and apply the income and revenues so collected and received in such manner as the court shall direct.

(c) Whenever all that is due upon the bonds, and interest thereon, and upon any notes, bonds, or other obligations, and interest thereon, having a charge, lien, or encumbrance on the revenues of such undertakings and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited as provided therein, and all defaults in consequence of which a receiver may be appointed shall have been cured and made good, the court may, in its discretion and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of such undertakings to the Authority, the same right of the holders of the bonds to obtain the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

(d) Such receiver shall act, in the performance of the powers hereinabove conferred upon him, under the direction and supervision of the court and shall at all times be subject to the orders and decrees of the court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of the court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth in this Act.

(e) Notwithstanding anything in this section to the contrary, such receiver shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the Authority and useful for such undertakings, but the powers of any such receiver shall be limited to the operation and maintenance of such undertakings, and the collection and application of the income and revenues therefrom, and the tribunal shall not have jurisdiction to enter any order or decree requiring or permitting said receiver to sell, mortgage, or otherwise dispose of any such assets.

*[Amendments: Act 19-1942]*

## REMEDIES OF BONDHOLDERS

### **Section 18.** — (22 L.P.R.A. § 208)

(a) Subject to any contractual limitations binding upon the holders of any issue of bonds, or trustees therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of bonds similarly situated:

(1) By mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the Authority and its Board, officers, agents, or employees to perform and carry out its and their duties and obligations under this Act and its and their covenants and agreements with bondholders;

(2) by action or suit in equity to require the Authority and the Board thereof to account as if they were the trustee of an express trust;

(3) by action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders, and

(4) to bring suit upon the bonds.



(b) No remedy conferred by this Act upon any holder of the bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy, and may be exercised without exhausting and without regard to any other remedy conferred by this Act or by any other law. No waiver of any default or breach of duty or contract, whether by any holder of the bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of the bonds, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action, or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the holder of the bonds, or any trustee therefor, then and in every case the Authority and such holder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action, or proceeding had been brought or taken.

*[Amendments: Act 19-1942]*

## REPORTS

### **Section 19.** — (22 L.P.R.A. § 209)

The Authority shall submit to the Legislature and to the Governor of Puerto Rico, as soon as practicable after the close of each fiscal year of the Commonwealth Government but prior to the end of the calendar year: (1) A financial statement and complete report of the business of the Authority for the preceding fiscal year, and (2) a complete report on the status and progress of all its undertakings and activities since the creation of the Authority or the date of its last such report. The Authority shall also submit to the Legislature and to the Governor of Puerto Rico, at such other times as may be required, official reports of its business and activities under this Act.

*[Amendments: Act 19-1942]*

## COMMONWEALTH OF PUERTO RICO AND ITS POLITICAL SUBDIVISIONS NOT LIABLE ON BONDS

### **Section 20.** — (22 L.P.R.A. § 210)

The bonds and other obligations issued by the Authority shall not be a debt of the Commonwealth of Puerto Rico or any of its municipalities or other political subdivisions, and neither the Commonwealth of Puerto Rico nor any such municipalities or other political

subdivisions shall be liable thereon, nor shall such bonds or other obligations be payable out of any funds other than those of the Authority.

*[Amendments: Act 19-1942]*

**Section 21. — [Bonds Legal Investments for Fiduciaries and Security for Public Deposits.]**  
(22 L.P.R.A. § 211)

The bonds of the Authority shall be lawful investment, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the Government of Puerto Rico or any officer or officers thereof.

*[Amendments: Act 19-1942]*

## TAX EXEMPTIONS

**Section 22. — Tax Exemptions; Use of Funds.** (22 L.P.R.A. § 212) *[Note: This Section 22(d) was amended by Act No. 121-2020 but the official translation is not available. Please consult the Spanish version]*

(a) It is hereby provided and declared that the purposes for which PREPA is created and shall exercise its powers are: the conservation of natural resources, the improvement of the general welfare, and the promotion of commerce and prosperity, all of which are public purposes for the benefit of the Commonwealth of Puerto Rico, and therefore, PREPA shall not be required to pay any municipal or Commonwealth taxes or assessments of any kind on any real or personal property acquired by it or under its domain, control, possession, or supervision, or on its activities in the operation and maintenance of any undertaking; or on the income derived from any of its undertakings or activities; or on the volume of business. Persons that enter into contracts with the Authority shall not be subject to the government tax on contracts imposed by Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011”.

(b) Subsidies, CILT, and other contributions.—

(1) As of the effective date of the new rate, the Authority shall compute annually the cost of subsidies, grants, and contributions granted under laws in effect, rural electrification programs, public irrigation systems, public lighting system, and the contribution in lieu of taxes (CILT), and shall establish as a separate charge in its transparent bill the cost of the CILT and all other aforementioned subsidies as follows:

(A) Payment equal to municipal taxes, CILT;

(B) Cost of subsidies, contributions, public lighting, rural electrification programs, and public irrigation system.

(2) Beginning on Fiscal Year 2015-2016, the Authority shall establish the maximum amount or cap of the CILT per municipality that shall be established by computing the average energy consumption per municipality on an annual kilowatt-hour basis, for the three years of highest consumption since the change in the formula in 2004 up to Fiscal Year 2013-2014. In order to determine the maximum cap of the contribution to each municipality, the average energy consumption of public lighting, on a kilowatt-hour basis, included by the Authority in the CILT

during said three years of highest consumption shall be subtracted from the previously computed average. Likewise, public lighting consumption shall not be included in the CILT nor billed to municipalities as of the implementation of the new bill and the charges established in clause (1) of this subsection. Municipalities shall be required to reduce the maximum amount or cap of the CILT by five (5%) percent annually during the three years following the approval of this Act, that is to say, five percent (5%), the first year; ten percent (10%), the second year, until a fifteen-percent (15%) reduction from the maximum consumption cap is achieved on the third year. Any consumption in excess of the maximum amount or cap established as contribution by virtue of the CILT shall be billed to the municipality by the Authority for the collection thereof. If the municipality exceeds the annual five percent (5%) savings percentage rate, it shall receive from the Authority an additional contribution in a monetary value equal to one hundred percent (100%) of the savings achieved in excess of the five-percent (5%) reduction rate established for the first year; of ten percent (10%) for both the second and the third years. The payment of the additional contribution to municipalities shall be subject to a five-percent reduction in the aggregate consumption of all municipalities for the first year, and to a ten-percent (10%) reduction for both the second and third years. If the required reduction in the aggregate municipal consumption is achieved, the surplus or excess of such savings shall be reimbursed subject to the following conditions:

**(i)** If any or some municipalities exceed their maximum consumption cap, the Authority shall reserve such excess from the additional amount to pay municipalities that exceed five-percent (5%) savings in the first year, and ten-percent (10%) savings in both the second and third years, and shall distribute the surplus among the municipalities that are entitled to the additional contribution, on a pro rata basis, allowing for a proportional distribution, based on their individual amount in excess of the savings rate required for the corresponding year. The amount reserved shall be distributed to these municipalities as the municipalities that failed to comply with the maximum consumption cap pay their excess amounts.

**(ii)** Notwithstanding the foregoing, in the event that the Authority is unable to recover from its customers an amount of money equal to the municipal consumption cap that is collected by means of a separate charge in the rate for such purposes, the payment on account of savings shall not be made and the amount corresponding to each municipality as a reimbursement for their energy consumption savings shall be reserved to be paid when the revenues of the Authority on account of the CILT are sufficient to comply with the reimbursement owed. Said reimbursement shall be made by establishing the priority of payments in accordance with the proportionality criteria based on the consumption savings achieved by each municipality.

**(iii)** Each fiscal year shall be deemed to be a different and separate one, for purposes of the reimbursement for the energy consumption savings achieved according to the reduction percentages required for each particular year.

**(iv)** If the municipality fails to meet the annual five-percent (5%) reduction established, its reduction or savings rate shall be increased by an additional five-percent (5%) as a penalty for the following year; therefore, it shall not benefit from the incentive of receiving a reimbursement for its energy consumption reduction until it exceeds the fifteen-percent (15%) consumption reduction in the second and third years of the CILT’s maximum cap.

Through Fiscal Year 2017-2018 or as of the implementation date of the new consumption baseline in accordance with clause (3) of this subsection, the maximum amount or cap of the CILT of each municipality may be adjusted in light of the new burden caused by new municipal developments; provided, that new construction has been duly certified as efficient in accordance with the rules established by the Commonwealth Energy Public Policy Office (CEPPO) through regulations. In the event that the project fails to comply with the efficiency guidelines, the CILT’s cap shall be adjusted in an amount to be determined by CEPPO in accordance with the regulations adopted by the Energy Commission, with the advice of CEPPO, for such purposes, as provided in clause (6) of this subsection. In order to promote a better use of our energy resources, CEPPO shall also prescribe by regulations criteria and guidelines to determine the origin or justification of any application for the installation of new public lighting or the replacement of existing public lighting, taking into account the reasonableness of the application, as well as efficiency of the equipment to be installed for the purpose of achieving greater energy savings at the lowest reasonable cost.

The consumption of corporations and businesses offering public services related to healthcare and healthcare facilities, as defined in Act No. 101 of June 26, 1965, as amended, known as the “Puerto Rico Health Facilities Act”, shall be included in the computation of the CILT’s cap for municipalities. However, there shall not be included in the computation of the CILT’s cap for municipalities, the energy consumption of public facilities that house for profit corporations and business, which shall pay for the electricity service. In the case of multi-purpose municipal facilities that include for profit and nonprofit activities where metering cannot be separated due to technical or cost reasons, the Authority may bill the consumption of the for profit business or activity based on estimates, using submetering, or a combination of both, as provided by the Commission in its CILT regulations, unless, due to exceptional circumstances and as determined by the Commission, by a duly grounded petition of the municipality, such consumption is included as part of the CILT.

The Authority shall send to each municipality every month a consumption report of each facility that has an independent meter. Such report shall state in detail the consumption on the same month of the preceding year and a computation of the consumption accrued as of the same date on the preceding year. Said report shall also provide a total per reported item. To facilitate the evaluation of reports, the Authority shall, within twelve (12) months after the effective date of this act, modify its reading systems and programs so that all meters of the municipality whose billing is charged against the CILT are read on the same day.

**(3)** The Commonwealth Energy Public Policy Office shall establish and review every three (3) years the baseline energy consumption of municipalities in order to ascertain such municipalities’ compliance with their individual energy conservation and efficiency goals. The first revision of the energy consumption cap of municipalities or CILT shall be made by CEPPO and shall take effect beginning on Fiscal Year 2018-2019, in accordance with the rules established in the Regulations to be adopted for such purposes by the Energy Commission with the advice of CEPPO. CEPPO shall recommend the mechanism to be used to establish temporary caps in the case it is unable to implement the energy consumption revision of one or more municipalities. New consumption caps shall be notified to the municipalities not later than April 15, 2018. If due to duly grounded reasons CEPPO is unable to comply with the revision of the energy consumption cap of municipalities or the CILT for Fiscal Year 2018-

2019, the mechanism provided in clause (2) of this subsection to establish a new temporary consumption cap shall be adopted and shall remain in effect until the new baseline consumption or cap established by CEPPPO pursuant to the aforementioned joint regulations takes effect. The Energy Commission shall prescribe by regulations, with the advice of CEPPPO, the measurement to be used for measuring the energy consumption of real property, which shall be based on kilowatt-hour (kWh) per square foot (ft<sup>2</sup>) per year per type of building or structure, or the necessary criteria to promote and measure the energy efficiency of municipal facilities. Standard energy consumption shall be considered to determine the amount of the subsidy corresponding to each municipality within the parameters of the contribution in lieu of taxes established in this subsection. On a monthly basis, the Authority shall publish on its website information about the electric power consumption of municipalities. CEPPPO shall offer technical collaboration to the municipalities, free of cost, in order to help them achieve the goals set forth in this section.

**(4)** In the event that the Authority’s projection of income billed directly to customers to cover the cost of subsidies, rural electrification program, public irrigation systems, public lighting system, contributions and the CILT is not sufficient or exceeds the projection of revenues established in the duly approved rate, such insufficiency or excess shall be evaluated and addressed by means of a periodic review of such charges in accordance with the rate structure approved by the Energy Commission. In the event that the revenues collected at the end of the annual rate cycle of the Authority fail to reach, or exceed the actual costs of the CILT and the subsidies, contributions, public lighting, rural electrification program, and public irrigation system, the Authority may include such adjustment in the following rate year; provided, that it submits to the Commission, within forty-five (45) days after the effectiveness of said adjustment, information that shows the need for the adjustment and that the lack of revenues was not due to reasons attributable to the Authority whose collection policies are consistent with industry standards. The Commission shall evaluate the information, and if it determines that the lack of revenues was due to reasons attributable to the inefficiency of the Authority’s billing or collection processes for being inconsistent with industry standards, it shall order the Authority to render such adjustment ineffective and credit to its customers any amount collected on such account during the applicable period. The Authority shall not recover an amount higher than the cash equivalent of the cap established for municipalities, unless it shows to the satisfaction of the Commission that such difference is due to reasons attributable to special changes in the cost of fuel or in the demand for energy or to collection deficiencies not attributable to the Authority’s inefficiencies.

If there are outstanding debts with the municipalities on account of the CILT’s energy consumption savings reimbursement, as provided in clause (2) of this subsection that the Authority cannot recover through the adjustment mechanism established in this clause, said reimbursement shall be payable to the municipalities from the administrative and operational savings that the Authority must achieve in accordance with the requirements of [Act No. 57-2014](#) and this Act. Any debt related to the municipalities’ reimbursement shall be satisfied within a term that shall not exceed twelve (12) months counted as of the close of the fiscal year in which the municipality was entitled to receive such reimbursement.

**(5)** Not later than April 30th of each fiscal year, the Authority shall notify municipalities of the consumption cap applicable to the CILT corresponding to the next fiscal year. Said

consumption cap shall be subject to quarterly revisions due to the connection of new load in accordance with this subsection (b). Such revisions shall be made not later than March 31st of the current year in order to be included in the computation of the CILT’s cap of the following fiscal year. The Authority shall submit to the Office of the Commissioner of Municipal Affairs, and the Office of the Clerk of the House of Representatives, and the Office of the Secretary of the Senate, not later than December 31st of each year, a comprehensive report on the consumption of each municipality and the consumption on account of public lighting, subsidies, and contributions and the cost amount thereof, as well as a copy of its financial statements or report to bondholders, stating the revenues actually collected on account of the direct billing to customers to cover the costs of subsidies, the rural electrification program, the public irrigation system, contributions, public lighting, and the CILT. It shall also include a certification in which external auditors of the Authority state the correctness of the computation or reconciliation of the methodology used to determine the maximum consumption cap or CILT for the municipalities. Likewise, it shall also inform the sum of the electric bill or the reimbursement per municipality and the cost of subsidies, public street lighting, and grants, among others. Excess consumption shall be billed by the Authority to the appropriate municipality and such bill shall be paid following the regular debt collection process established by law. Municipalities shall enter into agreements with the Authority as are necessary to settle or payoff their debt within a term that shall not exceed forty-five (45) days, after: (A) the delivery of the bill or (B) having exhausted the billing dispute process provided.

The insufficiency of municipalities whose kilowatt-hour consumption is equal to or higher than the cap thereof shall be entered in the books of the Authority as an account payable to municipalities and account receivables from municipalities, for accounting purposes. Therefore, neither said municipalities shall pay the Authority for such insufficiency nor the Authority pay the municipalities therefor.

(6) The Energy Commission, with the advice of CEPPO, shall adopt, within one hundred eighty (180) days after the approval of this act, the regulations needed to implement the contribution or payment in lieu of taxes mechanism, or CILT, to municipalities as well as other duties set forth in this subsection (b), which regulations shall be effective on and apply from Fiscal Year 2015-2016. The Commission shall notify the entities representing the mayors of the beginning of this regulation process in accordance with the provisions of Act No. 170 of August 12, 1988 known as the “Uniform Administrative Procedures Act”.

(c) A partial credit shall be granted in the bill of every customer under a residential rate, who is eligible to receive said credit, pursuant to the regulations adopted from time to time by the Authority, and who has a maximum monthly consumption of up to 400 kWh or less; or a maximum bimonthly consumption of 800 kWh or less, which credit would be equal to the amount that, through regulations, the consumer would have had to pay in the corresponding period indicated, as a result of the adjustment for the adjusted fuel price up to a maximum of thirty dollars (\$30) per barrel. Provided, That the adjustment for any excess in the cost of fuel above the maximum price adopted per barrel, shall be paid by the customer, in addition to any other charge resulting from the increase in the price of fuel. Provided, further, That those users who are entitled to said credit pursuant to the Authority’s regulations in effect, and who have a maximum monthly consumption of up to 400 kWh, or a maximum bimonthly consumption of up to 800 kWh, shall be entitled to the aforesaid credit up to 400 kWh a month or 800 kWh bimonthly. It being understood that, for

purposes of this Act, the monthly or bimonthly periods, as the case may be, shall have the number of days of the billing cycles of the Electric Power Authority.

**(d)** The following electric power consumption credits shall be granted specifically for life-support equipment;

**(1)** A fifty percent (50%) residential electric power consumption credit specifically attributable to life-support equipment, as determined by a professional authorized to practice medicine in Puerto Rico or by the Department of Health, such as ventilators connected to the tracheostomy tube, air filtration systems, infusion pumps, artificial respirators, artificial kidney machines or any other electrical machines, equipment or appliances needed to preserve the life, regardless of the financial condition of the patients’ family unit.

**(2)** One hundred percent (100%) residential electric power consumption credit specifically attributable to life-support equipment, as determined by a professional authorized to practice medicine in Puerto Rico or by the Department of Health, such as ventilators connected to the tracheostomy tube, air filtration systems, infusion pumps, artificial respirators, artificial kidney machines or any other electrical machines, equipment, or appliances needed to preserve the life, when the financial condition of the patients’ family unit is below the poverty line.

**(3)** A fifty percent (50%) residential electric power consumption credit specifically attributable to equipment needed for the care of persons diagnosed with multiple sclerosis, as determined by a professional authorized to practice medicine in Puerto Rico or by the Department of Health, up to a monthly maximum of 425 kWh, regardless of the financial condition of the patients’ family unit.

**(4)** One hundred percent (100%) residential electric power monthly consumption credit where patients with epidermolysis bullosa, anhidrotic ectodermal dysplasia, or adrenoleukodystrophy reside for up to a maximum of 425 kWh attributable to an air conditioning unit in the patient’s bedroom, up to a maximum of 18 kWh attributable to a food processor, and up to a maximum of 132 kWh attributable to a whirlpool, regardless of the financial condition of the patient’s family unit.

In order to receive the credits provided in this section, the applicant must meet the following requirements:

**(1)** The electric power service account holder shall file annually with PREPA a certification stating that the patient resides in the housing unit associated with the electric power service account.

**(2)** To file annually with PREPA a certification issued by a professional authorized to practice medicine in Puerto Rico or by the Department of Health, stating in detail the nature of the applicant’s condition, the need for the electrical life-support equipment, and a list of the equipment or appliances specifically needed to preserve such patient’s life. Said certification may be issued up to ninety (90) days before the filing date thereof.

**(3)** If claiming that the financial condition of the patient’s family unit is below the poverty line, to annually file with PREPA a certification issued by the Department of the Family stating that the patient’s family unit financial condition is below the poverty line, as such term is defined by the Department of the Family. Said certification may be issued up to ninety (90) days before the filing date thereof.

**(4)** To have no debt, payment plan, or arrears in the electric power service account with the Electric Power Authority.

The Department of Health shall enter into agreements with the Commonwealth Energy Public Policy Office to establish energy audit programs for the patient’s residence, in order to achieve the most efficient use of electric power in the patient’s residence.

(e) Before granting any subsidy or incentive related to the electric power service, any existing and proposed subsidies or incentives shown in PREPA’s rate paid or to be paid by nonsubsidized customers shall be evaluated. PREPA shall publish on its website any information about the different subsidies, their legal basis, the approximate cost of each one of them for PREPA, and the characteristics of the customer sectors or universe that benefit from each subsidy.

(f) PREPA, with the assistance and collaboration of other entities or public instrumentalities, shall oversee that subsidized customers strictly meet the requirements of the subsidy or subsidies they receive from PREPA, in order to ensure that each subsidy fulfills the social purpose for which they were created. PREPA may enter into interagency agreements with other entities or public instrumentalities to define and ensure their collaboration in overseeing subsidized customers. The benefits of any customer who violates the terms and conditions of the subsidy granted shall be eliminated, after an administrative hearing evidencing the violation committed.

(g) For the purpose of expediting the procurement of funds by the Authority, which shall allow it to attain its corporate purposes, the bonds issued by the Authority and the income derived therefrom are and shall always be exempt from taxation.

*[Amendments: Act 19-1942; Act 205-1948; Act 1-1950; Act 5-1973; Act 106-1974; Act 4-1981; Act 34-1989; Act 32-1992; Act 124-1996; Act 164-1996; Act 152-1998; Act 300-2003; Act 255-2004; Act 2-2006; Act 79-2007; Act 233-2011; [Act 57-2014](#); [Act 4-2016](#); [Act 22-2016](#)]*

*[Amendments non-incorporated in this Section 22: Act No. 121-2020]*

## DECLARATION OF PUBLIC UTILITY

### **Section 23.** — (22 L.P.R.A. § 213)

For the purposes of subsection (h) of Section 6 and Section 13, all works, projects, and property and their accessories, which the Authority may deem necessary and convenient to use in carrying out the purposes expressed in this Act are hereby declared of public utility.

*[Amendments: Act 19-1942]*

### **Section 24.** — [Coordination and Integration of Irrigation and Hydroelectric Projects] (22 L.P.R.A. § 214)

(a) With a view to the coordination and integration of irrigation and/or hydroelectric projects and their activities, at present existing or that may be developed in the future, all powers, duties, functions, obligations, and responsibilities which prior to the enactment of this Act were vested in, conferred or imposed upon the Chief Engineer of the Irrigation Service, the Secretary of Transportation and Public Works and the Executive Council of Puerto Rico, or any of them under the Public Irrigation Law approved September 18, 1908, and laws amendatory thereof or



supplementary thereto, heretofore or hereafter enacted by the Legislature of Puerto Rico, providing for the construction and operation of a public irrigation system, and under those provisions of Act No. 58, approved April 30, 1928, applicable to the Hydroelectric System of the Puerto Rico Irrigation Service, South Coast, are hereby transferred to and conferred and imposed upon the Authority. The Authority shall administer said laws in conformity with the provisions thereof and shall be governed by them in the operation, maintenance, repair, reconstruction, construction of extensions, improvements, and enlargement of the works or systems constructed and operated and maintained pursuant to those laws; and to the extent that the exercise of such power does not impair the obligations of any contract of the Commonwealth of Puerto Rico, the Authority shall have power, notwithstanding anything to the contrary in said Act No. 58, to fix the basis for allocating operating expenses to the several systems operated by the Authority.

(b) In carrying out its duties under the next preceding subsection, the Authority shall pay directly all costs and expenses incurred by it. The Authority shall be reimbursed for all such costs and expenses, including a fair share of the Authority's own overhead and operating expenses attributable to the Puerto Rico Irrigation Service, South Coast, as determined pursuant to subsection (a) above, from the funds available in the Commonwealth Treasury for the operation and maintenance, repair, reconstruction, construction of extensions, improvements and enlargements of the works or systems, constructed and operated and maintained pursuant to the Public Irrigation Law of 1908, approved September 18, 1908 [22 L.P.R.A. §§ 251--259] and laws amendatory thereof or supplementary thereto. There shall be advanced to the Authority, from time to time, from said Irrigation funds in the Treasury, amounts sufficient to provide a working fund adequate at all times to meet all of said costs and expenses promptly. Said funds shall be held and administered by the Authority in the same manner as its own funds but shall be used by it only for the payment of said costs and expenses.

(c) Upon authorization of the Legislature of Puerto Rico, the Authority, when it deems it advisable in the public interest, may take over and operate any irrigation and/or hydroelectric project existing and owned, or that may be developed or acquired in the future, by the Commonwealth of Puerto Rico.

*[Amendments: Act 19-1942; Act 191-1993; Act 27-1959]*

## AGREEMENT OF THE COMMONWEALTH GOVERNMENT

### **Section 25.** — (22 L.P.R.A. § 215)

The Commonwealth Government does hereby pledge to, and agree with, any person, firm or corporation, or any federal, Commonwealth or state agency, subscribing to or acquiring bonds of the Authority to finance in whole or in part any undertaking or any part thereof, that it will not limit or alter the rights or powers hereby vested in the Authority until all such bonds at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth Government does further pledge to, and agree with, the United States and any other federal agency that in the event that any federal agency shall construct, extend, improve, or enlarge, or contribute any funds for the construction, extension, improvement, or enlargement of, any project for the

development of the water resources in Puerto Rico or any portion thereof, the Commonwealth Government will not alter or limit the rights or powers of the Authority in any manner which would be inconsistent with the continued maintenance and operation of the water resources development or the extensions, improvement, or enlargement thereof, or which would be inconsistent with the due performance of any agreements between the Authority and any such federal agency; and the Authority shall continue to have and may exercise all rights and powers herein granted so long as the same shall be necessary or desirable for the carrying out of the purposes of this Act and the purpose of the United States or any other federal agency in constructing, extending, improving or enlarging, or contributing funds for the construction, extension, improvement or enlargement of, any water resources development or any portion thereof.

*[Amendments: Act 19-1942]*

### INJUNCTIONS CANNOT BE GRANTED

**Section 26.** — (22 L.P.R.A. § 216)

An injunction shall not be granted to prevent the application of this Act or any part thereof.

*[Amendments: Act 19-1942]*

### INCONSISTENT PROVISIONS OF OTHER ACTS SUPERSEDED

**Section 27.** — (22 L.P.R.A. § 217)

Insofar as the provisions of this Act are inconsistent with the provisions of any other act of the Legislature of Puerto Rico, the provisions of this Act shall be controlling and no law heretofore or hereafter passed governing the administration of the Commonwealth Government or any parts, offices, bureaus, departments, commissions, dependencies, municipalities, branches, agents, officers, or employees thereof shall be construed to apply to the Authority unless so specifically provided, but the affairs and business of the Authority shall be administered as provided herein.

*[Amendments: Act 19-1942]*

## SEPARABILITY OF PROVISIONS

**Section 28.** — (22 L.P.R.A. § 218 note)

If any provisions of this Act or the application of such provisions to any person or circumstance shall be held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

## TIME OF TAKING EFFECT

**Section 29.** — This Act shall take effect ninety days after its approval.

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