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PUBLIC SERVICE REGULATORY BOARD
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Undersecretary of State
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REGULATION FOR ENERGY EFFICIENCY

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ARTICLE 1. GENERAL PROVISIONS

Section 1.01 Title.

This Regulation shall be known as the *Regulation for Energy Efficiency*.

Section 1.02 Legal Basis.

This Regulation is adopted pursuant to the provisions of Act 57-2014, as amended, known as the *Puerto Rico Energy Transformation and RELIEF Act* ("Act 57-2014"); Act 17-2019, known as the *Puerto Rico Energy Public Policy Act* ("Act 17-2019"); and Act 38-2017, as amended, known as the *Uniform Administrative Procedure Act of the Government of Puerto Rico* ("LPAU", for its Spanish acronym). Specifically, Section 6.29B of Act 57-2014, requires the Energy Bureau to, among other things, ensure that Puerto Rico reaches a goal of thirty percent (30%) of energy efficiency by 2040 and establish energy efficiency programs, which may be managed and verified for compliance with the annual goals established by these regulations by a third-party administrator.

Section 1.03 Purpose and Executive Summary.

Energy efficiency has a significant role to play in rebuilding a stronger energy system that is responsive to customers' needs, as demonstrated by the significant level of energy efficiency required in the new energy public policy. Energy efficiency not only provides a mechanism to assist individual customers to decrease their consumption of electricity, thereby lowering their energy bills, but it also reduces the costs of the electric system as a whole. It addresses principles of quality and equity, among others, by diminishing the need for more expensive fossil fuel generation and making available mechanisms for all customers to reduce their energy consumption and concomitantly, their energy bills.

In adopting these regulations, the Energy Bureau has been guided by many of the principles outlined in Act 17-2019 including the principles of efficiency, quality, continuity, adaptability, impartiality, solidarity and equity. This Regulation is designed to ensure that Puerto Rico reaches the goal of thirty percent (30%) of energy efficiency by 2040 using an array of energy efficiency programs that will provide equitable access to energy efficiency for all customers.

Section 1.04 Applicability.

This Regulation shall apply to the following:

A) PREPA and any successor entity responsible for delivering transmission and/or distribution service to customers; and

B) Vendors that PREPA may employ for the implementation of energy efficiency programs.

This Regulation depends on active partnership and coordination between the Energy Bureau other governmental offices and agencies with energy related programs, including the Public

Energy Policy Program ("PEPP") within the Puerto Rico Department of Economic Development and Commerce.

Section 1.05 Interpretation.

This Regulation shall be interpreted in a way that promotes the highest public good and the protection of the interests of the residents of Puerto Rico, and in such a way that proceedings are carried out rapidly, justly, and economically.

Section 1.06 Provisions of Other Regulations.

The provisions of this Regulation may be supplemented by the provisions of other regulations of the Puerto Rico Energy Bureau that are compatible with the provisions of this Regulation.

Section 1.07 Unforeseen Proceedings.

When a specific proceeding has not been planned for in this Regulation, the Energy Bureau may attend to it in any way that is consistent with Act 57-2014.

Section 1.08 Dates and Time Periods.

In computing any time period established in this Regulation, or by order of the Energy Bureau, the day of the occurrence of the act, event, or noncompliance that triggers the period shall not be counted, and the established period shall begin to elapse on the following day. Whenever a due date falls on a Saturday, Sunday, or legal holiday, said due date shall be extended until the next workday.

Section 1.09 Definitions.

A) These definitions are to be used for this Regulation and are not intended to modify the definitions used in any other Energy Bureau regulation or order.

B) For the purposes of this Regulation, the following terms will have the meaning established below, except when the context of the content of any provision clearly indicates something else:

1) "Annual Cumulative Reduction" means the total amount of energy or peak load savings effective in a given year due to energy efficiency measures or programs. Such energy or peak savings result from all energy or peak savings achieved in the previous Program Years and the current Program Year, taking into account savings decay effects associated with energy efficiency measure lives.

2) "Annual Report" means a report filed annually by PREPA that includes information regarding the programs implemented in the immediately preceding year and the impacts of those programs. The Annual Report

includes PREPA's formal claim regarding its performance on the metrics used to determine its compensation (if applicable) for delivering energy efficiency.

3) "Annual Update" means an update filed by PREPA regarding its plans for programs and initiatives in the coming year in accordance with the Three-Year Energy Efficiency Plan. The Annual Update also includes and identifies any changes from the approved Three-Year Energy Efficiency Plan as applicable.

4) "Bill" means the document sent periodically by mail or electronically by the Transmission and Distribution Provider (PREPA or its successor entity) to a Customer listing all the required components, charges, and rates that make up the final cost each Customer must pay for electric service.

5) "Contributing Entity" means an entity that conducts programs or activities designed to produce energy efficiency savings that contribute to Puerto Rico's goal of thirty percent (30%) of energy efficiency by 2040.

6) "Customer" means any Person who receives Transmission and Distribution Service and/or Generation Service for that Person's usage.

7) "Customer Class" means the classification of a customer in accordance with PREPA's tariff provisions that define applicability and rates.

8) "Customer Energy Usage Data" means data obtained from a Customer's Meter and which is associated with that Customer.

9) "DataGuard Energy Data Privacy Program Voluntary Code of Conduct" means a voluntary privacy code developed by U.S. Department of Energy that provides utilities and other companies that access customer energy usage data with a framework for protecting their customers' privacy. As of this rule's publication, the Voluntary Code of Conduct can be found at https://www.dataguardprivacyprogram.org/downloads/DataGuard_VCC_Concepts_and_Principles_2015_01_08_FINAL.pdf.

10) "Deemed Savings" means pre-determined, validated estimates of energy and demand savings attributable to energy efficiency measures in a particular type of application. These are savings estimates that (1) have been developed from data sources and analytical methods that are widely considered acceptable for the measure and purpose, and (2) are applicable to the situation being evaluated. Individual parameters or calculation methods can also be deemed, *e.g.* effective useful life of a measure, or a set of engineering algorithms used to calculate the savings.

11) "Demand Response" or "DR" means changes in electric usage by end-use customers from their normal consumption patterns in response to changes in the price of electricity over time, or to incentive payments designed to induce

lower electricity use during periods when system costs increase or when system reliability is jeopardized.

12) "Demand-Side Management Provider" means any Person that is engaged in the provision of Demand-Side Management Services to Customers.

13) "Demand-Side Management Services" refers to the provision of any energy conservation, energy efficiency, energy storage, demand response, and customer-sited generation services provided directly to a Customer that aids in meeting that Customer's electric load.

14) "Distributed Energy Resource" means Distributed Generation, Energy Storage, Microgrids, or any other resource, including but not limited to energy efficiency or demand response, that is connected to the distribution system and that assists in meeting at least one Customer's electrical load.

15) "Distributed Generation" means an electric power generation facility in Puerto Rico connected to the distribution system and producing power for self-supply or sale.

16) "Electric Power Grid" means the electric power transmission and distribution system of Puerto Rico.

17) "Electric Power Service Company" or "EPSC" means any natural or juridical person or entity, including energy cooperatives, engaged in the rendering of energy generation, transmission, and distribution services, billing, wheeling, grid services, energy storage, the resale of electric power, as well as any other electric power service as defined by the Energy Bureau.

18) "Energy Bureau" means the Puerto Rico Energy Bureau, a specialized independent entity in charge of regulating, supervising, and enforcing the energy public policy of the Government of Puerto Rico, created by Act 57-2104 and renamed and reorganized by virtue of the Reorganization Plan of the Puerto Rico Public Service Regulatory Board and Act 211-2018, formerly known as the Puerto Rico Energy Commission and, further amended in Act 17-2019.

19) "Energy Efficiency" or "EE" means the reduction in energy use attributable to implementing Energy Efficiency Measures designed to reduce a customer's energy power consumption.

20) "Energy Efficiency Measure" means any device or program implemented to reduce or manage energy consumption and includes, but is not limited to, replacing and installing more energy efficient appliances and equipment, insulating buildings, and updating technology and equipment in order to achieve reductions in energy consumption.

21) "Energy Storage" means any resource that is capable of receiving electric energy from the Electric Power Grid or any other generation resource for later injection of electricity back into the Electric Power Grid or to serve any load.

22) "Evaluation, Measurement, and Verification" or "EM&V" means the collection of methods and processes used to assess the performance of energy efficiency activities so that planned results can be achieved with greater certainty and future activities can be more effective. The main objectives of an EM&V process are to assess the performance of an energy efficiency program or project, to measure the energy or demand savings, and to determine if the program is generating the expected level of savings.

23) "Free Rider" means energy and/or demand impacts associated with program participants who would have implemented a program measure or practice in the absence of the program.

24) "Generation Service" refers to the provision of electric generation to Customers in Puerto Rico by an Electric Power Service Company.

25) "Gross Savings" means the change in energy consumption and/or demand that results directly from program-related actions taken by participants in an efficiency program, regardless of why they participated. Gross impact estimates also account for factors associated with actual measure installations and operations verified through evaluation activities (*e.g.*, data errors, installation and persistence rates, and hours of use).

26) "Hard-to-Reach Customer" means a Customer that is underserved by or does not have easy access to EE programs.

27) "Impact Evaluation" means an evaluation of energy and/or demand savings from a program, project, or measure.

28) "Low Income Customer" means a residential Customer living in a housing unit eligible for the Weatherization Assistance Program administered by PEPP (or any successor equivalent low income efficiency program administered by PEPP), or a Customer that is eligible for a low-income electric rate such as lifeline residential service (LRS), residential service for public housing projects (RH3), residential fixed rate for public housing under ownership of the public housing administration (RFR), or similar.

29) "Market Baseline Study" means an analytical study that assesses the market in Puerto Rico for an energy efficiency or demand response technology or service, including assessment of the level of utilization under current programs or in the absence of programs.

30) "Market Transformation" means the strategic process of intervening in a market to create lasting change in market behavior by removing identified

barriers or exploiting opportunities to accelerate the adoption of cost-effective energy efficiency as a matter of standard practice.

31) "Measure" means a piece of equipment or customer action that reduces or otherwise modifies energy end use patterns.

32) "Meter" means the equipment used to measure consumption and/or generation of energy at the point of connection between an individual Customer and the distribution system as well as associated communications and control capabilities.

33) "Microgrid" means a group of interconnected loads and Distributed Energy Resources within electrical boundaries clearly defined by the Energy Bureau that acts as a single controllable entity with respect to the transmission and distribution system of the Electric Power Grid. Microgrids shall have the capacity to connect to and disconnect from PREPA's transmission and distribution system in order for them to be able to operate connected to the grid as well as off the grid.

34) "Municipality" means the local government legal entity organized and existing pursuant to Article VI, §1 of the Constitution of the Commonwealth of Puerto Rico and Act No. 81 of August 30, 1991, as amended, known as the Autonomous Municipality Act of the Commonwealth of Puerto Rico.

35) "Net Savings" means the total change in energy that is attributable to an energy efficiency or demand response program. This change in energy may include, implicitly or explicitly, the effects of Free Riders, Spillover, energy efficiency standards, changes in the level of energy service, and other causes of changes in energy consumption or demand.

36) "Person" means a natural person; a legal entity created, organized, or existing under the laws of the Commonwealth of Puerto Rico, the United States of America, any state of the union, or any foreign state or country; a Municipality or a consortium of Municipalities; or a government entity (other than PREPA).

37) "Planning Year" means the calendar year prior to the Program Implementation Period for a Three-Year EE Plan.

38) "Potential Study" means an analytical study that quantifies the amount of the energy efficiency or demand response potential that exists, is cost-effective, and could be realized through the implementation of energy efficiency programs and policies in Puerto Rico, including by customer class or sector, and identifies opportunities for energy and demand savings.

39) "PREPA" means the Puerto Rico Electric Power Authority, a corporate entity created by virtue of Act No. 83 of May 2, 1941, as amended, and any successor distribution, transmission or generation owner or operator. Unless specified

otherwise, if PREPA has a successor as the operator of the Transmission and Distribution System that entity shall be the primary entity responsible for performance as "PREPA" under this Regulation.

40) "Process Evaluation" means a system assessment of a program or programs and consists of in-depth examination of the design, delivery, and operations of the program. Its aim is to improve the ability of the program to achieve energy and demand savings and accomplish other program goals.

41) "Program Implementation Period" means a three (3) year period, corresponding to the period of a Three-Year EE Plan, during which PREPA administers EE programs and during which time the performance of PREPA is evaluated with respect to performance metrics (and incentives if applicable).

42) "Program Implementer" means an entity that implements an EE program. Program Implementers include PREPA, any successor to PREPA, and any consultant or vendor that PREPA employs to implement EE programs on PREPA's behalf.

43) "Program Year" means a 12-month period, beginning on July 1 and ending on June 30, during which PREPA provides Demand-Side Management Services and which is subject to reporting in an Annual Report. A Program Implementation Period is composed of three Program Years.

44) "Public Energy Policy Program" or "PEPP" means the program within Department of Economic Development and Commerce that is in charge of developing and promulgating the public energy policy of the Government of Puerto Rico, by virtue of Act No. 141 of July 11, 2018.

45) "Puerto Rico Benefit Cost Test" or "PR Test" means a cost-effectiveness screening test developed in accordance with this Regulation and used to evaluate whether proposed or actual EE and DR programs or initiatives provide greater benefits than their costs.

46) "Renewable Resource" means any combination of Alternative Renewable Energy Resources or Sustainable Renewable Energy Resources as such terms are defined in Act 82-2010, as amended, known as the Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico. Such resources shall be located in Puerto Rico.

47) "Spillover" means reductions in energy consumption and/or demand caused by the presence of a program, beyond the program-related gross savings of the participants and without financial or technical assistance from the program.

48) "Technical Reference Manual" or "TRM" means a single, transparent data source of energy savings values to be used by PREPA for developing historical and future energy savings for its programs. The TRM contains Deemed Savings

for energy and demand, deemed savings calculations, and impact factors such as net to gross ratios.

49) "Three-Year EE Plan" means the plan filed by PREPA, and subject to review and approval by the Energy Bureau, that identifies the proposed EE programs, budgets, and goals for a three-year Program Implementation Period, following the initial Transition Period Plan.

50) "Transition Period Plan" refers to the two-year plan filed by PREPA that identifies proposed pilot, quick start, and other EE programs for the period from July 1, 2022 to June 30, 2024.

51) "Transmission and Distribution Service" refers to the provision of service transmitting electric power to end uses using the Transmission and Distribution System.

52) "Transmission and Distribution System" means the physical equipment used to transmit electric power, including but not limited to towers, poles, lines, transformers, service drops, and Meters.

53) "Utility Cost Test" means a cost-effectiveness screening test that measures cost-effectiveness from the perspective of the Puerto Rico electric system.

54) "Verification" means a process of quantitative analysis to verify the performance claims submitted by PREPA in its Annual Reports.

55) "Weatherization Assistance Program" or "WAP" refers to the U.S. Department of Energy program that provides grants to states and territories to improve the energy efficiency of low-income homes to reduce energy costs, while ensuring health and safety.

C) Every word used in the singular in this Regulation shall be understood to also include the plural unless the context indicates otherwise.

Section 1.10 Controlling Version.

Should any discrepancy between the Spanish version and the English version of this Regulation arise, the provisions of the English version shall prevail.

Section 1.11 Severability.

If any article, provision, word, sentence, paragraph, subsection, or section of this Regulation is disputed, for any reason, before a court and declared unconstitutional or null and void, such ruling shall not affect, damage, or invalidate the remaining provisions of this Regulation, rather the effect shall be limited to the article, provision, word, sentence, paragraph, subsection, or section that has been declared unconstitutional or null and void. The nullity or invalidity of any article, word, sentence, paragraph, subsection, or section, in any specific

case, shall not affect or jeopardize in any way its application or validity in any other case, except where it has been specifically and expressly invalidated for all cases.

Section 1.12 Forms.

The Energy Bureau shall establish the forms it deems necessary to conduct the proceedings pursuant to this Regulation and shall inform the public via its website. The fact that the Energy Bureau has not adopted one or more forms, is in the process of reviewing them, or the Internet website is out of service, shall not relieve any party of its obligation to comply with the provisions stated herein, provide the information required by this Regulation, or otherwise comply with any applicable Energy Bureau order.

Section 1.13 Mode of Submission.

The forms, documents, and appearances required by virtue of this Regulation or any order of the Energy Bureau must be submitted before the Energy Bureau in electronic format according to the instructions which, from time to time, the Energy Bureau establishes through an order in relation to the electronic filing system.

If the electronic filing system is temporarily not operating or functioning, the forms, documents, and appearances required by virtue of this Regulation or by any order of the Energy Bureau shall be submitted before the Energy Bureau in accordance with any instructions that the Energy Bureau shall provide at that time through a notice or order.

Section 1.14 Effect of Submission.

In filing any document before the Energy Bureau, the party undersigning such document shall be deemed to have Certified that the content of said document is true and that, according to the signer's best knowledge, information, and belief, formed after reasonable inquiry, the document is based on reliable and trustworthy facts, arguments, judicial sources, and information.

Section 1.15 Confidential Information.

If in compliance with the provisions of this Regulation or any of the Energy Bureau's orders, a Person has the duty to disclose information to the Energy Bureau considered to be privileged, pursuant to applicable evidentiary privileges, said Person shall identify the alleged privileged information and request in writing for the Energy Bureau to treat such information as confidential, pursuant to Article 6.15 of Act 57-2014. In identifying privileged information and requesting confidential treatment by the Energy Bureau, the requesting party shall follow the rules and procedures established by the Energy Bureau in Resolution CEPR-MI-2016-0009, as such resolution may be amended from time to time, for the filing, handling, and treatment of confidential information. Except in the case of information protected under the attorney-client privilege, the claim of confidential treatment shall, under no circumstances, be grounds for denying such information from being filed with the Energy Bureau.

Section 1.16 Validity.

Pursuant to Section 2.8 of the LPAU, this Regulation shall enter into effect thirty (30) days after its submission to the Department of State and the Legislative Library of the Office of Legislative Services.

Section 1.17 Compliance with Other Applicable Legal Requirements.

Compliance with this Regulation shall not relieve any party affected by this Regulation from fully complying with other applicable legal and regulatory requirements enforced by any other government entity.

ARTICLE 2. TRANSITION PERIOD PLAN

Section 2.01 Transition Period Plan Description

A) The purpose of the Transition Period Plan is to facilitate the ramp-up of energy efficiency programs in Puerto Rico while providing time for the completion of the first Market Baseline Study and Potential Study and to facilitate development of the energy efficiency services workforce.

B) PREPA shall file its Transition Period Plan with the Energy Bureau on or before March 1, 2022. This plan shall cover the period from July 1, 2022 to June 30, 2024. The Transition Period Plan will be followed thereafter by a Three-Year EE Plan as described in Section 4.02 of this Regulation.

C) PREPA shall begin implementing its filed Transition Period Plan no later than July 1, 2022, unless otherwise ordered by the Energy Bureau.

    1) PREPA may begin implementation of quick-start or pilot programs before July 1, 2022, provided that it files with the Energy Bureau the information required by Subsection 2.02(C)(1) of this Regulation, at least thirty (30) days prior to beginning program implementation.

Section 2.02 Transition Period Plan Requirements

A) Energy efficiency savings targets

    1) The Transition Period Plan does not have binding energy savings targets.

    2) Using its most recent sales forecast, PREPA shall design programs and budgets with the goal of achieving first-year savings of at least 0.1% of annual sales in the first year and at least 0.25% of annual sales in the second year.

        a) PREPA may use gross annual and lifetime energy and peak demand savings for the development of planned program savings. The net savings calculation is optional during the Transition Period Plan.

3) Energy savings achieved by PREPA's programs during the Transition Period Plan shall be counted as part of the overall savings required to meet the targets established in Section 3.01 of this Regulation.

B) Performance targets

1) In accordance with Section 4.02(E)(1)-(2) of this Regulation, PREPA shall propose, and the Energy Bureau shall approve, reject, or modify, performance targets and associated payments for the Transition Period Plan that measure performance of utility actions. These activity-based targets could include establishing programs covering particular sectors or end uses, stakeholder engagement activities, and market development, education, and capacity-building actions. For the Transition Period Plan, PREPA may not propose payments for achievement of performance targets that are based on the outcomes of those actions (such as measured energy saved by energy efficiency programs).

C) Quick-start programs

1) PREPA shall file quick start programs and pilots as part of its Transition Period Plan. The Transition Period Plan shall include, at a minimum, the following information on each individual program that is proposed: (a) a general description of the program and services to be provided; (b) target customer population; (c) specific program objectives; (d) any proposed customer incentives; (e) estimated energy and peak demand savings; (f) estimated program costs; (g) anticipated implementation barriers and how they will be addressed; (h) program theory by which the program will achieve program objectives and (i) program timeframe if the program term is limited.

2) PREPA's quick-start programs and pilots should seek to achieve market penetration quickly, as well as initiate market transformation activities in order to help increase consumer understanding and demand for energy efficiency, and promote the market for energy efficiency services. Quick-start programs should address common end uses across the sector(s) served by each program. The portfolio of pilots and quick-start programs should seek to serve multiple sectors and industries, and to provide benefits to Customers as a whole. The components of the portfolio should also be selected to gain knowledge and understanding that will improve future program offerings.

3) PREPA shall consult with stakeholders in the design and development of pilot and quick-start programs. PREPA shall report on this consultation as part of its Transition Period Plan filing.

4) The Energy Bureau may, by Order or Resolution, provide PREPA with a template for pilot and quick start proposals and supporting documents. If the Energy Bureau provides such a template, PREPA shall use it when preparing its filing.

5) While the Energy Bureau retains authority over changes in pilot and quick-start programs, it intends these programs to be flexible and nimble in order to maximize their usefulness to future program design and implementation.

6) The Transition Period Plan shall include a plan to replace all public lighting with LED or comparable lights as quickly as reasonably achievable, working in concert with the owners of such lights.

D) Funding

7) PREPA or its successor as the operator of the Transmission and Distribution System shall propose one or more funding sources to provide the necessary funds to execute the Transition Period Plan and shall first seek to use funds collected under established rates and/or riders.

8) In the event that PREPA begins program implementation before July 1, 2022 (and therefore during the period for which PREPA's successor for operation of the Transmission and Distribution System has an approved budget as of the publication of this Regulation), funds for EE programs expended prior to July 1, 2022 need not (but may) be part of the approved budget for that entity.

9) PREPA or its successor may also avail themselves of funding approaches in accordance with Section 4.05(F) and Section 4.06 of this Regulation.

E) Reporting

1) Quarterly Public Reports.

a) PREPA shall provide quarterly public reports to the Energy Bureau on the implementation of the Transition Period Plan. These reports shall be filed within sixty (60) days of the end of each quarter. The reports shall at a minimum include a description of PREPA's progress in implementing the Transition Period Plan, participants, costs, and estimated gross and/or net energy and demand savings.

2) Annual Report and Performance Claim.

a) No later than one hundred and twenty (120) days following the end of each of the two Program Years within the Transition Period Plan, PREPA shall file an Annual Report regarding its activities in the previous Program Year to the Energy Bureau.

b) The Annual Report for the Transition Period Plan shall include, at a minimum, the following information:

i. A description of PREPA's activities in the Program Year;

ii. A report of progress on the Transition Period Plan;

iii. Detailed summary regarding PREPA's achievement of performance targets during the Program Year in accordance with Section 2.02(B) of this Regulation;

iv. Detailed assessment tables of the following areas:

A. Costs for each pilot and quick start program during the Program Year categorized by: PREPA administration costs, marketing costs, outside services (e.g., third party contractors or implementers) by each provider, customer incentives, and other costs.

B. Gross annual and lifetime energy and peak demand savings achieved during the Program Year for each pilot and quick start program.

v. The total number of Program Year participants for each pilot and quick start program. The Annual Report shall define participants for each pilot and program.

vi. Other such information as the Energy Bureau shall determine by Order or Resolution.

c) The Energy Bureau may, by Order or Resolution, provide PREPA with a template for the Annual Report and supporting documents. If the Energy Bureau provides such a template, PREPA shall use it when preparing its filing.

3) Energy Bureau Determination on Annual Report.

a) Not later than thirty (30) days after submission of the Annual Report, the Energy Bureau shall issue a decision as to whether PREPA has met the reporting requirements as stipulated in this Regulation. The Energy Bureau may require PREPA to provide additional information as needed to meet the requirements. In the event a resubmission is required by the Energy Bureau, PREPA shall submit the revised Annual Report subject to the terms of the Energy Bureau's order.

ARTICLE 3. ENERGY EFFICIENCY SAVINGS TARGETS

Section 3.01 Targets

A) The 2040 target for Annual Cumulative Reduction in electric consumption resulting from increased energy efficiency shall be 4,744 GWh per year (30% of PREPA's fiscal year 2019 sales).

B) The target may be achieved through multiple means and Contributing Entities, including, but not limited to:

1) PREPA-run or PREPA-facilitated energy efficiency programs;

2) Energy efficiency programs and actions in governmental buildings;

3) Savings resulting from the adoption of new building energy codes implemented after 2019, or increased compliance with building energy codes;

4) Savings resulting from incremental federal or Commonwealth appliance energy efficiency standards and laws implemented after 2019;

5) Energy efficiency in non-governmental buildings resulting from actions funded by federal or Commonwealth governmental funds, such as low-income weatherization programs, Community Development Block Grants, disaster recovery or hazard mitigation funds, or other such programs; and

6) Other sources as the Energy Bureau may identify and include in its assessment of progress.

C) The Energy Bureau shall measure progress toward the statutory target of 30% energy efficiency by 2040 from sources as identified in (B)(1)-(6) of this section and publicly report on that progress annually by posting a report on its webpage.

D) The Energy Bureau shall establish, as part of each approved Three-Year Energy Efficiency Plan described in Section 4.02 of this Regulation, the annual energy savings it expects to be achieved from sources identified in (B)(1)-(6) of this section for each Program Year until 2040.

E) To establish energy efficiency savings targets for PREPA, the Energy Bureau, in collaboration with the PEPP, shall estimate the contribution of energy savings expected to come from actions identified in (B)(2)-(6) of this section for each Program Year, including estimates for each year through 2040. This determination should be informed by information available to the Energy Bureau and the PEPP, including but not limited to historic performance, Market Baseline Studies and Potential Studies. The Energy Bureau shall assign the remainder of the required energy efficiency savings target for each Program Year to PREPA.

F) The allocations among the sources as identified in (B)(1)-(6) of this section shall be reviewed as part of the Three-Year Plan cycle described in Section 4.02 of this Regulation and, if necessary, modified.

Section 3.02 Energy Efficiency Studies

A) No later than four (4) months after the effective date of this Regulation, and triennially as needed, the Energy Bureau shall contract with expert consultants to

conduct a Market Baseline Study. The consultant shall be responsible for gathering the necessary data to estimate the contributions from all Contributing Entities toward the types of efficiency resources listed in paragraph (B)(1)-(6) of Section 3.01 of this Regulation.

B) No later than four (4) months after the completion of the development of the Puerto Rico Test as described in Section 5.02 of this Regulation, and triennially as needed, the Energy Bureau shall contract with expert consultants to conduct a Potential Study to quantify the achieved (in the past) and expected (in the future) savings resulting from PREPA and other Contributing Entities listed in paragraphs (B)(2)-(6) of Section 3.01 of this Regulation, as well as the cost-effective potential for energy efficiency in Puerto Rico.

C) The Energy Bureau may delegate to PREPA the responsibility for contracting with expert consultants to conduct a Market Baseline Study and/or Potential Study.

D) Prior to the end of the Transition Period Plan, and informed by the first Potential Study, the Energy Bureau shall estimate the energy efficiency savings achieved during that period from actions listed in paragraphs (B)(2)-(6) of Section 3.01 of this Regulation.

E) The Energy Bureau shall use the results of the initial Market Baseline Study and the Potential Study, along with the estimated impacts of actions during the Transition Period Plan, to develop, in collaboration with PEPP, estimated annual savings expected to be achieved by PREPA's efficiency programs and the actions of other Contributing Entities (as identified in paragraphs (B)(2)-(6) of Section 3.01 of this Regulation) for each Program Year through 2040.

F) The Energy Bureau shall revisit and may amend these annual savings expectations in the course of each Three-Year Energy Efficiency Plan process contained in Section 4.02 of this Regulation, informed by the progress achieved to date, any subsequent Market Baseline or Potential Studies, any intervening IRP process, and expected non-utility efficiency programs or actions.

G) Within the course of each Three-Year Energy Efficiency Plan process contained in Section 4.02, PREPA may propose energy efficiency programs that seek to obtain energy efficiency savings from actions identified in paragraphs (B)(3)-(4) of Section 3.01 of this Regulation. PREPA must prove that any projected energy efficiency savings are directly attributable to its actions through an evaluation study. If these programs are approved by the Energy Bureau, the Energy Bureau shall adjust the allocation of expected energy savings accordingly to include the anticipated savings and ensure that savings are not double-counted.

ARTICLE 4. ENERGY EFFICIENCY PROGRAMS, PLANS, AND BUDGETS

Section 4.01 Energy Efficiency Programs.

A) PREPA shall develop and offer energy efficiency (EE) programs.

1) PREPA may hire external expert consultants to assist in the development, administration, and/or operation of its EE programs. PREPA shall use a competitive solicitation process to select such consultants if it chooses to hire them.

2) PREPA's portfolio of programs shall be available to all Customers, subject to eligibility criteria.

3) PREPA shall ensure that the portfolio of programs contains a variety of cost-effective programs and measures to maximize the opportunity for all customers to participate in energy efficiency programs.

B) PREPA shall pursue all cost-effective efficiency savings on behalf of all customers over time (as defined pursuant to the cost-effectiveness test established in ARTICLE 5 of this regulation), including diverse technologies and various services provided in order to engage with all customer types and classes, and sufficient to achieve at least the energy efficiency targets established in ARTICLE 3 of this regulation.

C) PREPA shall develop EE programs that are consistent with the most recent approved Integrated Resource Plan ("IRP") and Energy Bureau orders.

D) With regards to the provision of these programs, PREPA shall, among other things:

1) Increase the efficiency of buildings, appliances, lighting, equipment, products, industrial processes, and other end uses;

2) Encourage energy conservation and reduce absolute energy use through controls, system sizing, optimization of operation and maintenance practices in buildings and manufacturing plants and customer actions;

3) Prioritize lost opportunity markets. Lost opportunities occur when efficiency measures are not installed when it is most cost-effective to do so;

4) Pursue Market Transformation strategies;

5) Provide all customers with the opportunity to participate in services and initiatives;

6) Reduce energy burden for low-income residents and small businesses;

7) Strive to provide comprehensive services to all customers including customer education, audits, rebates, and financing;

8) Work with energy efficiency service providers to provide contractor training and other education and tools as necessary to ensure the energy efficiency measures deliver the maximum value;

9) Pursue innovative approaches to the cost-effective acquisition of energy efficiency and demand response;

10) Encourage compliance with Puerto Rico's building energy code, and contribute to increasing the stringency of that code while maintaining its cost-effectiveness;

11) Balance near-term and long-term resource acquisition to maximize total cost-effective energy efficiency and demand response resource acquisition over time;

12) Provide information and education that will empower customers to manage their energy use and energy bills;

13) Coordinate with PEPP and other Contributing Entities in the development and delivery of energy efficiency programs; and

14) Seek stakeholder input on the most cost-effective programs for implementation.

E) In each Three-Year EE Planning process in Section 4.02 of this Regulation, and informed by stakeholder input, the Energy Bureau may determine whether certain objectives in paragraph (D) of this Section should be prioritized, while seeking to advance all objectives over time.

Section 4.02 Three-Year Energy Efficiency Plans.

A) PREPA shall develop a Three-Year EE Plan for programs to be implemented over the three (3) year Program Implementation Period, following the quick start programs undertaken in the Transition Period Plan. In every recurring Three-Year EE Plan cycle, PREPA shall design its plans to identify and implement all cost-effective EE programs, consistent with the most recently approved Integrated Resource Plan ("IRP"). PREPA may also rely on any subsequent comparable analysis deemed acceptable by the Energy Bureau. The EE programs shall conform to best practice program design principles. At a minimum, PREPA's proposed portfolio shall:

1) Align with the goal of achieving thirty percent (30%) savings by 2040, with achieving those savings as soon as practicable, and with the annual savings targets established in ARTICLE 3 of this Regulation;

2) Pass at least one cost-effectiveness test in accordance with ARTICLE 5 of this Regulation;

3) Address all relevant markets related to EE measures;

4) Serve all customer classes;

5) Address all relevant end-uses;

6) Attempt to overcome all relevant market barriers to the adoption of EE measures;

7) Promote customer equity, both by offering programs to all customer classes and by achieving high participation rates across all customers;

8) Ensure that Low Income Customers and Hard-to-Reach Customers are marketed and served;

9) Take full advantage of all relevant trade allies to maximize opportunities to market, deliver and install efficiency and demand response measures; and

10) Avoid lost opportunities, which occur when efficiency measures are not installed when it is most cost-effective to do so.

B) For the purpose of resource planning and market expectations, each Three-Year EE Plan shall furthermore include a projected plan for EE resource acquisition for a twenty (20) year planning period (extending for seventeen (17) years past the three-year period). This projected plan shall illustrate how the statutory goal of thirty percent (30%) savings by 2040 will be achieved, and provide estimated total funding required for each year.

C) Where appropriate, PREPA shall design and implement integrated EE and DR programs. PREPA shall ensure that there is consistency and coordination between its Three-Year EE Plan and its Three-Year DR plan as developed and filed pursuant to the Energy Bureau's Regulation on Demand Response. PREPA may combine these documents and processes into a single process, including stakeholder engagement, with combined filing of an integrated EE and DR plan to the Energy Bureau.

D) Each Three-Year EE Plan shall include at a minimum the following elements by Program Year:

1) Summaries and tables for the following metrics:

a) Cost-effectiveness. Cost-effectiveness shall be provided for each plan year at the program, sector, and portfolio levels in accordance with ARTICLE 5 of this Regulation.

b) Benefits. All benefits included in the primary cost-effectiveness test in accordance with ARTICLE 5 of this Regulation shall be provided by

benefit category for each plan year at the program, sector, and portfolio levels.

c) Budget. The budget for each plan year, broken out by budget category, shall be provided at the program, sector, and portfolio levels.

d) Savings. Planned net and gross annual and lifetime energy savings for each Program Year shall be provided at the program, sector, and portfolio levels. Annual capacity savings shall be provided for each plan year at the program, sector, and portfolio levels.

e) Participants. Planned participants, broken down by customer class, shall be provided for each plan year at the program, sector, and portfolio levels. Participant definitions shall be provided by program or measure type.

2) Program narratives.

a) The narratives shall be provided for each program to establish program theory and goals, program structure, target participants by and within customer class, and strategies to overcome market barriers and achieve program goals.

3) Evaluation, Measurement, and Verification ("EM&V") plan.

a) The Three-Year EE Plan must include a strategic plan that describes proposed verification activities, Process Evaluations, market studies, and Impact Evaluations. The Energy Bureau shall utilize competitive procurement processes to hire independent evaluators to complete the approved EM&V plan. Funds for these contracts shall be part of PREPA's EE budget and transferred to the Energy Bureau as required.

4) Avoided costs.

a) Avoided cost calculations for the planning period in accordance with Section 5.04 of this Regulation shall be included in the Three-Year EE Plan.

5) Public Lighting Plan.

a) The Three-Year EE Plan shall continue, if not completed, the plan to replace all public lighting with LED or comparable lights as quickly as reasonably achievable, working in concert with the owners of such lights.

6) Performance Incentive.

a) If PREPA's successor is an entity subject to a contract that includes performance metrics, that entity shall propose a performance incentive within the Three-Year EE Plan for approval by the Energy Bureau.

(1) The performance incentive shall be structured to reward program performance that makes significant progress in securing all cost-effective energy efficiency resources while ensuring that those resources are secured as efficiently as possible.

(2) The performance incentive may provide incentives for objectives that are consistent with the goals of Act 17-2019, including, but not limited to: Annual MWh savings; Lifetime MWh savings; Annual MW savings; lifetime net benefits; greenhouse gas reductions; comprehensiveness; and customer equity.

(3) The proposal for the performance incentive should have clear metrics for determining performance.

(4) The performance incentive should be structured so that customers retain most of the benefit from the implementation of energy efficiency.

E) If PREPA's successor is an entity subject to a contract that includes performance metrics, the performance incentive process and requirements shall be incorporated into the overall incentive package of PREPA's successor.

1) The performance targets and the amount of performance payment to which a PREPA successor entity is entitled with respect to Energy Efficiency shall be determined by the Energy Bureau in the proceeding designed for such purposes. The Energy Bureau shall set performance targets in that proceeding which are consistent with the approved Three-Year EE Plan.

2) The Energy Bureau may make, by Order or Resolution, appropriate changes in the process for establishing EE performance metrics and incentives so that PREPA's successor's incentive package can be considered as a whole in the appropriate proceeding.

3) The Energy Bureau shall utilize the EM&V processes established in the approved Three-Year EE Plan to determine the performance level that has been achieved and shall be compensated.

F) The Energy Bureau may, by Order or Resolution, provide PREPA with a template for the Three-Year EE Plan and supporting documents. If the Energy Bureau provides such a template, PREPA shall use it when preparing its filing.

Section 4.03 Three-Year Energy Efficiency Planning Process

A) The Three-Year EE Plan procedural schedule shall be as follows.

1) Three-Year EE Plans shall be filed triennially on March 1 and cover three-year periods, beginning March 1, 2024, with the first Three-Year EE Plan extending from July 1, 2024 through June 30, 2027.

2) The Energy Bureau may amend the Three-Year EE Plan filing date as needed to allow time for appropriate stakeholder engagement or other reasons as it may determine.

3) PREPA shall present its draft Three-Year EE Plan to an open meeting of interested stakeholders and members of the public no later than ninety (90) days before the filing deadline and make the written document publicly available at that time.

a) PREPA shall solicit feedback from stakeholders in meetings and via written comments.

b) PREPA shall endeavor to solicit stakeholder participation and input from diverse perspectives including, but not limited to, the following:

i. Residential customers;

ii. Low income customers;

iii. Small businesses;

iv. Large commercial customers;

v. Manufacturers;

vi. Energy cooperatives;

vii. Relevant trade groups and associations;

viii. Environmental organizations;

ix. Organized labor;

x. The Independent Consumer Protection Office;

xi. Energy Public Policy Program of the Department of Economic Development and Commerce;

xii. Municipalities; and

xiii. Other public interest organizations.

c) PREPA shall prepare a summary of feedback received and a discussion of how the feedback has or has not been incorporated into the Three-Year EE Plan, and file this document when it submits the Three-Year EE Plan to the Energy Bureau.

B) The Energy Bureau shall initiate a proceeding to evaluate the filed Three-Year EE Plan, along with its associated budget and performance objectives.

1) The Energy Bureau shall solicit comments on the filed Three-Year EE Plan from stakeholders and the public, and specifically invite the participation of stakeholders who provided feedback on the draft Three-Year EE Plan.

2) The Energy Bureau need not require formal testimony or a contested case process, although it may use such processes at its discretion. The Energy Bureau shall provide an opportunity for interested parties to be heard in a public hearing.

C) Not later than end of the Planning Year, the Energy Bureau shall issue a decision on the Three-Year EE Plan which ensures that PREPA has identified and shall capture all energy efficiency and demand reduction resources that are cost effective or less expensive than supply resources. The Energy Bureau shall approve the Three-Year EE Plan, reject and require the resubmission of the Plan, or accept or modify the Plan in part and require resubmission with instructions on other parts of the Plan.

1) In the event that the Energy Bureau does not approve a Three-Year EE Plan before the end of the Planning Year, the Energy Bureau shall issue an Order or Resolution setting forth the programs that shall be implemented until such time as a Three-Year EE Plan is approved.

Section 4.04 Annual Update.

A) In each of the first and second years of implementation of each Three-Year EE Plan, PREPA shall file an Annual EE Update with the Energy Bureau at least sixty (60) days prior to the beginning of the next Program Year.

B) The Annual EE Update shall describe in detail changes that PREPA proposes to make to the Three-Year EE Plan for implementation in the coming year (years two and/or three of the Three-Year EE Plan).

C) The Energy Bureau may, by Order or Resolution, provide PREPA with a template for the Annual EE Update and supporting documents. If the Energy Bureau provides such a template, PREPA shall use it when preparing its filing.

D) PREPA shall publish a draft Annual EE Update for stakeholder feedback no later than thirty (30) days before the filing deadline for the Annual EE Update, and welcome

stakeholder feedback within fifteen (15) days to facilitate incorporation of responses to this feedback in PREPA's Annual EE Update filing to the Energy Bureau.

E) In the Annual EE Update:

1) PREPA may request changes to the performance metrics or targets;

2) PREPA may request changes to the amount or allocation of the annual budget; and

3) PREPA may make changes to the program offerings based on data evaluated from a program or other circumstances.

F) The Energy Bureau shall consider the filed Annual EE Update.

1) The Energy Bureau shall solicit stakeholder comments on the filed Annual EE Update to inform its decision.

2) The Energy Bureau may, at its discretion, open a proceeding for the purpose of evaluating PREPA's proposed Annual EE Update and any proposed changes in the budget.

G) The Energy Bureau shall approve each Annual EE Update, reject and require the resubmission of the Update, or accept or modify the Update in part and require resubmission with instructions on other parts of the Update, prior to the end of the Program Year. Energy Bureau approval of the Annual EE Update (as modified) constitutes approval of changes to the EE budget for inclusion in transmission and distribution rates. Each approved Three-Year EE Plan, as modified by any past approved Annual EE Update, remains in effect until an order approving the Annual EE Update is issued.

Section 4.05 Energy Efficiency Budget.

A) In its determination regarding the Three-Year EE Plan, the Energy Bureau shall set the total amount of funding to be expended for PREPA's EE programs in each Program Year covered by the plan, including the program implementation and administration; associated EM&V activities; and other studies necessary for the proper functioning of the terms of this Regulation.

B) PREPA shall include the proposed budget for EE programs as a component of its annual budget. In the event that PREPA's successor for operation of the transmission and distribution system has a separate annual budget, that budget shall include the EE budget.

1) In the event that PREPA requires funds to execute EE programs that are in excess of funds available under existing approved rates after accounting for other approved utility expenditures, PREPA shall propose the appropriate

value for the EE rider established in PREPA's Permanent Rate to secure the needed funds, or propose another method or rider to secure them.

C) PREPA may propose that the cost of EE programs be amortized across additional years. That is, the cost of programs implemented in one year may be spread over that year and subsequent years. The ability to amortize EE program costs is contingent on PREPA's success at securing capital to execute such an approach. PREPA's proposal and the repayment terms for this capital shall be detailed in PREPA's Three-Year EE Plan filing.

D) The budget allocated for Low Income Customer programs shall comprise no less than twenty five percent (25%) of the total portfolio budget. This shall be in addition to any residential programs in which Low Income Customers may also participate.

E) The Energy Bureau's determination regarding the Three-Year EE Plan shall serve as approval for the recovery for the cost of the approved EE programs (including the cost of EM&V and other studies) through PREPA's rates for transmission and distribution service and any applicable riders. Approval of cost recovery is conditioned on prudent program management in accordance with sound utility practice and judgement. If a rider is to be used to recover EE costs, the Energy Bureau may approve the corresponding factor as part of the approval process of the Three-Year EE Plan.

    1) As necessary to provide funds for activities for which the Energy Bureau is the contracting agent, PREPA shall transfer to the Energy Bureau the required funds for Market Baseline Studies, Potential Studies, EM&V activities, and other required studies, reports, or analysis that are part of the Three-Year EE Plan or required for regulatory oversight and planning of EE programs.

F) PREPA shall seek out revenue sources that can offset ratepayer funding for EE programs or fund additional EE activities. If other revenue is obtained, such as from grants, Federal funds, or compensation for services provided, PREPA shall include such funds in its Three-Year EE Plan and associated budget (or as an amendment to such if acquired outside the 3-year cycle) and use them to reduce funds collected from ratepayers through its rates or increase the quantity of cost-effective EE.

Section 4.06 Energy Efficiency Capital and Repayment.

A) PREPA shall seek to effectively use external funding sources to provide customers with the needed capital to overcome barriers to implement EE projects.

    1) For different programs or types of customers, this capital may be directly tied to PREPA programs (wherein PREPA uses external funding directly), and/or PREPA may facilitate customers independently accessing capital (such as via loans to customers from financial institutions meeting standard industry lending practices).

B) PREPA shall report on its efforts and performance in developing and implementing financing programs under this Section in its Annual Reports.

C) PREPA shall work independently and/or with PEPP and any other agencies to pursue grants, low-cost loans, loan guarantees, or other financing support for EE from Federal agencies (such as the U.S. Department of Agriculture, U.S. Department of Energy, and the U.S. Department of Housing and Urban Development) as well as from other sources, in the quantities required to support the achievement of the EE targets established in ARTICLE 3 of this Regulation and the EE plans approved under Section 4.02 of this Regulation.

1) Grant funds that may be acquired under this provision shall be used in part to establish a revolving fund to support EE programs. PEPP will administer the revolving fund for governmental entities. PREPA shall administer, or contract with an expert firm to administer, any EE program that utilizes the revolving fund to provide non-Governmental customers with access to capital for approved EE measures. PREPA shall be responsible for collecting repayment from customers participating in such a program and remitting to the PEPP the funds collected to replenish the fund.

2) Grant funds may also be used to fund a loss reserve fund for the purpose of increasing access to capital for programs or lowering the cost of capital.

3) PREPA shall work with PEPP to develop a process to facilitate funding from the revolving fund to be used by PREPA for customer energy efficiency, and for repayment from customers, via PREPA, to the revolving loan fund.

4) PREPA shall work with PEPP to develop processes for sharing access to customer information necessary to support the operation of such programs.

D) PREPA may directly receive loans and/or loan guarantees from Federal agencies or other sources that are intended to support financing or tariff-based repayment programs that provide customers with capital to implement EE projects. PREPA may also work with PEPP and/or independent financial institution(s) to secure such support to be implemented or administered by PEPP or the financial institution(s).

E) PREPA shall develop programs that offer customers upfront capital to support the installation of EE measures, coupled with repayment provisions associated with the customer and/or with the meter, where feasible. PREPA may request a waiver of this requirement if capital markets are not operating efficiently or during periods of severe financial disturbances.

1) These programs shall support measures that are cost-effective for the customer after accounting for the cost of capital and any offered incentives, such that participating customers' total bills (including the cost of energy and

the cost of the capital) are noticeably lower than they would have been without the EE implementation.

2) The design of these programs shall include options with no required upfront payment.

3) PREPA may contract with one or more third parties to develop program proposal(s) and to administer the program(s).

4) Each program design that PREPA develops and implements shall include:

    a) guidelines for measures installed under the program, including, but not limited to, limits on both individual capital amounts and the duration of the repayment period;

    b) criteria and standards for identifying and approving EE measures and procedures for independent certification that EE savings estimates exceed payments in both the near and long terms;

    c) how the program will address non-payment and disconnection;

    d) qualifications of vendors that will market or install measures, as well as a methodology for ensuring ongoing compliance with such qualifications;

    e) sample contracts and agreements necessary to implement the measures and program;

    f) the types of data and information that PREPA and vendors participating in the program shall collect for purposes of preparing the Annual Reports required under Section 6.01 of this Regulation; and,

    g) a budget for costs related to all start-up and administrative costs and the costs for program evaluation.

5) PREPA shall evaluate, and offer if possible, tariff-based payment options that are assigned to the meter (rather than to the customer), with site-specific cost recovery so that the repayment would be provided by the benefitting customer even if the building has different occupants or owners (such as "Pay As You Save"™ approaches) or the occupant or owners change.

    a) PREPA must particularly seek to develop such a program offering for residential and small business customers, but need not be limited to these customer types.

6) PREPA shall evaluate, and offer if possible, options that offer commercial and industrial customers the ability to pay over time in equivalent proportion to their realized energy savings.

Section 4.07 Engage with Stakeholders.

A) PREPA shall provide complete, relevant, and comprehensible information regarding its programs, and other activities to diverse stakeholders and the public, and answer the questions of members of the public in a timely and straightforward manner.

B) PREPA shall provide drafts of its proposed Three-Year EE Plans and Annual Updates to stakeholders on the schedules described in Section 4.02 and Section 4.04 of this Regulation.

C) PREPA shall work collaboratively with stakeholders to reflect stakeholder input in program design and planning.

D) The Energy Bureau shall convene an EE stakeholder working group no less than quarterly. The Energy Bureau may establish the structure, roles, and decision-making processes of the working group, after receiving input from PREPA and stakeholders. The Energy Bureau shall appoint members to the working group reflecting the diverse perspectives listed in Section 4.03(A)(3)(b) of this Regulation. The meetings of the working group shall be open to the public.

Section 4.08 Public Sector Participation.

A) PREPA shall coordinate its activities with those of the Department of Economic Development and Commerce with regard to EE in public facilities and with those of the Legislative Assembly regarding its facilities.

1) PREPA shall provide technical expertise and programmatic assistance to the Department of Economic Development and Commerce, municipal governments, the Legislative Assembly, and any other relevant aspects of Puerto Rico or local government, in order to achieve the goals for energy savings in Article 4 of Act 57-2014, ARTICLE 3 of this Regulation, and any other such duly enacted targets or orders regarding EE in public facilities.

2) PREPA shall assist with and promote a strategy of using Energy Savings Performance Contracts (ESPCs) as the primary option to achieve energy efficiency in buildings under the control of the Judicial branch or any agency, instrumentality, or public corporation of the Executive Branch, in accordance with Article 4.1 of Act 57-2014.

a) If, after a cost-effectiveness analysis, PREPA and the Department of Economic Development and Commerce jointly conclude that it is extremely onerous to comply with this ESPCs provision, they shall request an exemption from the Energy Bureau and shall state the basis

for their conclusion. In so doing, PREPA and the Department of Economic Development and Commerce shall provide an alternative recommendation for achieving energy efficiency in these buildings.

B) PREPA shall develop programs, with the goal of partnering with all relevant governmental entities, to replace one hundred percent (100%) of street lighting with light-emitting diode (LED) or renewable lighting technology as quickly as reasonably achievable. The programs must be developed to achieve 100% replacement by the year 2030.

ARTICLE 5. COST EFFECTIVENESS

Section 5.01 Interim Cost Benefit Test.

A) The cost benefit test defined in this Section shall be used by PREPA until the Energy Bureau establishes the Puerto Rico Test by Order or Resolution, as described in Section 5.02 of this Regulation.

B) Prior to the establishment of the Puerto Rico Test, PREPA and the Energy Bureau shall assess the cost-effectiveness of EE programs according to the Utility Cost Test.

C) The costs included in the Utility Cost Test shall be:

1) Program administrative costs and

2) Incentive payments to participants

D) The benefits included in the Utility Cost Test shall be:

1) Avoided energy costs;

2) Avoided generation capacity costs, including reserve margins;

3) Avoided transmission and distribution capacity costs;

4) Avoided line losses; and

5) Avoided environmental compliance costs.

E) Each of these costs and benefits shall be calculated in a manner that reflects the possibility for temporal and locational variation in its cost or value (such as, for example, higher costs when the load is high relative to cheap renewable production or when the transmission or distribution system is congested), and which accounts for the value of marginal changes in load.

F) In its Three-Year EE Plan, PREPA shall describe in detail the methodologies used to calculate the costs and benefits of its EE programs, and provide the underlying data.

Section 5.02 Puerto Rico Test.

A) The Puerto Rico Test shall replace the interim Utility Cost Test described in Section 5.01 of this Regulation and shall be determined as set forth in this Section.

B) The Puerto Rico Test shall reflect the policy objectives of Puerto Rico with regard to energy, environmental, and societal impacts.

C) The Energy Bureau shall develop the specific benefits and costs to be included in the Puerto Rico Test, informed by stakeholder input.

D) The Energy Bureau shall include in the Puerto Rico Test all relevant generation, transmission, and distribution impacts, reliability and resilience, other fuel impacts, and environmental impacts, and may include other non-energy impacts, water impacts, economic development impacts, and social equity impacts. The accrual of specific non-energy impacts to certain programs or technologies, such as income-eligible programs or combined heat and power, may be considered.

E) The Energy Bureau shall initiate a proceeding to define the Puerto Rico Test within six (6) months of the effective date of this Regulation.

F) The Energy Bureau shall apply the following principles when developing the PR Test:

1) Efficiency as a Resource. EE is one of many resources that can be deployed to meet customers' needs. It should, therefore, be compared with both supply-side and demand-side alternative energy resources in a consistent and comprehensive manner.

2) Energy Policy Goals. Puerto Rico's cost-effectiveness test should account for its applicable policy goals, as articulated in legislation, Energy Bureau orders, regulations, guidelines, and other policy directives.

a) The PR Test should reflect the guiding principles of the Puerto Rico Electric system as defined in Act 17-2019, namely efficiency, quality, continuity, adaptability, impartiality, solidarity, and equity.

3) Hard-to-Quantify Impacts. Efficiency assessment practices should account for all relevant, important impacts, even those that are difficult to quantify and monetize.

4) Symmetry. Efficiency assessment practices should be symmetrical, for example, by including both costs and benefits for each relevant type of impact.

5) Forward Looking. Analysis of the impacts of efficiency investments should be forward-looking, capturing the difference between costs and benefits that would occur over the life of efficiency measures with those that would occur

absent the efficiency investments. Sunk costs and benefits are not relevant to a cost-effectiveness analysis.

6) Transparency. Efficiency assessment practices should be completely transparent, and should fully document and reveal all relevant inputs, assumptions, methodologies, and results.

G) Discount Rate. Benefits and costs that are projected to occur over time shall be stated in present value terms in the PR Test calculation using a discount rate that appropriately reflects that energy efficiency or demand response is a low-risk resource in terms of cost of capital risk, project risk, and portfolio risk. The discount rate shall be reviewed and updated in the Energy Efficiency Plans, as appropriate, to ensure that the applied discount rate is based on the most recent information available

H) Analysis Period. The number of years over which cost-effectiveness is assessed shall be long enough to capture the full stream of costs and benefits associated with the life of the suite of measures.

I) Free Ridership and Spillover. Benefits included in the PR Test shall be reflective of net resource impacts. As such, Free Ridership and Spillover effects shall be accounted for in cost-effectiveness calculations.

Section 5.03 Assessment Level.

A) The Energy Bureau may establish that the cost-effectiveness of PREPA's plans be assessed at the portfolio, sector, and/or program level..

1) The primary assessment level for plans shall be at the portfolio level.

2) In this context, the following definitions apply:

a) Measure: A specific action taken, or equipment or appliance installed.

b) Project: A project is composed of multiple measures applied at a particular site or by a particular customer.

c) Program: A program creates EE or DR resources through use of a set of measures and projects, typically focused on a combination of one or more end uses and a sector. For example, a program might address lighting in commercial buildings or provide rebates for retail purchase of certain efficiency products.

d) Sector: A sector is a portion of the customers within the service territory who have substantial characteristics in common, such as residential, commercial, or industrial.

e) Portfolio: The complete set of Demand-Side Management ("DSM") program actions by PREPA composes its portfolio.

3) Low Income programs shall be assessed for their cost-effectiveness but do not need to pass the cost-effectiveness screening test to be included in the portfolio. The PR Test may include factors that account for the particular costs or benefits of EE and DR for Low Income Customers.

Section 5.04 Avoided Costs.

A) Within four (4) months of the effective date of this Regulation, the Energy Bureau or its consultants shall begin a study or other analysis to develop avoided cost estimates to be used for assessing the cost-effectiveness of PREPA's energy efficiency and demand response programs. The Energy Bureau shall develop mechanisms and approaches for the calculation of avoided costs that are consistent for application to energy efficiency and demand response and to other assessments of the value of grid resources. The Energy Bureau shall endeavor to use analyses conducted in other contexts to lower the cost of developing avoided costs. The avoided costs shall include all benefits incurred from the reduction in electricity, natural gas, oil, propane, wood, kerosene, water, and other resources as a result of energy efficiency. Avoided costs shall be calculated for each year of the analysis period.

B) Avoided costs may be updated annually, and shall be updated no less frequently than every three years.

C) Avoided costs shall be monetized to the extent possible, and include, but not be limited to, avoided energy costs, avoided generating capacity costs, avoided T&D costs including line losses, avoided ancillary services, avoided utility environmental compliance costs where applicable (*e.g.*, the costs of reducing power plant emissions and complying with the renewable portfolio standard), and societal costs of pollutant emissions. For avoided costs for which the necessary data to assign specific values is not available, the Energy Bureau shall have the authority to quantify avoided costs through the use of adders or multiplicative scalers. Avoided costs that cannot be monetized shall be considered on a qualitative basis.

D) PREPA shall provide all requested data necessary for the calculation of avoided costs. This shall include information in their possession regarding the costs of different generation and demand side resources, as well as the costs associated with construction and operation of the electric transmission and distribution systems.

ARTICLE 6. REPORTING, EVALUATION, MEASUREMENT, AND VERIFICATION

Section 6.01 Reporting.

A) Quarterly Public Reports.

PREPA shall provide quarterly public reports to the Energy Bureau on the implementation of the Three-Year EE Plan and the most recent applicable Annual EE Update. These reports shall be filed within sixty (60) days of the end of each quarter. The reports shall include a description of PREPA's progress in implementing the plan, a summary of the EE resources secured to date measured on the metrics used to evaluate PREPA's performance under its contract, and other such information as the Energy Bureau shall determine and establish under the terms of the contract between PREPA and the Energy Bureau. The Energy Bureau may, by Order or Resolution, provide PREPA with a template for the quarterly public reports and supporting documents. If the Energy Bureau provides such a template, PREPA shall use it when preparing its filing.

B) Annual Report and Performance Claim.

No later than one hundred and twenty (120) days following the end of each Program Year, PREPA shall file an Annual Report and performance claim regarding its activities in the previous Program Year to the Energy Bureau. In the event that PREPA's successor is an entity subject to a performance metric contract, and the Energy Bureau has approved a performance incentive in accordance with Section 4.02 of this Regulation, the Annual Report shall be used to measure that entity's performance, in association with the results of any independent performance EM&V study conducted on behalf of the Energy Bureau.

The Annual Report shall include each of the following:

1) A description of PREPA's complete activities in implementing the Annual Plan;

2) A report of progress on the Three-Year EE Plan;

3) Detailed and quantitative claims regarding PREPA's performance during the past Program Year on each of the metrics by which PREPA's performance is evaluated under its contract;

4) Detailed assessment tables of the following areas, including comparison of the actual with the planned values in each area. Where the actual value differs from the planned value by more than fifteen percent (15%), the Annual Report shall include an explanation of the variance:

    a) Costs.

i. Costs categorized by administration costs, marketing and delivery costs, program vendor costs, customer financial incentives, technical or training support offered to customers or other trade allies, customer payments, and other costs.

ii. Costs categorized by customer class: residential, Low Income, commercial, industrial, and governmental (including municipal and institutional).

b) Cost-effectiveness. Cost-effectiveness shall be provided for each plan year at the program, sector, and portfolio levels in accordance with ARTICLE 5 of this Regulation.

c) Benefits. All benefits included in the primary cost-effectiveness test in accordance with ARTICLE 5 of this Regulation shall be provided by benefit category for each plan year at the program, sector, and portfolio levels. Benefits shall be provided in physical units as well as monetary units where applicable and shall include a discussion of qualitative non-energy benefits.

d) Budget and expenditures. The budget and actual expenditures for each plan year, broken out by budget category, shall be provided at the program, sector, and portfolio levels.

e) Savings. Planned net and gross annual and lifetime energy and capacity savings for each plan year shall be provided at the program, sector, and portfolio levels. The net savings calculation is optional in the Annual Reports that precede the development of net-to-gross adjustment factors from evaluation studies that collect and analyze the necessary customer and market data.

f) Participants. The number of participants shall be provided for each plan year at the program, sector, and portfolio levels. Participant definitions shall be provided for each program.

5) Other such information as the Energy Bureau shall determine by order or resolution.

6) The Energy Bureau may, by Order or Resolution, provide PREPA with a template for the Annual Report and supporting documents. If the Energy Bureau provides such a template, PREPA shall use it when preparing its filing.

C) Energy Bureau Determination on Annual Report.

Not later than thirty (30) days after submission of the Annual Report, the Energy Bureau shall issue a determination as to whether PREPA has met the reporting requirements as stipulated in this Regulation. The Energy Bureau may require PREPA

to provide additional pertinent information as needed to meet the requirements. In the event a resubmission is required by the Energy Bureau, PREPA shall submit the revised Annual Report subject to the terms of the Energy Bureau's order.

Section 6.02 Evaluation and Verification.

A) The Energy Bureau shall review the Annual Report as filed by PREPA under Section 6.01 of this Regulation and shall verify the performance claims made by PREPA in the Annual Report.

B) PREPA shall provide any and all program data requested by the Energy Bureau to evaluate PREPA's performance and verify its performance claims.

C) PREPA shall coordinate and cooperate with the entity or entities conducting Market Baseline and Potential Studies, as well as other relevant research or analysis, on behalf of the Energy Bureau. Coordination and cooperation can include, but is not limited to, providing relevant customer class usage, electric end-use equipment saturations, electricity savings data, market segment information and system information such as coincident and non-coincident peak to these entities. PREPA may carry out additional market characterization work as necessary to plan its services and initiatives, and to support its long-range planning responsibilities, as part of its routine course of operations. PREPA and the Energy Bureau shall coordinate studies where appropriate.

D) Evaluation.

    1) The Energy Bureau shall evaluate PREPA's EE programs, in accordance with the EM&V plan contained within the approved Three-Year EE Plan.

    2) The Energy Bureau shall publish the final report from each program evaluation.

    3) The Energy Bureau shall use the results of the evaluation report to update the Technical Reference Manual and to inform changes to programs in order to make them more effective.

E) Verification.

    1) PREPA shall submit performance claims in the Annual Report as detailed in Section 6.01 of this Regulation. In the event that the submission of a complete Annual Report is delayed relative to the dates required by that Section, the subsequent dates in this subsection shall be commensurately deferred.

    2) The Energy Bureau shall verify PREPA's performance claims.

a) The Energy Bureau may conduct site visits and metering analysis and utilize statistical sampling or other techniques to confirm or refute PREPA's claims.

3) The Energy Bureau shall publish the final report for each verification activity no later than one hundred and twenty (120) days following PREPA's filing of its Annual Report and solicit comments on it from PREPA, parties to the Three-Year EE Plan proceeding, and the public. The Energy Bureau may conduct an investigation, at its discretion, in order to address concerns raised in the comments.

4) Following consideration of the verification reports and the filed comments, the Energy Bureau shall make its determination regarding the performance of PREPA on each performance claim.

5) The determinations made by the Energy Bureau shall be used in calculating any incentive that a PREPA successor may be entitled to.

Section 6.03 Technical Reference Manual.

A) The Technical Reference Manual ("TRM") shall be used to measure and quantify savings from implementation of PREPA's programs. The TRM may include fully and partially deemed values as well as calculations, variables and factors. Guidance on savings calculations for custom measures may also be included. The TRM may also refer to measurement and verification methods included in the Uniform Methods Project.[1]

B) The TRM shall be developed by the Energy Bureau, by adapting existing state and national TRMs to Puerto Rico's energy baseline data. The Energy Bureau shall solicit input from PREPA and other stakeholders in the development of the TRM.

C) The Energy Bureau shall have authority over and responsibility for the TRM. The TRM shall not be copyrighted by PREPA or otherwise restricted from use by contractors that may assist PREPA or the Energy Bureau.

D) The Energy Bureau may, from time to time, modify the TRM. If the Energy Bureau determines that the TRM should be modified, it may, at its discretion, start a public proceeding to evaluate and approve such modification.

E) The Energy Bureau may require assistance from PREPA or other contractors to develop, amend, or evaluate the TRM.

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[1] Available at https://www.energy.gov/eere/about-us/ump-protocols. Accessed January 5, 2022.

F) Development and updating of the TRM may follow recommendations indicated in *Guidance on Establishing and Maintaining Technical Reference Manuals for Energy Efficiency Measures*, published by the State and Local Energy Efficiency Action Network.[2]

ARTICLE 7. PRIVACY AND CUSTOMER DATA

Section 7.01 Customer Information.

A) Each Program Implementer shall adopt and maintain a privacy and data security policy that describes and governs how it stores, safeguards, and limits disclosure of customer information.

B) Each Program Implementer's privacy and data security policy is subject to review and approval by the Energy Bureau.

C) The Energy Bureau may audit each Program Implementer's procedures and practices to ensure consistency with its privacy and data security policy.

D) Each Program Implementer's privacy and data security policy shall ensure at a minimum that:

1) The company's policy is consistent with the principles for data privacy and the smart grid in the DataGuard Energy Data Privacy Program Voluntary Code of Conduct.

2) The company may not sell private or proprietary customer information.

3) The company may not disclose private or proprietary customer information with or to its affiliates, subsidiaries, or any other third party for the purposes of marketing services or product offerings to a retail electric customer who does not already subscribe to that service or product.

4) This section does not require customer permission for or prevent disclosure of private or proprietary customer information by the Program Implementer to its vendors, verifiers, and evaluators provided that the Program Implementer has a contract or other binding nondisclosure agreement which limits data sharing to that which is necessary for the effective operation of each vendor's EE program or programs or EM&V related to such programs, and further provided that the contract or agreement prohibits the third party from further disclosing or selling any private or proprietary customer information obtained from the Program Implementer to a party that is not the

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[2] Available at https://www7.eere.energy.gov/seeaction/publication/see-action-guide-states-guidance-establishing-and-maintaining-technical-reference. Accessed January 5, 2022.

Program Implementer and not a party to the contract with the Program Implementer.

5) A Program Implementer may collect and release retail electric customer information in aggregate form if the aggregated information does not allow any specific customer to be identified.

6) A customer may consent in writing to the disclosure of private or proprietary information to a third party from whom the customer seeks the provision of demand-side management services.

ARTICLE 8. PLANNING

Section 8.01 Resource and Grid Planning.

A) PREPA shall ensure that it has sufficient planning and implementation capabilities to provide support for its utility planning processes, including the IRP and both transmission and distribution planning.

B) In furtherance of such planning, PREPA shall:

1) Maintain the capability to forecast the penetration and impact of efficient and flexible end use products and practices for use in planning;

2) Cooperate with other EPSCs in the delivery of integrated utility service; and

3) Cooperate and collaborate with (and, if Ordered by the Energy Bureau, undertake) resource potential studies on an Island-wide basis or in a limited geographic area to estimate the pace and cost to which potential EE resources may be acquired.

C) As part of its responsibilities for planning for and developing a least cost reliable and efficient electric grid, PREPA shall include in all planning processes the changes in energy consumption and peak load that result from its activities as well as any other EE or DR providers, policies, and regulations.

1) In developing the IRP, PREPA shall include the projected EE and DR resources available to Puerto Rico over the twenty (20) year planning horizon, including the impact of market transformation and codes and standards, that have been identified and approved by the Energy Bureau in the most recent Three-Year EE Plan, Three-Year DR Plan, or other proceeding.

a) PREPA shall identify whether achievable increases in the projected EE and DR resources could avoid specific and substantial infrastructure investments (including generation investments) or other costs to ratepayers.

b) PREPA shall consider EE and DR resources acquired by PREPA and other EPSCs. PREPA shall further consider the achievable potential for energy efficiency and demand response identified in any Potential Studies conducted in Puerto Rico.

ARTICLE 9. GEOGRAPHICALLY TARGETED PROGRAMS

Section 9.01 Identifying Non-Wires Alternatives.

A) PREPA shall identify opportunities where EE or DR resources may cost-effectively avoid or defer the need to construct transmission or distribution infrastructure.

1) No later than March 1, 2024, PREPA shall develop and submit to the Energy Bureau for approval a non-wires alternative (NWA) screening framework for proposed transmission or distribution investments. This framework will be used to evaluate whether EE, DR, or other distributed energy resources should be investigated as part of a least-cost approach addressing situations where existing transmission or distribution infrastructure is expected to be insufficient to maintain reliability.

B) After the NWA screening framework is approved, PREPA shall at a minimum, screen any transmission or distribution investment with a cost of greater than $1 million using the approved NWA screening framework and provide the results to the Energy Bureau.

C) PREPA shall develop and maintain the capacity to estimate the potential for EE and DR to relieve constraints associated with load growth within geographically limited areas.

Section 9.02 Geographically Targeted Resource Acquisition.

A) In the event that the NWA screening framework identifies a potential for cost-effective use of a combination or portfolio of EE, DR, and/or other distributed energy resources to avoid or defer a transmission or distribution investment, PREPA shall determine a plan of action that maintains reliability at least cost to ratepayers. PREPA shall file that plan for the Energy Bureau's evaluation. The Energy Bureau may approve or modify the proposed plan of action or direct PREPA to develop and implement geographically targeted programs. This plan of action may be integrated with the Three-Year EE Plan, or may be developed and filed separately.

B) The costs of geographically targeted EE and DR programs shall be documented and budgeted separately from non-targeted programs.

1) The costs of geographically targeted programs approved in Annual or Three-Year EE Plan shall be accounted for in the budgets approved at that time.

2) The costs of geographically targeted programs approved on a project- or area-specific basis shall be accounted for in the manner determined by the Energy Bureau in the relevant proceeding.

C) The resources acquired through geographically-targeted programs shall be accounted for and reported separately from those of non-targeted programs.

D) In the event that PREPA's successor is an entity subject to a performance metric contract, the Energy Bureau shall amend the EE performance metrics in accordance with its proceedings on performance incentive payments as necessary to effectuate approved targeted programs and provide performance incentives to meet the objectives of the targeted programs.

E) PREPA shall use all reasonable effort to identify resources acquired in geographically targeted areas that are acquired through Puerto Rico-wide (that is, non-targeted) programs.

F) PREPA shall document the costs of geographically targeted programs and the resources acquired in the targeted areas in its quarterly report to the Energy Bureau.

G) PREPA shall cease geographically targeted programs upon Energy Bureau's request.

H) PREPA shall provide a final report of the costs and resources acquired by each geographically targeted EE or DR program after it has ceased.

ARTICLE 10. RECONSIDERATION AND JUDICIAL REVIEW

Section 10.01 Reconsideration.

Any person who is not satisfied with a decision made by the Energy Bureau under this Regulation may file, within the term of twenty (20) days from the date copy of the notice of such decision is filed by the Energy Bureau's Clerk, a request for reconsideration before the Energy Bureau wherein the petitioner sets forth in detail the grounds that support the request and the decisions that, in the opinion of the petitioner, the Energy Bureau should reconsider.

Section 10.02 Judicial Review.

Any person dissatisfied with a final decision of the Energy Bureau under this Regulation may, within thirty (30) days from the date copy of notice of a final decision addressing a request for reconsideration is filed by the Energy Bureau's Clerk, or within thirty (30) days from the date copy of the notice of an Energy Bureau final decision is filed by the Energy Bureau's Clerk, if a request for reconsideration has not been filed, appear before the Puerto Rico Court of Appeals by way of writ of judicial review, pursuant to Section 4.2 of LPAU and the applicable Rules of the Court of Appeals.

ARTICLE 11. REQUIRED DISCLOSURES

Section 11.01 Internet Publication of Resolutions and Reports.

The Energy Bureau shall publish on its website the following documents:

A) Resolutions adopted by the Energy Bureau approving the Transition Period Plan, Annual Updates, and Three-Year EE Plans;

B) Resolutions adopted by the Energy Bureau regarding EM&V;

C) The Transition Period Plan, Annual Updates and Three-Year Plans approved by the Energy Bureau;

D) The Quarterly Reports and Annual Reports filed with the Energy Bureau;

E) Market Baseline Studies;

F) Potential Studies;

G) Studies and reports related to EM&V activities including Impact Evaluations and Process Evaluations;

H) All privacy and data security policies approved by the Energy Bureau; and

I) The Non Wires Alternative Screening Plan approved by the Energy Bureau.

Agreed upon by the Energy Bureau, in San Juan, Puerto Rico, on January 5, 2022.

Edison Avilés Deliz
Chairman

Ángel R. Rivera de la Cruz
Associate Commissioner

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner