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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

December 7, 2020

Natalie Jaresko
Executive Director
Puerto Rico Financial Oversight
and Management Board
P.O. Box 192018
San Juan, Puerto Rico 00919-218

Dear Ms. Jaresko:

On August 17, 2020, the Financial Oversight Management Board (FOMB) wrote a letter[1] to the Governing Board of the Puerto Rico Electric Power Authority (PREPA) detailing its decision to not approve all 16 Power Purchase and Operating Agreements (PPOAs) already sanctioned by the Governor of Puerto Rico, the PREPA Governing Board, and the Puerto Rico Energy Bureau (PREB). We are writing to request more information about the FOMB's analysis utilized to reach its determination.

In the letter, the FOMB made two claims in its decision to not approve the PPOAs that would have increased PREPA's renewable energy capacity by approximately 593MW: 1) the PPOAs lacked terms and conditions restricting sale or transfers to third parties, which could cause potential delays in construction, and 2) the negotiated price levels were inconsistent with those in PREPA's 2020 Certified Fiscal Plan.[2] We can understand the need to adjust certain terms and conditions in the contracts, but we are concerned with the methods employed by the FOMB to determine the cost-effectiveness of the proposed projects.

It is unclear whether the FOMB's determination considers important financial, economic, and social factors. For example, we believe the following criteria should also be included and quantified in the analysis: fines associated with not achieving renewable energy goals mandated under Puerto Rico law[3] and federal Mercury and Air Toxics Standards ("MATS") regulations, job creation and investment on the island, increased state and municipal tax base, savings to ratepayers over the life of the project, diminished reliance on fossil-fueled generation resources and reduced

[1] Letter from the FOMB to PREPA Governing Board (Aug. 17, 2020).
[2] PREPA, *2020 Fiscal Plan for PREPA as certified by the FOMB* (June 29, 2020).
[3] Act No. 82 of 2010, Section 2.12.

fuel price volatility,[4] and better health of local communities. Furthermore, the FOMB's determination may result in costly and protracted litigation that could potentially negate the additional savings sought by the FOMB, while undermining the Government of Puerto Rico's credibility and PREPA's ability to secure the much-needed renewable energy generation for the benefit of Puerto Rico as mandated under local law.[5]

Therefore, we seek clarity on how the FOMB came to its decision in the August 17, 2020 letter. We ask that the FOMB respond to the following questions and requests as soon as possible, but **no later than Monday, December 21, 2020**:

1. Please provide documents and analysis detailing how the FOMB concluded that the net impact of the proposed 16 PPOAs would result in "retail energy rates that are 0.5c/kWh higher than the rate projections outlined in the 2020 Certified Fiscal Plan." Did the rate used to characterize the energy costs of all the 16 PPOAs and other alternatives take into consideration the potential fines for not achieving renewable energy goals mandated under Puerto Rico law and federal MATS regulations?

2. Please provide documents and analysis detailing how the FOMB decided on 150MW of renewable energy capacity as the limit for the proposed PPOAs.

3. Did the FOMB conduct a cost-benefit analysis to estimate the strengths and weaknesses of not approving all 16 PPOAs? Were the following economic, financial, and social factors quantified as part of the FOMB's determination?

    - avoidance of fines associated with not achieving renewable energy goals mandated under Puerto Rico law
    - avoidance of fines associated with not achieving compliance with federal Mercury and Air Toxics Standards ("MATS") regulations
    - job creation and investment in Puerto Rico
    - increased state and municipal tax base
    - savings to PREPA ratepayers over the life of the project
    - diminished reliance on fossil-fueled generation resources and reduced fuel price volatility
    - avoided costs resulting from displacement of exiting fossil-fueled generation
    - better health of local communities
    - litigation costs

The Committee will be informed by the requested information and looks forward to its receipt. Please contact Margarita Varela-Rosa with the Committee's Office of Insular Affairs at

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[4] More than half of PREPA's budgeted expenses for FY 2020 ($3,037 million) were allocated to fuel procurement ($1,405 million). PREPA, *2020 Fiscal Plan for PREPA as certified by the FOMB – Exhibit 10* (June 29, 2020).
[5] Act No. 17 of 2019.

Margarita.Varela-Rosa@mail.house.gov or (202) 748-2828 if you have any questions about this request.

Thank you for your attention to this matter.

Sincerely,

RAÚL M. GRIJALVA
Chair
Committee on Natural Resources

JOSÉ E. SERRANO
Member of Congress

DARREN SOTO
Member of Congress