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Puerto Rico Institute for a Competitive and Sustainable Economy (ICSE)
U.S. House of Representatives Natural Resources Committee
The Transformation of the Puerto Rico Electric Power Authority (PREPA)
July 23, 2020

Chairman Grijalva, Ranking Member Bishop and Members of the Committee – thank you for this opportunity to examine the much-needed transformation of the Puerto Rico Electric Power Authority. Puerto Rico continues in economic crisis, after hurricanes of historic proportion, recent damaging earthquakes, and now the pandemic. Amongst these challenges and still impeding Puerto Rico’s rebound stands the broken electrical system.

I am before you today as the Institute for a Competitive and Sustainable Economy of Puerto Rico’s Chairman. I am past President of the Puerto Rico Manufacturers Association (PRMA), and Partner in a building services group of companies in south east US.

Members on both sides of the aisle want for PROMESA to succeed and to ensure recovery funding is put to good use. Puerto Rico has an ongoing need for electrical system reorganization, planning and contracting oversight. We must protect Puerto Rico’s future and taxpayer investments.

It’s of great concern that the latest PREPA fiscal plan by the Fiscal and Oversight Management Board (FOMB) ignores the fact that the Restructuring Support Agreement (RSA) debt is unsustainable. There have been no attempts to update this two-year old RSA, which has never been presented to the legislature nor the Puerto Rico Energy Bureau (PREB). The Fiscal Plan does not include PREPA’s most recent interim financial statement capital deficit, nor has it met budget approval by the PREPA Board, nor the regulator.

Furthermore, PREPA’s Consumer Representative, the only elected Member of the Board, and ICSE Executive Director, has challenged the government’s ongoing suggestions of adequate PREPA Board

independence and professionalism. The PREPA Board hastily approved the stalled and inaccurate RSA in 2019, despite a shallow fiduciary process the consumer representative opposed with supporting evidence.

More recently - PREPA's handling of Costa Sur's generation repairs following the January earthquakes has been suspect at best and raises questions about project delivery, and capacity to govern through operational crisis. There has been no accountability to the fact that Costa Sur's Units 5 remain offline during peak seasonal demands. We know damages to these units were minor and temporary fixes were available while long term solutions could be implemented through competitive procurement. Yet PREPA put forward a questionable emergency summer generation plan to save the day, and even this has not been executed.

PREPA needs independent professional board governance and world-class supervision from the utility regulatory framework of the Puerto Rico Energy Policy Act, known as Act 17. Yet major decisions in Puerto Rico are still dominated by the same political appointees of ex-Governor Ricardo Rosello. The FOMB is ill equipped to address the lack of commitment to best-in class supervision and performance metrics that should drive transformation in our government agencies. The FOMB must work closely with our utility regulator, overseeing its adherence to Puerto Rico law as mandated by PROMESA, and to supervise PREPA, LUMA and all utility planning and contracting decisions with the consumer participation rights and obligations that Act 17 mandates.

The FOMB and the PREB have recently approved two utility scale investments, with no tariff impact proceedings, no Act 17 compliant adjudicatory processes, nor an approved infrastructure plan. They are a 10-year natural gas generation contract and a 15-year Transmission and Distribution management and operations agreement. The infrastructure transformation roadmap was promised by the regulator after the hurricanes. Eighteen months after enactment of Act 17 the unapproved PREPA

plan still pushes fossil fuel infrastructure at the expense of private distributed or utility scale renewable energy markets. Fragmented and non-transparent contract approval processes and no lawfully approved energy transformation roadmap have given way again to traditional backroom evaluations and unsustainable approvals of new contracts that are destined for lengthy regulatory or legal proceedings like the RSA. No amount of supposed government transparency portals and public relations spin can overcome this operational and legal dysfunction.

I hope with your oversight and the engagement of our regulator to attend to the most troublesome governance and utility regulatory capacity issues hindering real progress at PREPA and sustainable electrical system reorganization. ICSE can also be of service to the Committee in improving upon PROMESA and FOMB support of Act 17 transformation framework. Puerto Rico consumers and investors can and must continue advocating for robust public participation per Act 17 and PROMESA as they stand, to finally achieve energy justice for the more than 3.2 million American citizens living in Puerto Rico.