

## Regulation for Wheeling

### ATTORNEYS

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### PRACTICE AREAS

- Energy
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### An McV Energy Alert

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On March 1, 2019, the Puerto Rico Energy Bureau published a “Notice About Proposed Regulation,” wherein it announced its proposal to adopt the Regulation for Wheeling (hereinafter, “Regulation”), whose purpose is to facilitate the introduction of competition in the energy generation sector; ensure that competitive generators have open and non-discriminatory access to transmission and distribution infrastructure; and enhance transparency of prices. In general, wheeling in the context of the Regulation refers to the transfer of electrical power from privately owned generation resources to customers using the electric power grid, which use will be subject to certain rates and tariffs.

The Regulation introduces several players to the energy industry:

- The Default Service Provider would be the energy provider for customers who are not served by an Energy Service Company. Upon the default of an Energy Service Company or insufficient generation for a customer’s load, the Default Energy Provider would serve the customer’s load. The Puerto Rico Electric Power Authority (“PREPA”) would act as such Default Service Provider as long as it has sufficient generation either through its ownership of generation or through long-term power purchase agreements.
- The Transmission and Distribution Provider would be responsible for maintaining the electric power grid and investing in such grid in a cost-effective manner, subject to the Energy Bureau’s approval, and would also be responsible for operating the Distribution System in a least-cost and non-discriminatory fashion.
- The System Operator would oversee and facilitate wholesale exchanges of electricity throughout Puerto Rico, and its responsibilities would include, among others, ensuring that the transmission system and all generation units operate in a reliable and economic fashion; ensuring that sufficient generation capacity is available and maintained to meet resource adequacy goals; and ensuring open access to the transmission and distribution system, in coordination with the Transmission and Distribution Provider.
- Energy Service Companies would compete to provide service to Customers – which initially would include only industrial and large commercial

customers – through marketing by Aggregation (the combination of electric loads of multiple customers to purchase energy service to meet combined load on an aggregated basis); would enter into Operating Agreements with the Default Service Provider and the Transmission and Distribution Provider as necessary to set forth operating arrangements; would be required to be certified by the Energy Bureau to implement wheeling; would be required to follow customer enrolling requirements set in the Regulation; and would be required to implement customer complaint handling procedures, including slamming complaints.

The Regulation also introduces the concept of unbundling to separate the various functions that the PREPA performs and to allocate the costs appropriately. This would provide stakeholders and the public with information on the costs of generation, which would allow them to choose their preferred provider and the costs of transmission and distribution service. The unbundling proceeding will also determine which generation-related costs are non-bypassable and must be paid by all customers whether they remain a customer of PREPA or switch to an Energy Service Company. In accordance with the orders issued by the agency, PREPA would file before the Energy Bureau and unbundling plan consisting of (i) an embedded cost of service study; (ii) a marginal cost of service study; (iii) a proposal for fully unbundled rates for transmission, distribution, and generation service; and (iv) a proposal regarding any non-bypassable charges.

Implementation of wheeling would be initiated with evidentiary proceedings whereby applicants would propose unbundled rates supported by expert testimony.

Comments on the Proposed Regulation by the general public must be submitted by March 31, 2019. Comments must be addressed to the attention of Edison Avilés Deliz, Chairman, and shall be filed by electronic mail at: [comentarios@energia.pr.gov](mailto:comentarios@energia.pr.gov); by the Energy Bureau's electronic filing tool at: <https://radicacion.energia.gr.gov/>; by postal mail addressed to the Puerto Rico Energy Bureau's Clerk's Office at World Plaza Building, 268 Munoz Rivera Ave., Plaza Level Suite 202, San Juan, PR 00918; or in person at the Energy Bureau's Clerk's Office, located at the address above.

Any person interested in submitting replies to comments filed within the aforementioned period shall do so within ten (10) days following the close of the general commenting period through the means identified above for the submission of comments.

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