



PUERTO RICO ISSUES RFP FOR 1,000 MW OF RENEWABLE ENERGY GENERATION AND 500 MW OF ENERGY STORAGE

The Puerto Rico Electric Power Authority ("PREPA") has issued a request for proposal (the "RFP") for 1,000 MW of renewable energy projects. The RFP also calls for at least 500 MW of energy storage with an effective duration of four hours, including at least 150 MW to be provided by distributed energy storage virtual power plants¹.

The RFP represents the first of six tranches soliciting proposals for an aggregate installed capacity of 3.75 GW generated by renewable energy resources and 1.5 GW of energy storage during a three-year period.

Background

As a result of the devastation wrought by hurricane Maria in 2017 on Puerto Rico's electric power generation, transmission and distribution infrastructure, investment in electric power infrastructure, including investments to shift generation capacity from fossil fuel generation that is geographically concentrated in the south of the main island to more geographically dispersed renewable energy generation, has become a key pillar of the Puerto Rican government's energy policy.

In 2018, Act 120-2018, also known as the *Puerto Rico Electric Power System Transformation Act* (the "PREPA Transformation Act"), was enacted, creating the legal framework required for the sale, disposition and/or transfer of the assets, operations, functions, and services of PREPA. The PREPA Transformation Act permits PREPA and the Public-Private Partnerships Authority ("P3A") to contract with third party providers for electric power generation and to transfer or delegate any of PREPA's operations, functions or services. In June 2020, PREPA and P3A employed the PREPA Transformation Act to select LUMA Energy, LLC, a consortium formed by Quanta Services, ATCO and IEM, to operate and

¹ An energy storage virtual power plant is an aggregation of energy storage resources which are controlled and monitored through a software-based central control system and made available for dispatch by PREPA in accordance with a virtual power purchase agreement.

modernize the transmission and distribution system in Puerto Rico through a public-private partnership valued at US\$1.4 billion.

In 2019, Act 17-2019, which amends Act 82-2010, also known as the *Puerto Rico Energy Public Policy Act* (as amended, the "Energy Public Policy Act"), was enacted, setting forth ambitious targets for renewable energy generation capacity, starting at 20% of all installed generation capacity by 2022, 40% by 2025, 60% by 2040 and 100% by 2050. Currently, only 2% of installed generation capacity in Puerto Rico is classified as renewable energy.

RFP

In order to achieve the targets set by the Energy Public Policy Act, PREPA recently published an RFP² for the development of renewable energy facilities with an aggregate installed capacity of 1,000 MW and energy storage facilities with an aggregate installed capacity of 500 MW, at least 150 MW of which will consist of distributed energy storage virtual power plants, and for the supply of renewable energy and storage services. The RFP includes a draft power purchase and operation agreement ("PPOA") for photovoltaic power projects ("PV") and a draft energy storage services agreement ("ESSA"). Both the PPOA and the ESSA will be entered into with PREPA and will be for a supply period of up to 25 years commencing on the date commercial operations is achieved. The RFP calls for bidders to make comments on the draft PPOA and the draft ESSA, as applicable. PREPA will, in its sole discretion, take into account the bidders' comments when publishing final versions of the draft PPOA and the draft ESSA.

Plants must have a minimum installed capacity of at least 20 MW (except for virtual power plants, which must be capable of supplying a minimum of 5 MW of dependable capacity). Energy storage proposals with four-hour discharge durations will be given priority, but two-hour and six-hour discharge durations will also be considered. Proposals will need to demonstrate that the underlying facilities are able to achieve commercial operations in no more than 24 months from the closing date of the relevant PPOA or ESSA³, with preference given to those proposals that can achieve commercial operations within a shorter timeframe.

Pursuant to the RFP, projects may be eligible for certain tax benefits under Act 83-2010, also known as the *Puerto Rico Green Incentives Act* (the "Green Incentives Act"), which forms part of the legal framework to which these projects will be subject. Tax benefits under the Green Incentives Act include reduced, or full exemption from, fixed income tax rates, real property taxes, personal property taxes, municipal license taxes, state excise taxes, and sales and use taxes.

² You can access the RFP by creating an account in PowerAdvocate at https://www.poweradvocate.com/publicRegistration.do?companyKey=EWh0pa2GdVc%3D&locale=en_US.

³ PREPA will also consider proposals that project achieving commercial operations within 30 months after signing, but they will be disfavored in lieu of those that project achieving commercial operations within a shorter period of time.

Relevant deadlines⁴

Delivery of notice of intent to respond ⁵	March 23, 2021
Comments to the PPOA and the ESSA	March 29, 2021
Delivery of proposals ⁶	May 3, 2021
Preliminary selection of proposals ⁷	May 24, 2021
Final selection of proposals	July 19, 2021
Execution of contracts	August 30, 2021

Clifford Chance regularly advises on commercial and financing aspects of Energy, Climate & Infrastructure projects across the Americas, including advising the US Department of Energy on its loan guarantee program for renewable energy projects.

⁴ According to the RFP, these deadlines are for illustrative purposes only and may be changed by PREPA.

⁵ Together with the delivery of this notice, bidders will need to execute a Non-Disclosure Agreement form which is provided in the RFP.

⁶ Hard copies of the proposal documents will also need to be delivered by no later than May 10, 2021.

⁷ Selected proposals will need to show ownership or leasehold rights in, or a land option agreement with respect to, the parcels of land necessary for the project within 7 days after the preliminary selection of proposals.

CONTACTS

Lori Ann Bean
Partner

T +1 202 912 5014
E lori.bean
@cliffordchance.com

David Evans
Senior Counsel

T +1 202 912 5062
E david.evans
@cliffordchance.com

Alberto Haito
Associate

T +1 202 912 5084
E alberto.haito
@cliffordchance.com

Andrés Berry
Associate

T +1 212 878 8450
E andres.berry
@cliffordchance.com

Luis R Fortuño
Associate

T +1 202 912 5916
E luis.fortuno
@cliffordchance.com

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www.cliffordchance.com

Clifford Chance, 31 West 52nd Street, New York, NY 10019-6131, USA

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