

Biden Administration Has Opportunity To Rebuild Puerto Rico's Electrical Infrastructure

The Institute for Energy Economics and Financial Analysis (IEEFA) has worked with partner organizations in Puerto Rico on electricity sector transformation since 2015. We have participated as expert witnesses in cases before the Puerto Rico Energy Bureau, testified before the Puerto Rico Senate and U.S. Congress, and written numerous reports related to the long-term energy planning, contracting practices, and debt restructuring of the Puerto Rico Electric Power Authority (PREPA). We have worked with environmental, community, business and labor organizations in Puerto Rico.

Deep reform of Puerto Rico's antiquated, expensive and fossil fuel-dependent electrical system has been needed since long before Hurricane Maria devastated the grid in 2017. A new electrical system driven by renewable energy will support the goals of resilience, affordability and fiscal stability. The Biden Administration has a historic opportunity to facilitate the rebuilding of the electrical system in a way that provides affordable electricity and utilizes Puerto Rico's natural advantages in renewable energy:

1. The federal government should not facilitate the development of new natural gas infrastructure in Puerto Rico.

The PREPA 10-Year Infrastructure Plan,¹ which forms the basis for how PREPA plans to spend \$10.7 billion in federal funding for grid reconstruction work, proposes to spend over \$850 million of federal funding to construct a 400-megawatt (MW) natural gas plant and 330 MW of smaller natural gas peaker plants around Puerto Rico. PREPA states that it has already received approval from FEMA to construct the proposed natural gas plants. Similar projects (a 302-MW natural gas plant and 414 MW of peaker plants) were previously rejected by PREPA's regulator, the Puerto Rico Energy Bureau, which found the natural gas projects to be

FEMA-funded power generation projects should facilitate the transition to a grid based on renewable energy and storage, not natural gas.

¹ Puerto Rico Electric Power Authority. [Ten-Year Infrastructure Plan](#). December 2020.

too costly relative to renewable energy and storage.²

The Energy Bureau issued an order in January 2021 finding PREPA's Infrastructure Plan to be inconsistent with past orders of the Bureau and ordering PREPA to modify its plan or face potential financial penalties.³

The Biden administration should immediately halt all federal efforts to fund the development of costly and unnecessary natural gas infrastructure in Puerto Rico. Power generation projects funded by the Federal Emergency Management Agency (FEMA) should facilitate the transition to a grid based on renewable energy and storage, not natural gas, consistent with the orders of Puerto Rico's energy regulator.

2. The Biden administration should accelerate the deployment of federal funding for energy resiliency projects.

As noted by Government Accountability Office and by the Biden-Harris campaign,⁴ federal funding for post-hurricane reconstruction has been slow to materialize on the island. Of the \$19.9 billion in community development block grants (CDBG) allocated for Puerto Rico, only \$3.2 billion has been obligated to the Puerto Rico Department of Housing. Only \$112 million has been disbursed on the island.⁵ The U.S. Department of Housing and Urban Development has not yet issued any guidance for the use of \$2 billion of CDBG funds that are allocated to Puerto Rico and the U.S. Virgin Islands specifically for grid reconstruction work.

In the wake of hurricanes, reestablishing power to homes and businesses can be the difference between life and death. Large-scale systems, no matter how well built, can be incapacitated by increasingly intense storm activity. IEEFA has learned from its own experience of providing emergency solar appliances to households in Puerto Rico after Hurricane Maria that a first line of defense after a hurricane can include even a small amount of power.

The Biden Administration should accelerate the deployment of promised federal funds to Puerto Rico. The administration should work to ensure that funding for the power sector enhances grid resiliency, not just by strengthening existing transmission and distribution system assets as needed, but also by facilitating the deployment of small-scale solar and battery systems that will continue to function during a prolonged blackout.

² Puerto Rico Energy Bureau. [Final Resolution and Order, Case No. CEPR-AP-2018-0001](#). August 21, 2020, paragraphs 620 and 648.

³ Puerto Rico Energy Bureau, [Resolution and Order](#), Case No. NEPR-MI-2021-0002, January 25, 2021.

⁴ Government Accountability Office. [Puerto Rico Electricity: FEMA and HUD have not approved long-term projects and need to implement recommendations to address uncertainties and enhance resilience](#). November 2020. Also: Biden-Harris. [The Biden-Harris Plan for Recovery, Renewal and Respect for Puerto Rico](#). 2020.

⁵ COR3. [Financial Summary](#). Retrieved December 21, 2020.

3. The Biden Administration should require PREPA to contract with an Independent Private-Sector Inspector General (IPSIG) to monitor contracting and oversee use of federal funding for the electrical system.

PREPA has a long history of contracting scandals that IEEFA has documented at length, in congressional testimony and elsewhere.⁶ As the federal government prepares to spend more than \$10 billion on the modernization of Puerto Rico's electrical system, it is more important than ever to ensure that these funds are used effectively.

IEEFA has long advocated the use of an Independent Private-Sector Inspector General (IPSIG) to monitor operations, implement reforms and report violations of law or regulations to enforcement agencies. IPSIGs were used to monitor contracts for debris removal from the World Trade Center site in New York after the Sept. 11, 2001, terror attacks and a congressional subcommittee concluded the model was an "overwhelming success" in preventing waste, fraud and abuse.⁷

As the federal government prepares to spend over \$10 billion modernizing Puerto Rico's electrical system, it's important to ensure these funds are used effectively.

As part of its oversight responsibilities for the use of federal funds, the executive branch could fund the implementation of an IPSIG at PREPA. The need for oversight is particularly urgent. Billions of dollars of federal funding are headed to Puerto Rico, as the commonwealth is contracting for private management of its existing power plants;⁸ is about to contract for significant amounts of renewable energy generation;⁹ and has recently entered into a concession for its transmission and distribution system, a process that has already been marked by a lack of financial transparency.¹⁰

The new private transmission and distribution firm, LUMA Energy, is also hiring employees, and there are no safeguards to prevent LUMA from hiring political

⁶ House of Representatives Natural Resources Committee. [Testimony of Tom Sanzillo](#). April 9, 2019.

⁷ House of Representatives Committee on Homeland Security, Subcommittee on Management, Integration and Oversight. [An Examination of Federal 9/11 Assistance to New York: Lessons Learned in Preventing Waste, Fraud, Abuse and Lax Management](#). August 2006.

⁸ Puerto Rico Public-Private Partnerships Authority. [Request for Qualifications: Puerto Rico Electric Power Authority Thermal Generation Facilities](#). August 10, 2020.

⁹ Puerto Rico Energy Bureau. [Resolution and Order, Case No. NEPR-MI-2020-0012](#). December 8, 2020.

¹⁰ In its public monthly reports to the Puerto Rico Energy Bureau, LUMA Energy has provided no supporting documentation for the fees and expenses it is charging PREPA.

appointees. Independent studies have shown that as many as 300 PREPA employees are political hires, many in technical positions for which they are unqualified.¹¹

4. The Biden Administration should call for an audit of Puerto Rico's debt.

The Financial Oversight and Management Board (FOMB) has signed off on a restructuring agreement covering \$8.3 billion in PREPA legacy debt;¹² the deal has been pending in bankruptcy court for more than a year. The deal will require Puerto Ricans to repay between 67% and 75% of this debt, an unsustainable amount even before the island's economy was shaken by a series of earthquakes and the COVID-19 pandemic in 2020.

The FOMB has supported this debt restructuring agreement despite many questions that have been raised around the legality of debt issuances by PREPA (and the commonwealth). The Puerto Rico Commission for the Comprehensive Audit of the Public Credit conducted a pre-audit report on PREPA's 2013 bond issuance that questioned PREPA's process for selecting auditors; potential conflicts of interest with PREPA's consulting engineer; and overly optimistic financial and operating assumptions that were endorsed by PREPA's consulting engineer and financial advisor.¹³ Similarly, an investigation by the law firm Kobre & Kim LLP on behalf of the FOMB faulted underwriters for failing to monitor PREPA's actual use of proceeds from bond issuances. Kobre & Kim further detailed legal avenues available for pursuing claims against the legal, financial and technical advisors involved in Puerto Rico's debt crisis.¹⁴

**The Biden Administration
should publicly call
on the FOMB to reject
the 2019 PREPA debt
restructuring agreement
and to commission
an audit of PREPA and
commonwealth legacy debt.**

Furthermore, when the FOMB joined a consumer class-action suit seeking damages for a decades-long oil scandal, it disclosed that PREPA was bankrupt in 2011.¹⁵ Two bond issuances were made after 2011. The bond issuances need to be reviewed with

¹¹ Kobre & Kim, [Final Investigative Report to the Financial Oversight and Management Board of Puerto Rico](#), August 20, 2018.

¹² Financial Oversight and Management Board, [Restructuring Support Agreement](#), May 3, 2019.

¹³ Puerto Rico Commission for the Comprehensive Audit of the Public Credit, "Pre-audit Survey Report: Puerto Rico Electric Power Authority Power Revenue Bonds, Series 2013A", (no date).

¹⁴ Kobre & Kim, [Final Investigative Report to the Financial Oversight and Management Board of Puerto Rico](#), August 20, 2018.

¹⁵ Adversary Complaint to Avoid Fraudulent Transfer by the Puerto Rico Electric Power Authority, United States District Court of Puerto Rico, Case No. 17-04780-LTS, Doc # 1416, June 30, 2019.

regard to the diligence performed and any illegal acts that may have been committed. The people of Puerto Rico should not be expected to pay for debt that was issued illegally.

The Biden Administration should publicly call on the FOMB to reject the 2019 PREPA debt restructuring agreement and to commission an audit of PREPA and commonwealth legacy debt. And, for those who are liable for negligence, the people of Puerto Rico should be able to collect damages. Audits should also be carried out in close coordination with criminal enforcement organizations to ensure that all aspects of public accountability are considered.

About IEEFA

The Institute for Energy Economics and Financial Analysis (IEEFA) examines issues related to energy markets, trends and policies. The Institute's mission is to accelerate the transition to a diverse, sustainable and profitable energy economy. www.ieefa.org

About the Authors

Cathy Kunkel

Energy Finance Analyst Cathy Kunkel has written reports and expert testimony on the finances of Appalachian natural gas pipelines and drilling; electric utility mergers, rates and resource planning; energy efficiency; and Puerto Rico's electrical system. She has degrees in physics from Princeton and Cambridge.

Tom Sanzillo

Tom Sanzillo, director of financial analysis for IEEFA, is the author of numerous studies on the oil, gas, petrochemical and coal sectors in the U.S. and internationally, including company and credit analyses, facility development, oil and gas reserves, stock and commodity market analysis and public and private financial structures. Sanzillo has experience in public policy and has testified as an expert witness, taught energy industry finance and is quoted frequently in the media. He has 17 years of experience with the City and the State of New York in senior financial and policy management positions. As the first deputy comptroller for the State of New York Sanzillo oversaw the finances of 1,300 units of local government, the annual management of 44,000 government contracts, and over \$200 billion in state and local municipal bond programs as well as a \$156 billion global pension fund.

This report is for information and educational purposes only. The Institute for Energy Economics and Financial Analysis ("IEEFA") does not provide tax, legal, investment, financial product or accounting advice. This report is not intended to provide, and should not be relied on for, tax, legal, investment, financial product or accounting advice. Nothing in this report is intended as investment or financial product advice, as an offer or solicitation of an offer to buy or sell, or as a recommendation, opinion, endorsement, or sponsorship of any financial product, class of financial products, security, company, or fund. IEEFA is not responsible for any investment or other decision made by you. You are responsible for your own investment research and investment decisions. This report is not meant as a general guide to investing, nor as a source of any specific or general recommendation or opinion in relation to any financial products. Unless attributed to others, any opinions expressed are our current opinions only. Certain information presented may have been provided by third-parties. IEEFA believes that such third-party information is reliable, and has checked public records to verify it where possible, but does not guarantee its accuracy, timeliness or completeness; and it is subject to change without notice.