



December 13, 2021

The Hon. Rafael Hernández Montañez
Speaker of the House
Puerto Rico House of Representatives
Capitol Office Presidencia
P.O. Box 9022228
San Juan, Puerto Rico 00902-2228

The Hon. José Dalmau Santiago
President
Puerto Rico Senate
P.O. Box 9023431
San Juan, PR. 00902-3431

Honorable Speaker Hernández and President Dalmau:

I am the Director of Financial Analysis for the Institute for Energy Economics and Financial Analysis (IEEFA), and have been closely following and analyzing Puerto Rico electrical system issues since 2015. Our publications have focused on the physical and financial condition of the Puerto Rico Electric Power Authority (PREPA), specifically:

- Pre- and post-hurricane energy planning and priorities debt management;
- Consultant hiring and fee structures;
- Renewable energy opportunities;
- Management challenges;
- Political interference;
- Budget and fiscal plans;
- Federal oversight;
- Fuel oil contracting; and
- Other procurement issues and irregularities.

Earlier this year, I testified before the Commission on Economic Development, Planning, Telecommunications, Public-Private Partnerships and Energy regarding the LUMA Energy contract.

I am writing today to urge the Puerto Rico Legislature to step in and prevent the government of Puerto Rico from repeating the flaws of recent high-profile electrical system contracts, specifically the LUMA contract and the New Fortress Energy (NFE) contract to supply gas to the San Juan power plant.

As you know, the Public-Private Partnership Authority is currently in the process of adjudicating the bidding process for the private operation of PREPA's power plants under the process established by Law 120-2018. These contracts should not move forward until the problems outlined in this letter are addressed.

Three years ago, IEEFA published a report warning that the privatization process created by Law 120-2018 would lead to higher electric rates without depoliticizing the electrical system or hastening the long-awaited transformation to renewable energy.¹ Our overall conclusions remain intact and have unfortunately been borne out by the LUMA and New Fortress Energy contracts.

Higher rates

In our January 2019 report, we argued that privatization would likely drive electric rates up to 27 cents/kilowatt-hour (kWh). Our January 2019 estimate of non-generation system costs under a privatized system was within 3% of LUMA's actual costs in its first quarter of operations.

LUMA was 27% over budget in its first quarter of operations, after being 20% over budget during the transition period prior to June 1, 2021. LUMA's contract imposes no penalties if LUMA raises rates for failing to stay within its budget.

The NFE contract is similarly cavalier with respect to the savings that were promised as a result of switching to natural gas at the San Juan power plant. In July 2020, New Fortress Energy told federal regulators that the project would save PREPA \$500 million over five years, while PREPA's CEO told Congress that the project would save \$280 million.^{2,3} To date, there has been no published tracking of savings from the project, and the contract does not hold NFE accountable to any level of savings.

Likewise, there has been no publicly available cost-benefit analysis of the privatization of the PREPA power plants. It is our understanding that these contracts will be structured in the same way as the LUMA contract; that is – in contrast to previous public-private partnerships for the airport and highway concessions – they will not require the private entities to invest any of their own capital in power plant improvements. This failure to attract private capital means that the money needed to repair and maintain the plants will come from ratepayers or from the federal government. The only difference between the so-called privatization and the current arrangement is that ratepayers must pay a management fee to the private concessionaire.

Continued politicization of the electrical system

As we wrote in our January 2019 report, "The management of the generation, transmission and distribution system by private entities will do little to depoliticize the system if the contracts themselves are entered into via a non-transparent, politically driven process, as Law 120 facilitates."

¹ IEEFA. [La privatización de AEE perjudicará los consumidores y frenará la recuperación económica](#). January 2019.

² [Answer of New Fortress Energy LLC to Order to Show Cause](#), *In re New Fortress Energy LLC*, Docket No. CP-20-466-000 (July 20, 2020). p. 7

³ U.S. House of Representatives Committee on Natural Resources. [The Transformation of the Puerto Rico Electric Power Authority \(PREPA\)](#). July 23, 2020.

Unfortunately, this prediction has been borne out with both the NFE and LUMA contracts. Our June 2020 report on the NFE contract revealed numerous red flags in the contracting process. NFE benefited from repeated improper meetings with NFE staff before and during the RFP process and privileged access to information.⁴

Similarly, the award process for the LUMA contract raises numerous questions, given that the partnership committee that awarded the contract appears to have not acted independently in their review of the bids for the contract. Four of the five members of the committee arrived at identical scores in 37 of 38 categories in their evaluations of both bids.⁵ It has also been revealed that high-profile Puerto Rican political figures, including former Gov. Garcia Padilla were involved in lobbying on behalf of LUMA.

Unless the Legislature acts quickly to revise the Law 120 process and requires greater transparency and public hearings on proposed generation system contracts before they are privatized, it is likely that these contracts will repeat the same tainted pattern, to the detriment of the public interest in Puerto Rico.

Lack of transition to renewable energy

In our January 2019 report, we warned that the Law 120 privatization process would prolong the island's dependence on fossil fuels.

The NFE contract was pursued and entered into by PREPA outside of the integrated resource planning process conducted by the Puerto Rico Energy Bureau. As a result, it is highly unlikely that the project, even if executed with greater attention to savings, would have represented the least-cost option for the electrical system. Similarly, it appears that PREPA is now taking advantage of the privatization process to push forward additional natural gas conversions, including units 7-10 of the San Juan Power Plant, a project that is also not part of PREPA's integrated resource plan.⁶

The generation privatization process appears designed to find private companies to operate and maintain PREPA's existing fleet of fossil fuel-based power generation. We note that Law 120-2018 allows for the possibility of transactions to be exempt from the requirements of the integrated resource plan. As such, it is very possible that the generation privatization contracts will prolong the life of these units beyond the near-term retirement dates specified in the integrated resource plan.

In short, we have seen nothing in the privatization process to give us any confidence that the resulting privately managed system will result in lower rates for customers, greater public trust in the administration of the system, or a transformation to renewable energy. I urge the Legislature to amend Law 120-2018 and hold hearings on the proposed generation privatization contracts so that there can be greater public scrutiny and analysis before any such contracts are finalized.

⁴ IEEFA. [¿Está amañado el futuro energético de Puerto Rico?](#) June 2020.

⁵ [Testimony of Tom Sanzillo before the Puerto Rico House of Representatives Commission on Economic Development, Planning, Telecommunications, Public-Private Partnerships and Energy](#). April 2021.

⁶ PREPA Governing Board Meeting, November 17, 2021. (at [52 minutes](#))

Sincerely,

A handwritten signature in black ink, reading "Tom Sanzillo". The signature is written in a cursive style with a large, sweeping initial "T" and "S".

Tom Sanzillo
Director of Financial Analysis