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Congressman Raul Grijalva
Chairman, Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Chairman Grijalva,

Thank you for the opportunity to share my thoughts on Puerto Rico's reconstruction with the Natural Resources Committee. Enclosed please find the answers to the follow up questions to the committee.

Q1: What is your assessment of PREPA's plans for transferring the utility in view of your statement about the lack of government effectiveness and transparency that "has been inherited over decades of mismanagement of federal and local resources"?

I fully support a transformation for PREPA that broadly addresses the privatization strategy advocated by the Government of Puerto Rico. I believe that a private operator, operating in a well regulated environment, can deliver reliable, cost effective and clean energy to the people of Puerto Rico. I believe that a private operator can (and should) be held accountable for fair labor practices, initiatives for transformation to renewables, and transparent management of federal recovery dollars (by following the concession model for transmission and distribution assets proposed by the territorial government).

However, recent developments put this transformation at risk. I unfortunately have little faith in a transparent, fair PREPA transformation process due to recurring allegations of mismanagement. What would be needed to restore that faith is transparency and equitable processes. Options to achieve this include an Inspector General for the utility, strong and overt Federal support for the independent regulator, a TRULY independent PREPA Board of Directors, and possibly even a receiver for PREPA. Left to their own devices, entrenched political forces in Puerto Rico will ensure that we continue to have contract awards going to "friends and family" instead of the

most capable operators; continued meddling with regulatory and oversight practices¹, and mismanagement of resources. Despite recent legislation and pronouncements, history shows that agencies in Puerto Rico don't follow their own laws, and that the island is challenged with numerous, ineffective and un-resourced promises for change.

The following timeline is a conceptual, somewhat pessimistic yet realistic view of Puerto Rico's energy transformation, absent any transparency initiatives.

1. **Lack of government transparency during RFQ, RFP and contract award causes delays in PREPA privatization.** This is due to delays in contract negotiation when the concessionaires discover previously undisclosed risks in the transaction.
2. **This drives increased grid defection** (the rate at which rate payers leave PREPA for truly "islanded" or "behind the meter" alternatives) due to uncertainty for clients (primarily industrial).
3. **This increase in grid defection drives the price for the T&D concession to go up.** This is caused due to several factors:
 - A. Pricing risk based on uncertainty about the size of the rate payer base,
 - B. Lack of transparency and proper disclosure of the condition of Transmission & Distribution (T&D) assets,
 - C. Operations risk due to uncertainty with long term organizational requirements based on a diminishing base, and
 - D. Uncertainty on a sustainable debt surcharge for PREPA given the reduced rate payer base
4. **This causes the price to the consumer to go up, without an expected commensurate rise in reliability.** Up to this point all of the risk is on the cost side, and not a dollar has started flowing to actually address improvements to reliability or T&D resiliency. When combined with a high planned debt service charge this negates any savings (or improvements) to customers due to privatization.
5. **This drives even greater grid defection across industrial, residential - and increasingly commercial - customers.** If the Energy Bureau steps in to block grid defection, that may also drive increased out migration from the island by industrial and residential customers. Unfortunately, those will likely be the ones with

¹ Barely nine months have passed since the PREPA Board of Directors resigned en masse in July 2018 (<https://www.reuters.com/article/us-usa-puertorico-prepa/puerto-rico-power-utility-board-quits-leaving-leadership-void-idUSKBN1K22QS>), stating that "political forces in Puerto Rico have provided a definitive statement that they want to continue to control PREPA", and that "When the petty political interests of politicians are put ahead of the needs of the people, the process of transforming the Puerto Rican electricity sector is put at risk".

the greatest ability to overcome the switching costs, who are the ones the island can least afford to lose.

6. **A smaller and smaller group of rate payers is now paying more and more for power that has not become cheaper or more reliable².** It is quite probable that the T&D concessionaire will sue the PR Government for inadequate disclosure of the asset base and operational/manning requirements.
7. **Municipalities start feeling the pinch, cutting services or passing costs to residents** in order to help defray costs to operate the grid³.
8. In the background, **three key trends are changing the landscape:**
 - A. Continued delays in Federal funding due to perceived challenges with transparency impact much needed T&D recapitalization, further delaying reliability improvements.
 - B. Prices for solar/storage solution (for residential customers), renewables based CHP micro-grids (for industrial customers) and LNG/renewables based micro-grids (for commercial customers) continue to go down, further driving grid defection. Customers can get cleaner, cheaper, more reliable power by merely disconnecting from PREPA - with minimal risk.
 - C. Increased deployment of micro-grids drives greater demand for LNG (for micro-grid base load and backup), further delaying a 100% renewable future for the island.
9. **Delays in privatization result in additional review of federal funding to the Government and concessionaire.** One year from now, it is quite conceivable that the Committee on Natural Resources will have to convene yet another hearing on Puerto Rico's energy transformation.
10. **Concessionaire decides to submit a case for increased rates to the PR Energy Bureau.** This is a direct cause of higher than previously acknowledged costs, a diminishing rate base, and inaccessible Federal funding. This may happen shortly after selection of the bidder, after term sheets are finalized or at some other time early in the contract duration.

² The reader will note a recurring reference to industrial customers. High end pharmaceutical manufacturing, which is the cornerstone of the industrial sector, is HIGHLY sensitive to reliable power. Short disruptions in power delivery can cause the loss of entire production batches. The production losses are, at a minimum, in the tens of MILLIONS of dollars, not including opportunity cost. An hour long, unplanned outage may represent a couple thousand USD in lost rate revenue, but it represents MILLIONS of dollars in lost productivity, lost production and supply chain disruption to a cluster that represents 30% of Puerto Rico's GDP. Thus reliability is a key component of a future grid.

³ In Puerto Rico municipalities normally do not pay PREPA for power, relying instead on CILT (Contribution in Lieu of Taxes).

11. **Rate increase is disapproved by the regulator.** Many believe it is unrealistic to expect a truly independent PR energy regulator without Federal oversight. Thus a rate increase is likely to be disapproved by the regulator because of political impact.
12. **Inability to develop a proper revenue stream for the concessionaire prevents a renegotiation of the PREPA debt,** and drives even greater defection from the grid.
13. PREPA (unfortunately, no one thought that the very name of the utility is a toxic asset) declares bankruptcy AGAIN due to inability to meet commitments.

This is an admittedly pessimistic, worst case scenario. Nevertheless, this vicious cycle is all too possible given the current situation in Puerto Rico.

So how do we exit this vicious cycle?

1. **Price PREPA debt appropriately.** Existing debt renegotiation has anchored future debt negotiation very high. PREPA debt, at sovereign rates, could be priced around 30 percent of par⁴. Incurring much higher payout is like “taking a mortgage out on a dot matrix printer”, as the world moves beyond “inkjet” (distributed generation) and into “online publishing” (distributed renewables and demand response). A large long-term liability will crush grid level innovation due to overpriced, unreliable energy, and further accelerate grid defection.
2. **Acknowledge and clarify inconsistencies in policy.** Puerto Rico has both legislated a transition to full renewables by 2050, and taken out a multi-year LNG contract priced at 50% above spot price. Only one of these can really exist. In any other jurisdiction, the LNG contract could be seen as a bridge. History tells us that in Puerto Rico that could become another cartel that litigates to maintain an oligopoly over commodities, that can then be priced well above market to create fabulous returns for an invisible few.
3. **Implement Federal Oversight for recovery funds, PREPA privatization, and energy regulation.** A full transformation of Puerto Rico’s energy sector requires transparency in Federal recovery funding, privatization processes, and market regulation. History again clearly indicates that this will not happen internally. Appointing a Office of Federal Coordinator (recovery funds), an Inspector General (for PREPA privatization) and a FERC regulator (for energy market regulation) is the only way to ensure transparent, politically independent processes, procurement and privatization. Federal (and territorial) funds should go to the most capable bidder, not the one with the best connections.

⁴ The source has requested to remain anonymous. However, the individual has extensive experience in renegotiating debt tied to infrastructure in emerging Latin American markets (Argentina, Ecuador, Colombia and Venezuela). Although technically PR debt is not “sovereign” debt, the argument is that the repayment should be analyzed on ability to pay (structural issues) vs. what currency the debt was issued under (monetary policy).

Q2: What recommendation do you have for addressing the systemic inefficiencies that you say are everywhere in Puerto Rico?

The territory of Puerto Rico needs RADICAL TRANSPARENCY. The only way to do this is through the equivalent of a “Transparency Marshall Plan” that makes all territorial government activity accountable to the public.

For decades, a small group of powerful stakeholders has essentially treated the island as their personal piggybank and money machine. This while the average salary in PR hovers around the \$29,000 mark⁵, the lowest in the 50 states. The FOMB unfortunately does not currently have the statutory authority or precedent to direct the structural and process changes necessary for the island.

I would recommend the following actions:

1. Implement the **Office of Federal Coordinator** for transparency in Federal recovery funding.
2. **ALL bids for ALL reconstruction activity MUST be posted online.** Contract awards MUST be posted online. Evaluation criteria MUST be posted online. Members of the source selection boards MUST be disclosed publicly and posted online, along with their business declarations. If Federal dollars are used for a recovery project, Federal standards for transparency (at a minimum) should be used for such projects.
3. **All territorial government invoices and payments MUST be posted online, identifying the client, scope of work, work performed, and contract cost.** There are an astounding number of paid “consultants” on the government payroll who perform zero work for the government - their salaries are merely payback for political campaign contributions, work in kind, etc. Current initiatives by the territorial government, although a positive step, are woefully inadequate and insufficient.
4. **Agencies providing essential services (education, security, health and infrastructure) MUST be held accountable to performance metrics developed and published by independent entities.** This is no different than what other States have. Potential metrics in Education, for example could be: (a) \$ investment per pupil (state and federal) and (b) aptitude test score 4th/8th grade, (c) average pay per teacher, etc. In Security (a) \$ investment per capita, (b) average pay per policeman, (c) murders per 100,000 habitants, etc. For DMV and other customer facing agencies: (a) wait time per person, (b) time to issue driver license, and so forth. Please note that although these seem inconsequential, combined they result in tremendous inefficiencies that the citizens in PR must contend with on a daily basis, and which end up acting as “sand in the gears” for economic recovery.

⁵ Data from https://www.bls.gov/oes/current/oes_pr.htm.

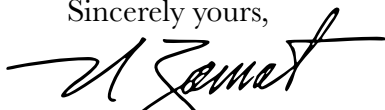
5. **All public officials MUST disclose lobbyist interaction in accordance with Federal, not territorial statute, until Puerto Rico becomes either independent, or is admitted as a State of the Union.** Much of the political power in Puerto Rico has been wielded by a group of extra governmental entities who broker political favors for monetary return with zero documentation. Public officials complicit in these actions are not required to disclose any of these interactions. Mandatory disclosures that mimic Federal requirements are the only way to enable the territorial government to fulfill their duty to serve the citizenry, while keeping undocumented lobbyists away from the decision making process.

Q3: You were quoted as saying at an investment conference while [serving as] PROMESA Revitalization Coordinator that the Government of Puerto Rico officials gave up at least \$3 billion in private “critical” infrastructure investments. What was the \$3 billion investment?

The quote was taken slightly out of context. A more correct statement would've been reported as “Inefficiencies in the systems and process in Puerto Rico have caused the loss of at least \$3 billion in potential investment over the past several years.” The number is likely far higher, but a mere handful of cancelled projects would easily add up to that number - and beyond. I have included an incomplete table of unexecuted investment projects as an addendum to this letter. Please note that this is an ever evolving number. Recent developments have undoubtedly chilled investment activity on the island.

I hope you find these comments useful and that they answer your questions. I remain committed to help Congressional oversight of Puerto Rico's recovery in whatever way I can. If you have any additional questions I may be reached at noel@atabey-group.com; or at +1 (813) 331-6005.

Sincerely yours,



Noel Zamot
President, Atabey Group

Lost Investment Potential in PR (estimated) 2014 to Present (average over 5 years)

	Investment Potential	Project Type	Scope	Outcome	Reason
Roosevelt Roads (Former Naval Station)	\$2,400,000,000	Combination of investment projects and federally funded projects. Zero capital required by PR Government	Long term, comprehensive revitalization of former Naval Station Roosevelt Roads, via implementation of strategic plan, which includes environmental mitigation and strategic planning into a previously designated Promise Zone area (June 2012).	Minimal. Few contracts, awarded without RFP and without proper disclosure of environmental impact. After 53 meetings (!) with government officials, PR gov't was unwilling to award contract for mitigation and contract management to proponent.	Allegedly, PR gov't does not want to have contracts be awarded on merit or be competed beyond a curated group of proponents.
Puerto Rico - Virgin Islands Power Interconnect	\$150,000,000	Investment project. Zero capital required by PR Government.	Connecting PR and USVI via underwater cable. Provides power to USVI, increases demand for power after PREPA privatization.	After 120 days PR government was unable to provide a "cleared to proceed" on this project.	Proponent concerned with sharing proprietary data with PR Government. Proponent believes that competition sensitive information would be shared with "preferred" project owners and RFP shopped around for a bidder with "proper" connections.
Deferred Life Science investments	\$1,500,000,000	Deferred investment potential in PR for 2018 (amortized)	Pharma plant expansion, growth, recapitalization. Post Section 936 (Tax Breaks for Pharmaceutical Industry) efforts.	No greenfield/ brownfield Pharma development in PR since 2008. Virtually all new investment has gone to Ireland and EU, which have far higher labor costs, but lower energy costs.	Pharma sector considers Puerto Rico to be "high risk" for future investment due to policy instability, energy costs, and ever changing tax code incentives.
TOTAL	\$4,050,000,000				