

MAY 24, 2010 www.mcvpr.com**ENERGY ALERT*****Wheeling Transmission Regulation, Wheeling Interconnection Procedure and Wheeling System Tariff***

On May 13, 2010, the Puerto Rico Electric Power Authority (PREPA) issued a public notice announcing its intent to establish a regulatory framework that will govern wheeling in Puerto Rico. To establish this framework, PREPA has circulated draft versions of the Wheeling Transmission Regulation, the Wheeling Interconnection Procedure and the Wheeling System Tariff for public review and comment. Although not yet issued by PREPA, the issuance of Credit Policy and an Impact Fee Regulation will also be necessary to complete the wheeling regulatory framework. The adoption by PREPA of a wheeling regulation is required by Law No. 73 of 2008, known as the Economic Incentives for the Development of Puerto Rico Act (Act), which establishes various strategies to increase efficiency in electric power generation, transmission and distribution in Puerto Rico. Noticeably, the statute limits wheeling to Eligible Businesses, which term is defined in the Act as any business that is devoted to the production, whether on commercial scale or not, of energy for consumption in Puerto Rico, through the use of natural gas or coal, or through the use of renewable sources.

The draft Wheeling Transmission Regulation is intended to establish the rules which will govern wheeling transmission service in Puerto Rico. The nature of wheeling transmission service is designed to be Long-Term Firm Point-to-Point Service, such that the reservation and/or transmission of energy will be permitted from certain point(s) of receipt to point(s) of delivery, for periods of one year or longer, and is designed to be available at all times during the period covered by an Interconnection Agreement. Pursuant to the Wheeling System Tariff, the rates for Firm Point-to-Point Transmission Service would be based on PREPA's Annual Transmission Revenue Requirement, defined as the total annualized revenue that PREPA is authorized an opportunity to recover, which includes transmission operating expenses and a reasonable return on rate base assets. The draft Wheeling System Tariff proposes that a monthly rate of \$7.66 per kW-Month will be charged for Wheeling Transmission Service. As currently drafted, the minimum term of wheeling transmission service will be one year, and consumers may only contract for wheeling transmission service from a single Wheeling Independent Power Producer (WIPP).

Among other provisions, the Wheeling Transmission Regulation would create a 60-day Open Season during which Eligible Businesses can file requests to connect generating facilities to PREPA's electricity transmission system (Interconnection Requests) and become WIPPs. The first Open Season will commence no later than ninety (90) calendar days after the approval of the Wheeling Transmission Regulation. If adopted by PREPA, Eligible Businesses seeking interconnection service would be required to provide a wheeling transmission service deposit and fund a series of interconnection studies, including a Feasibility Study intended to provide a preliminary evaluation of the proposed interconnection point(s), a System Impact Study intended to evaluate the impact of interconnection(s) on the reliability of the PREPA's transmission system, and a Facilities Study intended to estimate the cost of equipment, engineering, procurement and construction needed to physically and electrically connect a WIPP to PREPA's transmission system. The details of this interconnection procedure are contained in the draft Wheeling Interconnection Procedure. The draft Wheeling Interconnection Procedure also describes the specific content requirements of interconnection requests, the interconnection request evaluation process, evaluation priorities, and the substantive requirements of interconnection agreements.

In addition to requiring that WIPPs subscribe for the Firm Point-to-Point Transmission Service, the draft Wheeling Transmission Regulation also requires WIPPs to purchase a series of ancillary services from PREPA, including: (i) Scheduling, System Control, and Dispatch Service; (ii) Reactive Supply and Voltage Control from Generation Service; (iii) Regulation and Frequency Response Service; (iv) Energy Imbalance Service; (v) Operating Reserve Spinning Reserve Service; and (vi) Operating Reserve Supplemental Reserve Service.

Public hearings on the proposed regulations are currently scheduled to take place at the Juan Pachín Vicéns Auditorium in Ponce on June 1, 2010 at 10:00 A.M., and in Conference Room 2 at the Juan Ruiz Vélez Building in Santurce on June 2, 2010 at 10:00 A.M.

If you have any questions or comments, or wish additional information regarding this matter, please contact any of the attorneys listed below, members of our Environmental, Energy and Land Use Practice Group.

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