

Governor Signs Law Authorizing the Privatization of PREPA and Announces RFQ for Utility Scale Energy Storage System

On June 20, 2018, the Governor signed the "Law to Transform the Puerto Rico Electric System" ("Law"), which gives way to the privatization of the Puerto Rico Electric Power Authority ("PREPA"). The Law defines the legal framework for the energy reform and facilitates the assembling of interested companies to submit offers to participate in the transformation of PREPA, as well as to proceed with their technical, economic and financial evaluation.

As summarized in our News & Alerts vol. 9, this Law authorizes PREPA to sell its generation related assets and transfer or delegate any of its operations, functions or services, and authorizes PREPA together with the Public Private Partnerships Authority ("Authority") to carry out the processes through which these transactions will be consummated. The transformation process will be carried out through the creation of Public Private Partnerships ("Partnerships"), pursuant to procedures established in the Law and the applicable provisions of Act. No. 29-2009, as amended, known as the "Public Private Partnerships Act".

Some of the key highlights of the newly enacted Law are the following:

1. PREPA may only sell assets related to the generation of energy and it may only establish transactions that are related to the generation, distribution, transmission of energy, measurement and any other functions, services or installations of PREPA through Alliance Contracts, as defined in the Law.
2. Every Contracting Party under an Alliance Contract or Sale Contract granted with respect to a PREPA Transaction will be automatically considered a Certified Energy Company.
3. To avoid authorizing a monopoly in the generation of energy, a Contracting Party under an Alliance Contract granted with respect to the concession or operation of the Electric Grid may not be a Contracting Party under a Contract granted with respect to PREPA's Facilities dedicated to the generation of energy. Likewise, all assets dedicated to the generation of energy cannot be sold to a single Contracting Party and no Contracting Party can sell to another Contracting Party any asset acquired from PREPA dedicated to the generation of energy, without the authorization of the Legislative Assembly.
4. A Working Group, designated jointly by the Governor and the Presidents of both Legislative Houses, will be responsible for establishing



and tempering the public energy policy and the regulatory framework to the new realities of our Island and energy industry to make the use of distributed generation, micro-grids and renewable energy viable, among others, subject to Legislative approval within 180 days from the approval of the Law.

5. Every transaction for the sale of assets must first be approved by the Governor, followed by the approval of the Legislative Assembly; while any other transaction that does not involve the sale of assets must be approved by the Board of the Authority, an entity that has a representative of each legislative body.

Lastly, the Authority and PREPA have already begun the selection process for a Partnership with a private company for the development of a utility scale energy storage system in the Island to provide greater stability and resiliency to the energy grid. The Authority, as representative of PREPA and through the Project Partnership Committee will conduct a Request for Qualifications ("RFQ") process, open to all interested parties, available on the Authority's website at the following address: <http://www.p3.pr.gov/assets/rfq-energy-project-june-2018.pdf>.

Should your company have any questions with respect to the privatization of PREPA, you may contact the attorneys at Vidal, Nieves & Bauzá, LLC.

Vidal, Nieves & Bauzá, LLC is a corporate law firm with a special emphasis in energy and environmental matters, corporate, transactional, real estate and insurance practices.

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