STATEMENT OF
LISA J. DONAHUE
CHIEF RESTRUCTURING OFFICER
PUERTO RICO ELECTRIC POWER AUTHORITY
BEFORE THE
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

"Exploring Energy Challenges and Opportunities Facing Puerto Rico"
January 12, 2016 at 10:00 a.m.

Chairman Lamborn, Ranking Member Lowenthal, Commissioner Pierluisi and members of the subcommittee:

My name is Lisa J. Donahue, and I am the Chief Restructuring Officer of the Puerto Rico Electric Power Authority ("PREPA"). I am also a Managing Director and the leader of the Turnaround and Restructuring Practice at AlixPartners, a global business and advisory firm. I am a Fellow of the American College of Bankruptcy, and a Director-elect for April 2016 of the American Bankruptcy Institute.

Prior to my appointment as PREPA's Chief Restructuring Officer, I served as an executive at a number of other power and energy companies, including as executive vice president and chief financial officer at Calpine Corp., an independent power producer operating in Texas, California, Canada and Mexico; chief financial officer at Atlantic Power Corp., a power and infrastructure company publicly traded on both the New York and Toronto stock exchanges; and chief restructuring officer at SemGroup, L.P., a mid-stream oil & gas, pipeline, storage and commodity trading company.

I want to thank the subcommittee for giving me the opportunity to participate in this hearing on behalf of PREPA. PREPA was created for the purpose of conserving, developing and utilizing Puerto Rico's energy resources to promote the general welfare of the Commonwealth's residents and to increase commerce and prosperity. PREPA produces and delivers virtually all of the electric power consumed in the Commonwealth. Its future is central to the subject matter of this hearing – and in fact the economic well-being of Puerto Rico.

PREPA's Governing Board selected and appointed me as Chief Restructuring Officer ("CRO") in September 2014. Since then, I have reported directly to the Board and worked alongside PREPA's management to address fundamental operational problems that have hindered PREPA for decades, and to help lead PREPA's financial restructuring efforts, particularly its discussions with creditor representatives.

General Background and Challenges

PREPA is currently in a state of crisis, and for years has been unable to transform into the modern, world-class utility that Puerto Rico deserves. In the summer of 2014, PREPA faced a severe financial and liquidity crisis, created by a combination of recurring negative cash flows, an ongoing recession, outdated generation facilities, substantial debt maturities and an inability to access the capital markets. This crisis threatened PREPA's ability to operate, mainly by threatening its ability to continue purchasing fuel to run its power plants and provide energy to Puerto Rico.

PREPA's problems did not arise overnight, or even in a few years—they developed and intensified over a period of decades. During this time, management and other strategic decisions, including staffing and capital investment, were too often based on political or electoral considerations rather than best practices or business imperatives. As a result of this dynamic, PREPA suffered from regular employee reassignments and had difficulty conducting rational long-term planning, which compounded existing challenges.

Today, PREPA owes approximately $9 billion to its bondholders and fuel line lenders, and continues to face very serious liquidity constraints. Absent a financial restructuring, between now and July 1, 2016, PREPA faces contractual obligations to pay $700 million under its fuel lines of credit and approximately $428 million in principal and interest under outstanding bonds. This is more than twice the amount of cash PREPA currently has on hand, and PREPA will not be able to make up the difference with revenue from operations during this period. As part of the recently announced restructuring support agreement ("RSA"), a group of PREPA creditors recognized PREPA's liquidity constraints by agreeing to relend to PREPA $115 million of interest paid to bondholders on January 4, 2016.

Our financial situation would be much worse if our creditors had not agreed to forbearance agreements in August 2014 and more recently, the RSA. These agreements have given PREPA temporary relief from its obligations to creditors, including relief from its obligation to make more than $600 million in sinking fund payments. Absent these agreements, PREPA would already have run out of money.

One contributing factor to PREPA's current financial situation is that its existing rate structure does not capture its operating costs and debt service. PREPA's base rate has not changed since 1989 despite increases in costs and debt service obligations. However, the all-in cost fluctuates based on the cost of fuel and purchased power, and reached highs of approximately 28 cents per kilowatt hour ("kWh") in August 2014. Today, the all-in cost has fallen with oil prices to approximately 21 cents per kWh, which is high in comparison to the U.S. mainland, and has a disproportionate impact on Puerto Rico residents given their income levels and other economic factors. The "rate deficit" between existing rates and the rates PREPA would need to charge to cover operational costs, including debt service over the next three years, is approximately 7.8 cents per kWh.

Closing this rate deficit is critical to PREPA's sustainability. But PREPA's customers cannot carry this burden alone. Even the creditors who are party to the RSA agree with this point. To help close the rate deficit, we need to implement operational reforms to improve efficiency, and we need concessions from our creditors.

Ongoing Reform Efforts

When our team arrived at PREPA in September 2014, we encountered a large and complex organization facing a range of challenges that had been decades in the making. Like a number of companies, including many that I have personally worked with in my turnaround management career, PREPA needed outside assistance to help restructure its operations and finances and create a plan to assure long-term sustainability.

Operational Improvements

PREPA has focused its operational improvement efforts on core business functions to improve organizational efficiency, increase revenue generation and instill a culture of safety in the workplace. By addressing shortcomings in accounts receivable and collections, fuel inventory, procurement, inventory management and safety, PREPA has begun the process to transform into a modern utility.

PREPA has made great strides in its accounts receivable and collections processes with respect to government and private customers alike. PREPA has directly engaged with the central Commonwealth government and its agencies to set appropriate Fiscal Year 2016 budgets and has implemented payment plans for past due government accounts. Given the current financial situation within the Commonwealth, these efforts have become even more important.

PREPA has also analyzed data to prevent theft and other non-technical losses, developed workforce training in its call center and implemented customer care and billing improvements. Taken together, these reforms create a platform for PREPA to work collaboratively with customers to reduce past due accounts and improve customer service.

PREPA has also worked to improve fuel inventory controls. In September 2014, PREPA's controls were sporadic at best. PREPA did not consistently measure based on industry standards or test for variations in consumption. Additionally, PREPA lacked a uniform process to forecast its fuel requirements based on optimized dispatch and deliver power at the lowest possible cost, leading to unnecessarily high fuel inventory levels and limitations on PREPA's ability to negotiate better terms.

Our team has worked with PREPA to implement an integrated process that addresses these issues. We measure and track fuel inventory and investigate variances point to point. We have also improved inventory controls and reduced inventory levels with respect to all inventory. In addition, we have implemented a Request for Proposal ("RFP") process and negotiated with fuel suppliers to secure more favorable fuel purchase terms.

One issue of importance to PREPA, especially as it transitions to burning a significantly higher percentage of natural gas, is the Jones Act, which increases the cost of transporting fuel from the mainland to Puerto Rico. The impact of the Jones Act on PREPA's operations today is in the range of $3 to $5 million per year, due to the required use of Jones Act-compliant barges to distribute fuel oil between units. Based on current operational assumptions, this impact could increase by approximately $20 to $30 million per year if the Aguirre Offshore Gas Port

("AOGP") is constructed and PREPA elects to source liquefied natural gas from the mainland. Relief from the Jones Act's stringent requirements could allow PREPA to save these amounts over time, and those savings would be passed along to its customers.

The safety of employees should be at the heart of every well-run utility. In the past 10 years, PREPA has had 15 fatalities and approximately 14,000 safety incidents. Its incident rate is significantly higher, in fact more than double, than that of its industry peers. In September 2014, we ran an RFP process and engaged industry leader DuPont to conduct an analysis of safety practices and procedures. PREPA is currently implementing the short- and long-term recommendations made by DuPont and tracking its performance in those areas. During 2015, PREPA reduced its incident rate by 15%, which represents a productive first step, but falls short of our ultimate goal.

PREPA is also working to improve its organizational culture and instill a focus on excellence. Many of PREPA's employees have embraced this effort and the board and management have also committed to these critical changes. Work is underway to introduce carefully selected key performance indicators ("KPI's") to heighten the visibility of key priorities within the organization and focus process improvements where they will have the greatest possible impact. PREPA's workforce and organizational structure is being evaluated to reduce overlapping roles, streamline cross-divisional work and clarify job descriptions. PREPA is also undertaking succession planning for key positions to address potential retirements and other retention pressures.

All of these efforts have already had a significant financial impact, and show that PREPA can take actions to reduce costs, improve efficiency and apply industry standards. PREPA has achieved $150 million in one-time cash generation savings and approximately $162 million in recurring annual savings. As new operational initiatives are phased in, we expect additional one-time savings of $185 million and recurring annual savings of up to $280 million. These savings are important because they contribute to closing the rate deficit and because we are asking creditors and other stakeholders to contribute to PREPA's transformation.

Vision for a New PREPA

We have developed a comprehensive vision for a new, modern and self-sustaining PREPA. This is necessary because PREPA's outdated and inefficient generation fleet and transmission system have been major causes of rising costs and decreasing reliability to customers over time.

The system is under extreme stress. Generating units are old, and PREPA has not made the investments necessary to maintain their reliable service. PREPA's median plant age is 44 years, compared to a U.S. industry average of 18 years. Approximately 80% of PREPA's generating fleet is more than 25 years old, and PREPA's oldest thermal unit is 56 years old. Its heavy reliance on fuel oil creates price volatility for consumers and environmental compliance challenges for PREPA under federal Mercury and Air Toxics Standards ("MATS") and other regulations. PREPA's outdated transmission system makes it difficult to accommodate unplanned unit outages and integrate renewable generation sources. Overall, PREPA's outdated infrastructure is a key cause of high forced outage rates, poor efficiency, low reliability and high costs.

We have developed a comprehensive long-term capital plan that assumes $2.4 billion in new investment—funded either through cash resources or new public-private partnership investments. Our capital plan is driven by PREPA's integrated resource plan ("IRP"), which was undertaken in response to local law requirements. To help develop the IRP, PREPA engaged Siemens Industry, Inc., an industry leader. The IRP was filed with the Puerto Rico Energy Commission ("PREC"), a newly established regulatory body, in July 2015 and was updated in August 2015. PREC is currently reviewing the IRP with input from other stakeholders.

Importantly, PREPA's capital plan includes the construction of the Aguirre Offshore Gas Port ("AOGP"), which will allow PREPA to receive natural gas directly and efficiently at the Aguirre complex, as well as the conversion of the Aguirre generation facility to burn natural gas. This transition from fuel oil to natural gas will improve fuel diversity and enable the Aguirre steam power generating units to comply with environmental regulations like MATS. Construction on AOGP has been delayed given certain permitting issues and PREPA's financial situation, but we anticipate that PREPA will be in position to commence construction in the second or third quarter of 2016, and to complete the project by late 2017 or early 2018.

PREPA is pursuing cost-effective financing for AOGP, including through discussions with the U.S. Department of Energy ("DOE") regarding a potential loan guarantee under DOE's Section 1703 program. At this time, PREPA understands that DOE and other potential financing partners are awaiting a resolution of PREPA's overall financial situation before committing to invest in the project.

Other key projects in the capital plan include the construction of new units at PREPA's Palo Seco plant, the installation of new transmission and distribution equipment throughout PREPA's system, and the long-term repowering or replacement of generation units at Aguirre and Costa Sur. These investments, which will include flexible generation units, will improve PREPA's ability to utilize existing and incorporate additional renewable energy sources, which are a key component of PREPA's vision for efficient, sustainable energy in Puerto Rico. Execution of the capital plan will also help PREPA comply with MATS for steam power generating units and reduce reliance on fuel oil.

These initiatives will dramatically improve the efficiency of PREPA's system and reduce its environmental impact. The installation of newer and more efficient units will reduce the volume of fuel needed to power Puerto Rico and minimize the price volatility that results from relying on fuel oil for so much of Puerto Rico's supply. In addition, the shift to cleaner fuel sources will yield significant benefits. Today, 52% of total electricity generation in Puerto Rico is powered by fuel oil and coal, with 44% powered by natural gas and only 4% from renewable sources. Under PREPA's capital plan as contemplated in the IRP, by 2030, 83% of total electricity generation will be powered by natural gas and renewable sources (with renewables increasing to 14% of the total) and only 17% will be powered by fuel oil and coal (with fuel oil driven down to below 1%).

PREPA is focused on facilitating an increase in the usage of renewables as a means to further diversify energy sources in Puerto Rico and contribute to PREPA's environmental compliance efforts. The IRP forecasts renewable capacity growth from 207 MW in 2016 to 1,193 MW in 2030, an increase of almost 600%. Power produced from renewable sources is expected to increase by an average of 9% annually, which will reduce overall demands on PREPA's system and displace traditional thermal generation.

PREPA's capital plan is comprehensive and achievable. We intend to fund the plan with enhanced liquidity from operational savings, creditor concessions and a new transparent rate structure. PREPA will also pursue bids from third parties to finance and build new power generating units through an open and competitive RFP process to ensure that we are attracting the most efficient capital and expertise to help us execute the plan.

Another critical element of PREPA's vision for the future is governance reform. PREPA's leaders and employees are critical to ensuring that PREPA is able to execute on its capital and business plans. To this end, governance reforms embedded in the PREPA Revitalization Act that is currently pending before Puerto Rico's Legislative Assembly, including the appointment of an independent board, will promote independence in PREPA's leadership and management to ensure that the changes we are implementing and planning are sustainable. In parallel, PREPA is working to instill a culture of meritocracy, and as discussed above, implement concrete policies in line with that culture, including rewarding employees based on KPIs.

Creditor Negotiations and PREPA's Restructuring Support Agreement

In late December 2015, PREPA reached agreement with creditors holding or controlling approximately 70% of its debt, including bondholders, fuel line credit lenders and bond insurers, regarding a comprehensive restructuring plan to address its fiscal and operational challenges. It took PREPA over 15 months to negotiate the RSA in large part because PREPA lacks access to an orderly debt restructuring process and its accompanying "guard rails." In most situations of extreme financial distress, the possibility that a debtor will seek court protection incentivizes creditors to compromise more quickly. Moreover, in a typical situation, a bankruptcy process permits a supermajority of creditors to bind all creditors—it reduces the free-rider and holdout problem.

After many months, we were able to reach agreement but our work is far from complete. The RSA remains subject to significant contingencies and creditor termination rights

The key economic terms of the RSA include the following:

Bondholder Agreement. All holders of uninsured PREPA bonds will have the option to exchange their outstanding bonds for new securitization bonds at 85% of the current face amount of their bonds. The new securitization bonds, which under the RSA must receive an investment grade rating (meaning a rating of at least BBB- or Baa3), will be interest-only bonds for the first five years, with an interest rate that is lower than the current rate on PREPA's existing debt based on the RSA pricing grid. An *ad hoc* group of bondholders representing approximately

40% of the outstanding bonds has agreed to exchange all uninsured bonds held by the group for new securitization bonds.

Fuel Line Agreement. PREPA's fuel line credit lenders will have two treatment options. The fuel line credit lenders may convert their existing credit agreements into term loans, with a fixed interest rate of 5.75% per annum, to be repaid over a period of six years in accordance with an agreed amortization schedule. This will decrease the annual interest rate PREPA is currently paying on its fuel line credit debts from 7.25% to 5.75% and extend the maturity date for $700 million of debt by six years from the consummation of the restructuring transactions. Alternatively, they may exchange all or part of the principal due under the existing fuel line credit agreements for securitization bonds to be issued on the same terms as those issued and exchanged for the uninsured bonds.

Bond Insurers. To finance the restructuring transactions, PREPA's bond insurers will issue surety insurance policies in an aggregate amount up to $462 million, which will support a portion of the debt service reserve fund for the securitization bonds.

Remaining Contingencies

PREPA's ability to execute on the RSA is far from certain. Its ability to do so will require the satisfaction of many conditions, the occurrence of a number of events outside its control and the continued cooperation of a diverse creditor body over a long period of time.

A few of the key contingencies are set forth below:

Creditor Participation. At present, creditors representing approximately 30% of outstanding PREPA debt are not party to the RSA. In order to consummate the bond exchange contemplated by the RSA, additional bondholders (who are not parties to the RSA now) holding more than $2 billion in bonds (i.e., all but $700 million) must voluntarily choose to exchange their existing bonds for securitization bonds at a discount. If these holders do not choose to exchange their bonds, the deal will not work for PREPA, and the parties will be forced to return to the drawing board in hopes of developing a new, workable restructuring plan. The availability of a legal mechanism such as the federal Bankruptcy Code would ensure 100% participation among existing bondholders because a supermajority of bondholders could bind holdouts. In addition, it would greatly increase the odds that PREPA would be able to implement its deal, particularly given its existing widespread support among key creditor groups.

Securitization Bond Rating. Pursuant to the RSA, the creditors required that the new securitization bonds to be issued in the exchange offer must receive an investment grade rating from a recognized rating agency. While the restructuring transactions are designed to maximize the new securitization bonds' rating, achievement of an investment grade rating will likely depend at least in part on the rating agencies' views of the overall financial situation of Commonwealth of Puerto Rico and its instrumentalities. Without the legal guard rails that would be provided by access to a federal court, it is difficult to see how 18 different issuers in the Commonwealth will resolve their financial distress. A disorderly, litigious, and drawn-out process will jeopardize our ability to execute our deal.

Commonwealth Legislation. Under the terms of the RSA, the Commonwealth must enact legislation that is acceptable to the RSA creditors in accordance with the RSA. This legislation must include, among other things, a legal framework for the issuance of securitization bonds and certain noneconomic terms relating to such bonds as well as governance reforms to depoliticize PREPA, allow it to function like a modern utility and implement long-term operational savings and reforms. The legislation will also authorize and set forth a structure for a transparent process to allow third party investors to submit competitive bids to invest in PREPA's infrastructure, and is currently pending before Puerto Rico's Legislative Assembly.

Securitization Bond Validation Process. The RSA requires that the new securitization bonds be validated by a Commonwealth court pursuant to a newly-established process, which may itself be the subject of a court challenge. This is necessary because PREPA does not have access to a federal bankruptcy court to confirm a debt adjustment plan for PREPA. The benefits of plan confirmation are therefore another way in which access to a federal court process could facilitate and expedite PREPA's restructuring efforts. A federal court order approving the validity and enforceability of the securitization bonds would also be helpful to the rating agency process.

Conclusion

PREPA and its advisors continue to work tirelessly to close the restructuring transactions in the RSA. Fixing PREPA's capital structure is but one element of PREPA's overall transformation, but doing so is a necessary predicate to all of the other work PREPA is doing to modernize Puerto Rico's generation, transmission and distribution capacity for the long-term benefit of its people and the Puerto Rico economy.

The recent announcement of the RSA in late December 2015 shows that PREPA and a significant portion of its creditors can work together to craft a comprehensive solution. It remains unclear whether PREPA will be able to execute on its restructuring transactions despite the support of 70% of its creditors. In many ways, the RSA is a tenuous agreement, filled with process checkpoints, creditor termination rights and other conditions that may not be satisfied, despite PREPA's best efforts. Access to a restructuring regime would allow PREPA to implement the restructuring contemplated by the RSA, without so many contingencies and open issues. In fact, the RSA contemplates implementing the restructuring transactions by using the federal Bankruptcy Code or a proceeding pursuant to Puerto Rico's local restructuring law, if either becomes available to PREPA.

If PREPA cannot execute on the RSA, agreed-upon creditor concessions will be lost and the governance improvements, cost savings measures and capital projects that form the core of PREPA's recovery plan will not go forward. In addition, the cost of energy to the people and businesses of Puerto Rico – who already face a financial crisis – would increase dramatically. This would have a tremendously adverse impact on the people and economy of Puerto Rico. Creditors would begin to take enforcement actions against PREPA, and fuel and other suppliers would tighten credit terms and refuse to deliver goods. PREPA could be forced to ration its existing fuel supply and employ rolling blackouts, and its ability to carry out core functions such as meeting payroll, and conducting critical maintenance on plants and distribution networks, would be in doubt.

The stakes are high, and have real human consequences. It goes without saying that electricity is the lifeblood of the Commonwealth. Any interruption in service would severely threaten the public health, safety and welfare of the Commonwealth and its people and could jeopardize other economic development and growth initiatives the Commonwealth is currently pursuing. For these reasons, we believe that consummating PREPA's restructuring transactions is critical to maintaining and protecting the social and economic health and well-being of the Commonwealth and its people.

I would like to thank the subcommittee for giving me the opportunity to participate in this hearing on behalf of PREPA.