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Recognizing the need for a sustainable, economically viable, and fair debt restructuring plan for the Puerto Rico Electric Power Authority.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2023

Mr. MENENDEZ (for himself and Ms. WARREN) submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources

CONCURRENT RESOLUTION

Recognizing the need for a sustainable, economically viable, and fair debt restructuring plan for the Puerto Rico Electric Power Authority.

Whereas the electrical system of Puerto Rico has been fragile and suffered from a lack of investment for years, since well before Hurricane María destroyed the system in 2017;

Whereas, despite local and Federal efforts to rebuild the electrical grid of Puerto Rico, that electrical grid remains extremely fragile and vulnerable;

Whereas, in September 2022, category-1 Hurricane Fiona triggered an island-wide blackout for 1,500,000 customers;

Whereas the population of Puerto Rico, the median household income of which is less than $\frac{1}{2}$ of that of the population of the poorest State, pays among the highest electric rates in the United States;

Whereas the transition to renewable energy is key to reducing electric rates in Puerto Rico by eliminating dependence on imported, price-volatile fossil fuels, which constitute up to 60 percent of the budget of the Puerto Rico Electric Power Authority (referred to in this preamble as the “PREPA”), but currently only 3 percent of the energy on the island of Puerto Rico comes from clean sources;

Whereas, between 1974 and 2016, the PREPA made numerous bond issuances pursuant to the Trust Agreement between the Puerto Rico Water Resources Authority and First National City Bank dated January 1, 1974, reaching \$8,300,000,000 in outstanding bond debt;

Whereas the PREPA is considered to have the largest debt of all public entities in Puerto Rico;

Whereas the retirement system of the PREPA warned that, by April 2023, it would run out of funds to cover the obligations owed to its nearly 12,000 pension holders, and has yet to articulate a plan that ensures future monthly payments for retirees;

Whereas, in July 2017, the Financial Oversight and Management Board for Puerto Rico (referred to in this preamble as the “FOMB”) filed a petition pursuant to title III of the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2161 et seq.), commencing a debt adjustment proceeding for the PREPA;

Whereas, in 2019, the FOMB negotiated an agreement with bondholders that would have resulted in a 10- to 16-per-

cent increase over current electric rates for the following 47 years;

Whereas that agreement was ultimately rejected in 2022 by the local legislature and Governor of Puerto Rico, who recognized that the agreement was unaffordable and would impose costs that would undermine the recovery and future economic growth of Puerto Rico;

Whereas, on December 16, 2022, the FOMB filed a new restructuring plan for the PREPA that proposes to reduce almost $\frac{1}{2}$ of the debt of the PREPA and impose a “legacy charge” for consumers who do not benefit from subsidized electric rates;

Whereas that plan was amended on February 9, 2023, advocating for the issuance of \$5,700,000,000 in bonds, or \$13,000,000,000 over 35 years with accrued interest, to partially compensate the creditors of the PREPA, including bondholders;

Whereas the debt service on the new bonds will be paid off via the “legacy charge”, which includes both fixed monthly charges and charges that depend on the consumption of electricity;

Whereas the estimated “legacy charge” for nonexempt, residential customers would, on average, be around \$19 per month;

Whereas the fixed charge would be between \$16 and \$1,800 per month for commercial and industrial customers;

Whereas those charges represent an increase in monthly bills for average residents and small businesses of 12 to 13 percent, on top of rates that are already double the average price for electricity in the continental United States;

Whereas, according to estimates by small business representatives in Puerto Rico, once the increases in energy bills under the current restructuring plan are enforced, nearly 12,000 small businesses would be forced to close, a number 3 times higher than in 2020, a year marked by the onset of the Coronavirus Disease 2019 (COVID-19) pandemic;

Whereas, according to the 2017 testimony of Andrew Wolfe, an economic expert representing the FOMB, those increases would “eventually contribute to a downward economic spiral that would result in Puerto Rico returning to a path of declining economic activity, which would in turn adversely impact the demand for electricity and in the end lead to another debt service payments crisis for PREPA”;

Whereas the FOMB proposes to raise electric rates in Puerto Rico in spite of a prior economic analysis of the FOMB showing that electric rates in Puerto Rico are unsustainable at current levels;

Whereas, in 2022, Congress passed the Puerto Rico Recovery Accuracy in Disclosures Act of 2021 (Public Law 117-82; 48 U.S.C. 2178) to impose disclosure requirements on all of the advisers and consultants of the FOMB, closing the loophole in the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2101 et seq.) that has disadvantaged the people of Puerto Rico in the debt restructuring process for the island;

Whereas, in 2022, the Wall Street Journal reported that stakeholders hired to consult on the bankruptcy proceedings for Puerto Rico initially failed to disclose connections to companies involved in the PREPA debt re-

structuring deal, raising the potential for conflicts of interest;

Whereas the latest restructuring plan for the PREPA filed by the FOMB does not represent a “durable solution for Puerto Rico’s fiscal and economic crisis [including] permanent, pro-growth fiscal reforms”, as instructed by Congress in title VII of the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2241);

Whereas, in June 2023, the United States District Court for the District of Puerto Rico suspended the proceedings to evaluate and confirm that latest restructuring plan; and

Whereas, on June 23, 2023, the FOMB filed a 2023 Certified Fiscal Plan for the PREPA acknowledging that the latest proposed restructuring plan is not sustainable, and announced that it would present an amended restructuring plan for the PREPA by July 14, 2023: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring), That Congress—*

3 (1) recognizes that the debt adjustment pro-
4 ceeding for the Puerto Rico Electric Power Author-
5 ity (referred to in this resolution as the “PREPA”)
6 has been and continues to be of great interest to
7 Puerto Ricans and to Congress;

8 (2) recognizes that the continuity of
9 unsustainable electric rates will result in—

10 (A) accelerated out-migration from the is-
11 land of Puerto Rico; and

1 (B) business closures and unemployment
2 in Puerto Rico;

3 (3) recognizes that the continuity of
4 unsustainable electric rates will further shrink the
5 demand-base and revenues of the PREPA, increas-
6 ing pressure on the electrical system to cut labor
7 and maintenance costs and inhibiting the reconstruc-
8 tion of the system and the transition to renewable
9 energy;

10 (4) urges the Financial Oversight and Manage-
11 ment Board for Puerto Rico to put forth a restruc-
12 turing plan for the PREPA that—

13 (A) is economically viable for the PREPA,
14 customers of the PREPA, and PREPA retirees;

15 (B) allows for the rehabilitation of the
16 electrical system of Puerto Rico; and

17 (C) does not impose additional increases to
18 electric rates for residents, business owners,
19 and users of the electric grid; and

20 (5) reaffirms the intent of Congress to create
21 “durable solution[s] for Puerto Rico’s fiscal and eco-
22 nomic crisis” through the adoption of “permanent,
23 pro-growth fiscal reforms”, as stated in title VII of

1 the Puerto Rico Oversight, Management, and Eco-
2 nomic Stability Act (48 U.S.C. 2241).

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