



August 30, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Department of Homeland Security
MS 0525
2707 Martin Luther King Jr Ave SE
Washington, DC 20528-0525

Dear Secretary Mayorkas,

On behalf of the undersigned organizations and individuals, we write to you in your capacity as a member of the White House Task Force on Puerto Rico and the member of the President's Cabinet ultimately responsible for the actions taken by the Federal Emergency Management Agency (FEMA). We are concerned that FEMA has made decisions and taken actions regarding Puerto Rico's recovery that are inconsistent with local and federal law and policy, and that will threaten the lives and livelihoods of the more than 3 million American citizens living there for the foreseeable future. **We ask that you review the planned use of federal disaster recovery funds to perpetuate the reckless and short-sighted decision-making that has made Puerto Rico's energy system dangerously unreliable, and ensure that FEMA uses this historic investment of public dollars to support life-saving rooftop solar, battery energy storage systems, and similar alternatives.**

This matter requires your immediate attention, because this past June, FEMA inexplicably found that the massive effort to rebuild the electric system, including building multiple new gas-fired power plants and the centralized transmission system that enables the operation of large fossil-fired plants, will not require an Environmental Impact Statement under the National Environmental Policy Act. In arriving at this determination, FEMA unlawfully and irresponsibly failed to give fair consideration to reasonable alternatives to fossil-fired generation and centralized transmission such as decentralized renewable energy systems like rooftop solar, battery energy storage, and other options.

As you are no doubt aware, after an unacceptable delay in providing desperately needed aid to support the island's recovery, FEMA finally earmarked \$9.6 billion for rebuilding Puerto Rico's battered and aging electric system last fall. However, the manner in which Puerto Rican officials propose to use these taxpayer dollars will restore and prop up a transmission system that has failed repeatedly to weather the Caribbean's increasingly frequent hurricanes and

earthquakes, and will continue Puerto Rico's dependence on imported fossil fuels for a generation or more. For example, the 10 Year Infrastructure Modernization Plan (10 Year Plan) submitted to FEMA in December 2020 earmarks \$853 million of the available funding be directed toward the construction of new natural gas generation infrastructure, despite the demonstrated vulnerability of such plants to seismic activity over the past 18 months. This proposed allocation is not aligned with the Puerto Rico Renewable Portfolio Standard and the twenty-year Integrated Resource Plan adopted by the Puerto Rico Energy Bureau in August 2020.

The 10 Year Plan submitted to FEMA represents an unacceptable waste of public dollars and undermines the Biden Administration's goals, as expressed in executive orders 14008 "on tackling the climate crisis at home and abroad" and 13990 on "protecting public health and the environment and restoring science to tackle the climate crisis." It is also inconsistent with local statutes such as the 2019 Puerto Rico Climate Change Mitigation, Adaptation and Resiliency Act and the Puerto Rico Energy Public Policy Act, which require that the Puerto Rico Electric Power Authority (PREPA) obtain 20% of its electricity from renewable resources by 2022, 40% by 2025, 60% by 2040, and 100% by 2050. PREPA must also phase out coal-fired generation by 2028. PREPA's proposed approach to infrastructure modernization fails to meaningfully advance these mandates and represents more of the failed thinking that has led to repeated blackouts and brownouts in the archipelago for the past 30 years. Moreover, if FEMA directly or indirectly supports the 10 Year Plan as proposed, it will be aiding and abetting PREPA's blatant and unlawful undermining of Puerto Rico's renewable energy mandates.

Multiple studies, including by the U.S. Department of Energy's National Renewable Energy Laboratory, have established Puerto Rico's huge potential for the rapid and widespread deployment of distributed renewable energy, particularly rooftop solar plus battery storage. And yet, even after Hurricanes Irma and Maria caused the longest and deadliest blackout in U.S. history, FEMA appears poised to support a backward-looking strategy that will further impoverish and endanger some of the poorest and most vulnerable Americans. Rather than continuing to depend on a vulnerable and expensive transmission system to bring power across the mountains from low-lying coastal areas in the South to the densely populated North, the Biden Administration should support more resilient, less expensive, and more reliable approaches such as rooftop solar and storage.

Even though rooftop solar has the potential to provide four times the island's residential electricity needs, solar energy only makes up 1.4% of the power generated annually. For a locale that gets more than 3000 hours of sunshine a year, this percentage borders on the absurd, and speaks to the history of mismanagement, corruption, and poor planning that has plagued Puerto Rico's energy sector. The median household income in Puerto Rico is less than one third that of the United States, the poverty rate is 44.9% while the average electricity rates in Puerto Rico are double those of the United States.

While we are heartened by FEMA's position that nothing in its governing statutes and regulations prohibits PREPA from investing in renewable generation and storage as part of its rebuilding and recovery efforts, the truth is that all projects receiving FEMA funds must comply with NEPA and the agency's Environmental and Historic Preservation review process.

Therefore, FEMA has the discretion to ensure that the use of federal recovery funds complies with applicable executive orders, federal environmental laws, and existing Puerto Rican legal mandates related to renewable energy. Failure to do so represents an abrogation of the agency's legal and moral responsibilities. Given this, FEMA's finding that the implementation of PREPA's nearly \$10 billion dollar plan to modernize Puerto Rico's energy system will have no significant impact on the environment is bewildering. At a minimum, this finding fails to adequately consider the environmental and health impacts of the proposed gas plants and transmission projects, much less the longer-term impacts on the global effort to address human-driven climate change. FEMA must require an Environmental Impact Statement to examine these specific projects before funding them, especially since the Puerto Rico Department of Natural and Environmental Resources is categorically prevented from reviewing many of them.

PREPA's current spending plan, which has been endorsed by the Fiscal Oversight and Management Board, assumes that the large investment of federal funds to rebuild the electricity grid in the same vulnerable way will spur economic growth on the island. However, this is a short-sighted fallacy. Time and again, when natural disasters have damaged the grid, it has been off-island firms that have derived the greatest economic benefit from the efforts to rebuild it. Luma Energy – a joint venture between one of the largest U.S. transmission and distribution corporations and a large Canadian utility – is but the latest example of that dynamic. FEMA should ensure that billions of federal dollars are not wasted in a risky and environmentally damaging effort to rebuild a poorly designed, centralized grid that will fail catastrophically again via the contract with LUMA Energy that essentially privatizes the island's transmission and distribution system. The LUMA contract, which was negotiated in the final months of the previous administration in a bid to access billions in federal recovery funding, lacks any provisions to promote compliance with local and federal renewable energy mandates and was recently modified with no public notice or review, effectively granting LUMA Energy near total control of the Puerto Rican electric system.

Recently, the Intergovernmental Panel on Climate Change (IPCC) released its most sobering report yet. The IPCC states in no uncertain terms that unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1.5°C or even 2°C will be beyond reach. No matter what we do at this point, there will be increasing heat waves, longer summers and shorter winters, and if we are foolish enough to allow global temperatures to increase by 2°C over the pre-industrial era, we will reach heat extremes that will be devastating for agriculture and public health. We will experience more intense flooding and droughts and more frequent and powerful storms. The IPCC report states that extreme sea level events that previously occurred once in 100 years could happen every year by the end of this century. Puerto Rico and its people will be on the frontlines of nearly all of these terrible consequences of our civilization's continued addiction to fossil fuels.

As the Secretary of Homeland Security, you have a singular opportunity to ensure that this once-in-a-lifetime investment of public dollars helps achieve a reliable, decentralized, clean and affordable electric system in Puerto Rico. Puerto Rico has endured a particularly challenging series of natural disasters over the past few years, from Hurricanes Irma and Maria in September 2017 to a 6.4 magnitude earthquake in January 2020 that heralded a new period of seismic activity. In light of these challenges, doubling down on the failed approaches of the past

and taking the path of least bureaucratic resistance would be a historic mistake. **We ask that you intervene in this matter to prevent FEMA from funding the vicious cycle of repair, destruction, and reconstruction that has plagued Puerto Rico's energy infrastructure for generations.**

Sincerely,