

PRIVILEGED AND CONFIDENTIAL

**P3A T&D TRANSFORMATION –
CLARIFICATIONS TO PSEG PROPOSAL**

	Topic	Clarification/Question	PSEG Puerto Rico Comments
Form 1.3 – Confirmation of Acceptance of O&M Agreement			
1	Initial Budget and Performance Metrics <i>(PSEG Issue 2.a)</i>	<p>We understand that PSEG is proposing that if PSEG does not agree with the Initial Budgets and Performance Metrics approved by PREB, then PSEG has the right to terminate the O&M Agreement. Please confirm. In addition, please confirm that no termination fee would be payable by Owner pursuant to Section 14.6(c) in the event of such termination.</p>	
2	Vegetation Management Plan <i>(PSEG Issue 2.b)</i>	<p>We understand that PSEG intends to propose a plan for the performance of vegetation management work over a 4-year period. Please indicate:</p> <ol style="list-style-type: none"> 1. when PSEG intends to propose such plan; 2. how such plan would be different from the vegetation management plan currently completed in the O&M Agreement; and 3. to what extent completion of the vegetation management plan would postpone Operator’s liability under the O&M Agreement (as is the case for the System Remediation Plan). <p>In addition, if (i) PREB were not to approve the vegetation management plan as proposed by PSEG and (ii) PSEG were to terminate the O&M Agreement, please confirm that no termination fee would be payable by Owner pursuant to Section 14.6(c) in the event of such termination.</p>	

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3	Technical Disputes <i>(PSEG Issue 4)</i>	PSEG has proposed that Technical Disputes be resolved in a neutral venue such as New York. Given that all records and personnel related to the T&D System will be in Puerto Rico, please indicate how the parties would be able to ensure expedited decision-making with respect to Technical Disputes if done outside of Puerto Rico.	
4	Capped Payment Guarantee <i>(PSEG Issue 5)</i>	Please indicate a proposed amount for the maximum liability cap under the Guarantee.	
5	Limitation on Liability <i>(PSEG Issue 7.b)</i>	The caps in Section 18.3(a)(i) are caps on Operator’s liability to Owner Indemnitees under Article 18, rather than a total cap on amounts payable by Operator to Owner under the O&M Agreement. The O&M Agreement contains two additional and separate caps on amounts payable by Operator to Owner: (i) pursuant to Section 4.8(a), a cap on the amount of Delay Liquidated Damages and (ii) pursuant to Section 14.6(d)(i), a cap on damages in connection with a termination for an Operator Event of Default. The three separate caps together represent the total liability under the O&M Agreement (other than in the case of gross negligence or willful misconduct by Operator). Please confirm PSEG’s Definitive Proposal reflects this structure.	
6	Definition of Pre-Existing Environmental Condition <i>(PSEG Issue 8.a)</i>	We understand PSEG is proposing that the definition of Pre-Existing Environmental Conditions be expanded to include all pre-existing non-compliant conditions (rather than being limited to conditions involving discharges). Please confirm whether the intent of this proposed change is to clarify that Owner is responsible for penalties associated with pre-existing environmental violations. If so, we would propose to address	

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		this in Section 18.2 rather than in the definition of Pre-Existing Environmental Condition.	
7	Environmental Baseline Study <i>(PSEG Issue 8.b)</i>	We understand PSEG proposes to review and comment on the scope and final report of the Environmental Baseline Study, but notes that this would not be deemed to constitute approval by PSEG of the Environmental Baseline Study. Please note that the proposed scope of the RFP for the Baseline Environmental Study was included in the data room in order for Qualified Respondents to provide comments.	
8	Ability to Terminate Due to Change in Law <i>(PSEG Issue 9)</i>	<p>Please advise why a termination right with respect to Change of Law is required given that Change in Law is treated as a Force Majeure Event, and any costs associated with a Change in Law are T&D Pass-Through Expenditures and may potentially result in an amendment to the Budgets and/or the Performance Metrics where appropriate.</p> <p>In addition, please confirm that:</p> <ol style="list-style-type: none"> 1. the reference to “18 months” refers to Section 14.5(c) <i>(Additional Termination Rights – Extended Force Majeure Event)</i>; and <p>the reference to “4 months” refers to the 120-day period in Section 17.2(c) <i>(Relief – Extended Event)</i>.</p>	
9	The O&M Agreement and PREB <i>(PSEG Issue 10)</i>	We understand that PSEG is proposing a new termination right in the event that PSEG and PREB fail to agree on whether actions taken by PREB meet the standard of (i) enabling PSEG to meet its obligations to provide the O&M Services and (ii) providing PSEG with a reasonable opportunity to earn the Service Fee in full. Please confirm whether PSEG’s intent is that if PREB comments on, modifies or rejects any item submitted to PREB for review and/or	

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		<p>approval, then such comments, modifications and/or rejection would be considered a disagreement pursuant to which PSEG could exercise such termination right. If so, please explain how PREB would exercise its oversight as independent regulator.</p> <p>In addition, please confirm that no termination fee would be payable by Owner pursuant to Section 14.6(c) in the event of such termination.</p>	
10	<p>Use of PSEG Affiliates for O&M Services <i>(PSEG Issue 13)</i></p>	<p>The O&M Agreement (i) permits Operator’s use of affiliate personnel to provide O&M Services on arms-length terms and (ii) provides that Operator is responsible for such affiliate personnel. We assume that Operator would be comfortable bearing the risk of such affiliate personnel given that, as discussed, the O&M Agreement requires Operator to take the risk with respect to any third-party subcontractors. Please explain why treating affiliate personnel as Subcontractors under the O&M Agreement would impact Operator’s ability to fully utilize the capabilities of PSEG and its affiliated companies.</p> <p>In addition, please confirm how Operator intends to ensure that any services provided by PSEG and its affiliate companies with respect to responsibilities of ManagementCo under the O&M Agreement (e.g., capital planning) and covered by the Service Fee will not be charged as or considered T&D Pass-Through Expenditures.</p>	

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11	Use of Quick Start Team and Fee at Risk Until Effective Date <i>(PSEG Issue 14)</i>	<p>We understand PSEG proposes to start work immediately if it is the Selected Proponent and prior to the Effective Date. Please confirm when PSEG would propose to begin such work and whether compensation for such work would be structured in the same manner as the Front-End Transition Service Fee.</p>	
12	Minimum Performance Threshold Default <i>(PSEG Issue 15)</i>	<p>The O&M Agreement contemplates that the Performance Metrics would be (i) agreed to during the Front-End Transition Period and (ii) applicable as of the Service Commencement Date. Please clarify PSEG's comment suggesting that the Key Performance Metrics will not be set until after two Contract Years of operations.</p>	
13	Review Cycle Time During Front-End Transition <i>(PSEG Issue 23)</i>	<p>We understand PSEG proposes that the review by Administrator and PREB of items that require such review under the O&M Agreement be done in parallel. Please confirm how PSEG would propose to handle comments from Administrator under this scenario (e.g., would Administrator's comments be incorporated together with comments from PREB?).</p>	

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14	Conforming Changes <i>(PSEG Introduction and Issue 24)</i>	<p>PSEG indicated that Attachment A to its Definitive Proposal Form 1.3 only includes its material comments with respect to the O&M Agreement, and we understand PSEG would expect to provide additional changes and clarifications. Please indicate when PSEG intends to provide such comments to the O&M Agreement.</p> <p>In addition, please advise as to PSEG’s specific questions with respect to the treatment of certain taxes.</p>	
Form 1.4 – Approach to O&M Services			
15	Key Personnel	How close are you to filling key roles and are resumes available?	

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16	O&M Approach	With respect to PSEG Puerto Rico's response to 1.4.1, please explain the key areas in which PSEG Puerto Rico's approach to O&M services in the PREPA context is expected to differ from its approach in the LIPA context.	
Form 1.5 – Front-End Transition			
17	Outside Services (pg. 132)	What firms does PSEG intend to use to provide the outside services related to the Front-End Transition Plan, which total \$25mm? Please also see question 37.	

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18	Quick Start FTEs	Do 8 – 10 quick start FTEs stay through full Front-End?	
19	Quick Start FTEs	How are the 30 – 50 PREPA FTEs costs covered – do not appear to be in the proposal?	
20	Front-End Transition Team Gating Uncertainties	Please explain, in response to 1.5.1.c, what “uncertainties associated with this opportunity” must be resolved to enable PSEG Puerto Rico to name a full Front-End Transition Team and “Quick Start” team and how soon these teams would be assembled and deployed if PSEG Puerto Rico were selected.	

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21	Front-End Due Diligence	With respect to PSEG Puerto Rico’s response to 1.5.2, please explain the extent of PSEG Puerto Rico’s due diligence of the PREPA T&D System prior to its Definitive Proposal submission in response to this RFP that would minimize the required due diligence during the Front-End Transition.	

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22	Front-End Expenses	What are the major categories for expenses expected to be incurred during the Front-End Transition?	
23	Front-End Employee Hours	Please provide envisioned hours per each Front-End Transition employee associated with 1.5.C Front-End Transition Schedule in the Appendices.	
24	Outside Services	Please provide an explanation as to what the referenced “outside services” represent. Which areas of the Front-End Transition will be covered by the referenced “outside services”? What are the approximate FTEs envisioned for “outside services”?	
25	Employee Requirements	What are the major risks associated with the Front-End Transition employee and subcontractor requirements? Please also provide total cost assumptions and a completion schedule for the employee and subcontractor requirements.	

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26	System Remediation Milestones	Please provide additional detail to supplement PSEG Puerto Rico's response to 1.5.3: System Remediation Plan Milestones with emphasis on how the program will be designed.	

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27	Parent Company Resources	Does PSEG Puerto Rico intent to make the parent company resources available for storm and emergency restoration? If so, what constraints would govern this transaction?	
Form 1.6 – Operator Recruitment and Staffing			
28	Storm Restoration Services	Please clarify whether Table 1.6.1 represents “services that would typically be outsourced services for storm restoration” or a broader list of outsourced services used in normal course business.	
29	Existing Labor Contract Due Diligence	With respect to PSEG Puerto Rico’s response to 1.6.2.c – 1.6.2.e, please explain the extent of PSEG Puerto Rico’s due diligence of existing PREPA labor contracts and benefits which will reduce PSEG Puerto Rico’s due diligence requirement during the Front-End Transition.	
30	Pension / Benefit Due Diligence	In addition, explain the way in which due diligence undertaken during the Front-End Transition Period would influence your approach to items 1.6.2.c – 1.6.2.e, including CBAs and pension and benefit plans.	

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31	Management Company Structure	What is the anticipated cost of the Management Company structure proposed in 1.6.1 and what is the anticipated timeframe for selecting personnel dedicated to the Management Company?	
Form 1.7 – Approach to Performance Metrics			
32	Performance Metric Calculation	Please elaborate on how the combination of original performance metrics and maintenance metrics calculation methodologies interact as is found in section 1.7.7. (Can incentive exceed 150%?)	

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33	Performance Metric Timeline	Provide rationale for the proposed time periods for baseline, target and minimum performance levels proposed in 1.7.7 and explain whether PSEG Puerto Rico views the timelines proposed in Annex VIII of the O&M Agreement as achievable. In addition, explain how the Year One and Year Two Incentive Methodology proposed in 1.7.1 interacts with the time periods proposed.	
34	Performance Metric Calculation	Please clarify PSEG Puerto Rico's suggestion for the Year One and Year Two Incentive Methodology, with particular emphasis on how "Milestones Achieved" in Table 1.7.3 were calculated and how the "Scoring Parameters" mapping in Table 1.7.2 was derived.	

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35	Baseline Metrics	Please provide additional details of how PSEG Puerto Rico proposes to test whether Baseline Performance Levels are valid or invalid during the Front-End Transition timeframe and again during the proposed Year One and Year Two Incentive Methodology period.	
36	Metric Reset	Does PSEG Puerto Rico envision, in its proposed Year One and Year Two Incentive Methodology, that performance targets and incentive fees would be reset following this two-year period?	
Form 1.8 – Operational and Finance			
37	Management Co Expenses (p. 71)	Does the PSEG team have a breakdown of the ManagementCo costs to be incurred during the Front-End transition (the \$32mm estimate)? Are these third party costs, and if so, which firms does PSEG intend to use?	
38	Back-End Rate Escalation (pg. 74)	For the Back-End transition fully allocated rates, at what rate were the 2020 rates escalated as to estimate the 2035 rates?	
39	Confirmation of Amounts	PSEG to confirm the following amounts that were found in PowerAdvocate, but didn't appear to be in Section 1.8:	

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		<ul style="list-style-type: none"> • Operator Liability Cap (Both per annum and aggregate over contract term) • Outage Reserve Account • Operator Damage Cap 	
40	Back-End Transition Fee and Termination Payments	Please explain how the following amounts proposed by PSEG were derived and why such amounts are appropriate: (i) the Back-End Transition Service Fee, (ii) the Operator Termination Fee and (iii) the Owner Termination Fee.	