

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

June 15, 2017

Mr. José B. Carrión III
Chairman
Financial Oversight and Management Board of Puerto Rico
PO Box 192018
San Juan, PR 00919-2018

Dear Chairman Carrión:

I appreciate the conversations we have had in regards to the implementation of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”). However, the Oversight Board’s inaction concerning the approval of the Puerto Rico Electric Power Authority (“PREPA”) restructuring support agreement (“RSA”) has become problematic with my colleagues. It appears there is no consensus from the Oversight Board in favor of certifying the PREPA RSA under Title VI of PROMESA. This is troubling, as the decision to implement the RSA had already been made by Congress with the passage of PROMESA. The Oversight Board’s dilatory tactics run counter to the plain language of PROMESA.

Section 104(i)(3) of PROMESA expressly deems “[a]ny voluntary agreement . . . executed before May 18, 2016” as “conform[ing]” to the requirements of Section 104(i). These substantive requirements are expressly outlined in paragraphs 1 and 2 of that subsection, and include the need to develop a fiscal plan and a determination that a sustainable level of debt is achieved. Furthermore, the RSA qualifies for certification under Section 601(g)(2)(B), which recognizes those preexisting agreements “consistent with a restructuring support or similar agreement to be implemented pursuant to the law of [Puerto Rico]” that was “executed . . . prior to the establishment of [the] Oversight Board.” In drafting these provisions, Congress intended the protection and preservation of any consensually negotiated, voluntary agreements prior to the enactment of PROMESA. The PREPA RSA is the only such agreement. Therefore, the passage of PROMESA obviated the need for any substantive action or oversight of the RSA by the Oversight Board. The ongoing actions taken by the Oversight Board towards the RSA, including the development of a Fiscal Plan and subjecting the RSA thereto, are outside the scope of the Oversight Board’s powers and a violation of PROMESA.

Chairman Carrión

June 15, 2017

Page 2

If the Oversight Board is seeking to circumvent the requirements of PROMESA and asserting a right to review the RSA under Section 207; such assertion is wrong. While Section 207 does authorize review for the issuance of new debt, it does not allow for the review of debt pre-approved by the statute, of which the debt issuance contemplated by the RSA is. This is apparent in the explicit waiver by Section 104(i)(3) of all oversight duties otherwise required by Section 104(i). This subsection was included as part of the process to reach a bipartisan consensus. Congress could have provided oversight functions of preexisting agreements, but chose not to in order to promote consensual debt resolutions.

Members of Congress watching the Oversight Board's actions express concern with the continued failure of the Oversight Board to act on the PREPA RSA. The fear is it will result in severe, adverse effects for the island including: a dampening of the Board's ability to negotiate in good faith with creditors and the erosion of Congressional confidence in the Oversight Board.

To maintain an open and transparent line of communication regarding the status of Puerto Rico's financial affairs, I ask that any decision made in the forthcoming days by the Oversight Board, including those not related to the RSA, be explained in writing and transmitted to this Committee. I hope the utmost care and deliberation are being taken into consideration by all Oversight Board Members as they pertain to the future of the island's power generation, and the adherence to the explicit text and statutory intent of PROMESA.

Sincerely,



Rob Bishop

Chairman

Committee on Natural Resources

Cc:

Andrew G. Biggs, Member, Financial Oversight and Management Board of Puerto Rico

Carlos M. García, Member, Financial Oversight and Management Board of Puerto Rico

Arthur J. González, Member, Financial Oversight and Management Board of Puerto Rico

José R. González, Member, Financial Oversight and Management Board of Puerto Rico

Ana J. Matosantos, Member, Financial Oversight and Management Board of Puerto Rico

David A. Skeel, Member, Financial Oversight and Management Board of Puerto Rico