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FEATURED Q&A

Will Puerto Rico's Plan for Privatizing PREPA Succeed?



Puerto Rico Governor Ricardo Rosselló has called for the privatization of the island's power utility, PREPA. // File Photo: Commonwealth of Puerto Rico.

Q With nearly one-third of Puerto Rico still without power after Hurricane Maria struck the island last September, Governor Ricardo Rosselló announced in January that his administration would seek to privatize bankrupt public power utility PREPA, the Puerto Rico Electric Power Authority. Will the plan to privatize PREPA succeed? What lessons from past privatizations of state power monopolies elsewhere in the world could help Puerto Rico avoid pitfalls in the process? Will privatizing the utility capture the sort of investment the commonwealth's energy sector needs? Should consumers expect improved services and lower rates soon?

A Efraín O'Neill-Carrillo, professor in the Electrical & Computer Engineering Department and director of the Power Quality & Energy Studies Laboratory at the University of Puerto Rico-Mayagüez: "Strong economic forces have been behind this for years. However, Puerto Rico's credibility is at its lowest point in decades. The threats to dilute the regulatory framework, restructuring plans and the sale of assets have created much uncertainty and have increased investment risk. However, Title V of the Promesa Act, which the U.S. Congress approved, encourages critical projects based on private generation. Financial difficulties have become an excuse to expand fossil-fuel dominance. Two failed privatization efforts in the Puerto Rico Aqueduct and Sewer Authority proved that private management does not necessarily solve infrastructure-related ailments. Even if billions of dollars are poured into the electric infrastructure, the electricity sector

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TODAY'S NEWS

BUSINESS

Siemens Plans \$1.24 Billion in Brazil Investments

The German conglomerate said it will triple its rate of investment in Brazil and plans to work on developing Brazil's productivity and digitalization.

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ECONOMIC

E.U. Finance Ministers Add Islands to Blacklist

European Union finance ministers added the Bahamas, the U.S. Virgin Islands and Saint Kitts and Nevis to a blacklist of tax havens. The move drew criticism from officials in the blacklisted islands and may affect correspondent banking relationships.

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POLITICAL

Venezuela Arrests Ex-Minister Who Broke With Gov't

Venezuelan government agents arrested Miguel Rodríguez Torres, a former interior minister who was abruptly fired in 2014 and became a vocal critic of President Nicolás Maduro's government.

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Rodríguez Torres // File Photo: Venezuelan Government.

POLITICAL NEWS

Venezuela Arrests Ex-Minister Who Broke With Maduro

Venezuelan government agents on Tuesday arrested Miguel Rodríguez Torres, who had been the head of the country's secret police under late President Hugo Chávez and went on to become current President Nicolás Maduro's interior minister before being abruptly fired in 2014 and becoming a vocal critic of Maduro's government, *The New York Times* reported. In arresting Rodríguez Torres, the government alleged that he had planned "armed attacks and a conspiracy against the Constitution." Authorities also accused him of having ties to U.S. intelligence agencies and accused him of working with unnamed accomplices, raising the possibility that agents may arrest more people. Valentin Hereira, a member of Rodríguez Torres' political team, said Rodrí-

guez Torres had not been permitted to consult with a lawyer and that his advisors knew nothing about the charges against him other than what the government had announced in a televised statement. Rodríguez Torres was an early confidant of Chávez and participated in Chávez's failed coup attempt in 1992, after which Rodríguez Torres was imprisoned for two years. However, in recent years, Rodríguez Torres had become a vocal critic of Maduro, including during violent protests last year that called for Maduro's ouster. Rodríguez Torres said last year in an interview that he supported the protesters. "Protesting is a right," he said. "Who is not angry in this country? Who doesn't have to skip work now because they have to go searching for medicine? Who doesn't skip work because the minimum wage doesn't allow them to buy their most basic food?" Rodríguez Torres' arrest came two months before Venezuela's planned presidential election and amid criticism that Maduro has sought to consolidate power by arresting opponents. In a recent interview with *CNN en Español*, Rodríguez Torres was asked about the risks he

NEWS BRIEFS

Trump Inspects Border Wall Prototypes in California

U.S. President Donald Trump on Tuesday made his first visit to California since taking office in order to view prototype sections of an expanded border wall with Mexico, *National Public Radio* reported. "If you didn't have walls, you wouldn't have a country," Trump told reporters. The roughly 30-foot mockups have been funded with \$20 million from Customs and Border Protection. Congress has yet to allocate funds for the administration's proposed border security plan, which could cost up to \$38 billion by some estimates. Mexico has rejected Trump's claims that it will help pay for the project.

Siemens Plans \$1.24 Bn in Brazil Investment Over Next Five Years

Germany's Siemens said today it will triple its rate of investment in Brazil to \$1.24 billion over the next five years. The industrial manufacturing conglomerate also said it had signed a memorandum of understanding with Apex-Brasil, the Brazilian Trade and Investment Promotion Agency. The memo focuses on developing Brazil's infrastructure in the areas of energy, transportation and health care, while also supporting greater competitiveness for local industries through increased productivity, driven primarily by digitalization and enhanced energy efficiency.

Bank of China Gets Nod to Operate in Chile

Chile's banking regulator, SBIF, on Tuesday announced that it had approved Bank of China Limited to operate in the South American country, *Reuters* reported. The approval will make Bank of China the second Chinese-owned bank to operate in Chile, after China Construction Bank. China accounts for more than 20 percent of Chile's exports.

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may end up in the same place, or worse, because the electricity challenge in Puerto Rico is mainly social, not technological or economic. If Puerto Ricans cannot agree on minimal, common principles for the future of the electric power infrastructure, it will be very difficult to establish appropriate policies and a regulatory framework that can withstand changes in the governing party. An alternative to fossil-based privatization is facilitation of an aggressive increase in the use of residential, commercial and industrial rooftops to generate solar power. Those systems would be private, but they would empower users to take hold of their energy future. They support local socioeconomic development, whereas large power plants would continue siphoning money out. Any improvements to generation should be made to existing power plants in places that are already environmentally affected, giving the government leverage in negotiations with

potential investors. New, more flexible generators should be placed in existing sites and given a new role: facilitation of an increased use of renewable energy. However, there are no spaces to have a civilized, rational discussion about these and other options."

A **Rafael Cox Alomar, associate professor of law at the David A. Clarke School of Law at the University of the District of**

Columbia: "Privatization on its own will not solve Puerto Rico's chaotic energy crisis. Transitioning from a state-owned monopoly to a privately owned one will not by itself generate the required incentives for the structural re-engineering of the island's primitive energy sector. Hence, the success or failure of the government's strategy will depend on the specific privatization model ultimately selected. And by all means, the model Puerto Rico needs is one premised

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was taking by opposing Maduro's government. "If that earns me jail, the government will have to explain what it invented to imprison me," he said. The government did not provide any details of the charges against Rodríguez Torres or any evidence to support them, Reuters reported. The country's Information Ministry did not respond to a request from the wire service for comment.

ECONOMIC NEWS

European Union Adds Islands to Tax Haven Blacklist

Finance ministers of European Union countries on Tuesday added the Bahamas, the U.S. Virgin Islands and Saint Kitts and Nevis to an E.U. blacklist of tax havens, Reuters reported. Days ahead of the move, officials in the Bahamas said they were "blindsided" when they heard of the pending decision. Finance Minister K. Peter Turnquest on Friday complained that Europe's decision came despite the Bahamas signing on to the inclusive framework for the implementation of the Base Erosion Profit Shifting initiative with the Organization for Economic Co-operation and Development, the Bahamas Tribune reported. Ryan Pinder, a former Bahamas minister for financial services, told the Tribune that the blacklisting has "come out of left field" and could harm correspondent banking and custodial relationships.

BUSINESS NEWS

Pipeline Rupture Shuts Down Brazil Iron Ore Mine

Anglo American on Tuesday confirmed that a pipeline rupture has shut down its Conceição do Mato Dentro iron ore mine in Minas Gerais, the second major mishap for a mining company in Brazil this year, Bloomberg News report-

THE DIALOGUE CONTINUES

Is the OAS' Human Rights Court Getting Too Political?

Q **The rise of right-wing candidate Fabricio Alvarado Muñoz, who had been polling in the single digits but then emerged as the top vote-getter in the first round of Costa Rica's presidential election on Feb. 4, was seen as a backlash after the Inter-American Court of Human Rights made public a ruling that Costa Rica and other member countries must recognize same-sex marriages. Alvarado Muñoz has called the court's decision a violation of Costa Rica's sovereignty and has threatened to pull the country out of the court if elected. The court also recently held a hearing on the controversial pardon of former Peruvian President Alberto Fujimori. Is the court right to be ruling on such controversial issues, or should these decisions be left to individual countries? Should the court be more restrained in the timing of its rulings, so as not to influence elections? Is there a danger that countries will start pulling out of the IACHR over such rulings, and what are the consequences if they do?**

A **Daniel Cerqueira, senior program officer at the Due Process of Law Foundation:** "The side effects of a decision made by an international human rights body can be measured through different criteria, such as the merits of the ruling, its social and political impact and whether it is adopted in a timely manner. As to the merits of the court's

ed. No one was injured in Monday's rupture. While the company said it is trying to identify the cause of the spill and guarantee that it did not inflict serious environmental damage to the surrounding area and a nearby water supply, prosecutors said Tuesday they had initiated an investigation into spillage found in a stream, Reuters reported. Last month, Brazilian authorities ordered Norsk Hydro ASA's Alunorte alumi-

advisory opinion, I am convinced that it was duly substantiated. Blaming the court for the rise of conservative political discourse in Costa Rica is tantamount to blaming the U.S. Supreme Court's judgment in *Roe v. Wade* for the rise of religious constituencies within the Republican Party and in U.S. politics overall. In a legal system committed to the rule of law, be it international or municipal, the merits of a judicial decision must rely on proper interpretation of the law—not on its social and political consequences. Nonetheless, the moment for the delivery of the advisory opinion seems to be unwise. The IACHR's rules of procedure do not establish a deadline for publishing this kind of decision. The court had the discretion to delay the publication of the opinion while the electoral process in Costa Rica could move forward without the influence of irrational speeches against the acknowledgment of LGBTI rights. The main lesson learned from the electoral surprise in Costa Rica is that the IACHR should have a more accurate reading of the political consequences of its decisions involving sensitive issues. This exercise is relevant only to establish when to publish the decision, but never on how to decide."

EDITOR'S NOTE: The comment above is a continuation of the Q&A published in the Feb. 23 issue of the Advisor.

na refinery to reduce production by half, citing worries that a rainstorm had caused leaking and the contamination of a nearby river. Brazil's mining industry has faced public scrutiny in recent years, following the 2015 Bento Rodrigues dam disaster, when an iron ore tailings dam operated by Samarco burst, killing at least 17 people and dumping 60 million cubic meters of waste into the Doce River.

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on the vertical unbundling of the system within the context of open-market competition all along the generation, transmission and distribution chain. Robust competition, closely monitored by a wholly independent governmental regulator, should yield the necessary incentives for: 1) diversifying (at last) the island's unbalanced energy portfolio on the basis of a sensible cost-efficiency strategy moving in the direction of renewables; 2) reducing administrative and production

“Privatization on its own will not solve Puerto Rico's chaotic energy crisis.”

— Rafael Cox Alomar

costs and passing savings to the consumers (refer to the California model); 3) investing in new solar and wind generating assets while doing away with the obsolete oil-burning plants in Palo Seco and Costa Sur; 4) decentralizing the island's energy grid (essential if we are to successfully survive future natural disasters such as Hurricane Maria); and 5) acquiring, on an ongoing basis, new technologies with which to keep up the resilience of the island's energy landscape, among other measures. A close perusal of the region (e.g. Chile and Colombia) shows that a sensible mix between the right type of privatization (if looked at in light of the peculiarities of the specific jurisdiction), and a reasonable amount of regulation, does lead to higher degrees of energy cost efficiency and, thus, to increased levels of investment and ultimately more robust rates of economic growth. Whether Puerto Rico will get there in the near future remains to be seen.”

A Julián Herencia, executive director at the Association of Producers of Renewable Energy (APER) in Puerto Rico: “Other than the Puerto Rico Telephone Company, the territory has a dismal record in its attempts to privatize its public corporations. PREPA's privatization will only succeed if it is planned and executed thoughtfully and with utmost transparency. Success is relative to the achievement of its intended goals. As such, a clear vision of the future state of the industry, or what it can't become, should be outlined. First, moving from a public to a private monopoly would be the worst outcome for Puerto Rico. Should we ask why private generation proposals continue to be held back after receiving tacit support from multiple governmental agencies and sectors? Second, the privatization process must occur on a level playing field, enabling a healthy competitive environment and a diverse source of suppliers. Third, we must end up with diversified energy sources and multiple suppliers from which consumers in Puerto Rico can select, including on-site generation. Fourth, the Puerto Rico Energy Commission must be a truly independent body with full authority to regulate the industry and drive change, modernization and continuous improvements. Its authority must not be eroded in any way, much less by political motivations or appointees with minimal credentials. Puerto Rico scored a big win with the creation of this regulatory body. Its independence, the objective designation process, as well as the technical and professional robustness of its commissioners are paramount. Fifth, there can't be automatic price increases. Price determination ought to be the result of due process through the Energy Commission. Finally, with regard to risk and finance, if the mechanisms are not created to bring risk and return on investment to acceptable and competitive levels, privatization will never succeed.”

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