

**COMMONWEALTH OF PUERTO RICO**

17<sup>th</sup> Legislative  
Assembly

5<sup>th</sup> Ordinary  
Session

**HOUSE OF REPRESENTATIVES**

**FINAL REPORT**

**H. R. 1049**

**(House of Representatives Resolution 1049)**

**JUNE 24, 2015**

**TO THE PUERTO RICO HOUSE OF REPRESENTATIVES:**

Your Small and Medium Businesses, Commerce, Industry and Telecommunications Commission of the Commonwealth of Puerto Rico House of Representatives, having previously studied and taken into consideration the H.R. 1049, has the honor of presenting before this Legislative Body a Final Report on said Resolution, including findings, recommendations and conclusions.

**SCOPE OF THE MEASURE**

House Resolution 1049 warrants Small and Medium Businesses, Commerce, Industry and Telecommunications Commission to carry out an investigation with regard to the operational energy expenses of several industries, pymes and businesses located in the Island, taking into account recent decisions made by

to be used in the maintenance of an infrastructure they knew was soon to become obsolete.

PREPA's current economic insolvency was the product of, among other factors, negligent acts on the part of its creditors, who in spite of knowing that PREPA's financial and competitive situation was weak, and knowing that its infrastructure was obsolete, they negligently granted PREPA a good credit rating; disregarding that by 2010, PREPA was technically bankrupt. This fact was corroborated by Arturo Ondina, CPA and consulting partner of Ernst & Young, firm who has audited PREPA for the past 12 years. This occurred while the financial consultants and consulting engineers indicated in their reports that the PREPA financial condition allowed it to issue more bonds, when the fiscal reality was that PREPA was not generating sufficient income to repay the debt.

Those individuals and/or consulting firms knew that any funds granted to PREPA would be used to pay fees, underwriters and commissions to the financial intermediaries who issued the debt, from \$40 to \$60 million dollars per four-year period, as well as to refinance the outstanding debt, and not for

any works plans and improvements to generator plants. Mr. Figueroa Baez mentioned this fact in one of the hearings this Commission conducted.

This Commission realized that PREPA paid previous bondholders with capital received from new investors, to the point that owed interests were capitalized and re-grouped whenever a new debt was issued. The abovementioned was done to benefit the financial community that issued the debt and who today is collecting same, without any moneys having been invested in improvements to infrastructure, all to the detriment of the best interest of the people of Puerto Rico. We believe that the actions and circumstances mentioned above caused the economic insolvency which has plagued PREPA in the past years. Said debt was sold at discount, a large quantity of it between .60 to less than .50 cents to the dollar with the agreement to pay to the dollar in full upon its maturity. Plus, the annual return yield was agreed to set high interest rates, and the principal and return are three-fold exempt from payment of local and federal taxes, in accordance with the Jones Act. When Mrs. Lisa Donahue was asked whether she knew of any other issuances of debt with characteristics so benefitting to investors, she replied that she did not know of any other investment tool or instrument that is three-fold tax exempt. This goes to show that the financial intermediaries and the institutional holders, despite being fully aware of

— Ponzi Scheme

180% owned by Retired Americans

— She knew and kept it quiet

## RECOMMENDATIONS

In order to prevent what we have described in this Report from happening again, and to keep control of PREPA's treasury and its operations, we recommend:

1. That this Report be forwarded to the Justice Department of the Commonwealth of Puerto Rico and the United States of America for their corresponding actions;
2. That this Report be forwarded to the United States Securities Exchange Commission for its corresponding action;
3. The annulment of the current agreement with the consulting engineers firm and initiation of a claim against its underwriters of the last 20 years and request restitution of the moneys paid to them;
4. An investigation of PREPA projects estimates department for possible judgement flaws in the past years;
5. An investigation of purchasing costs for equipment, goods, and other services from PREPA's suppliers, under a presumption of possible overbilling for construction works in the past years;
6. An investigation of costs incurred for construction projects work-force in the past years;