



GOBIERNO DE PUERTO RICO
AUTORIDAD DE ENERGÍA ELÉCTRICA

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Annex A-
Baker Donelson Current Matters

Whitefish Arbitration – \$39,415,207 (+ \$19 million)

On behalf of PREPA Baker Donelson prepared and filed a Request for Arbitration with the Civilian Board of Contract Appeals on August 8, 2023, challenging FEMA's disallowance of \$39,415,207 of costs PREPA incurred under its contract with Whitefish. PREPA has an obligation to pursue this arbitration under its settlement agreement with Whitefish, implicating Whitefish's agreement to waive \$19 million in interest.

A scheduling order has been entered with the following critical deadlines:

- September 21, 2023: PREPA's Reply to FEMA's Response Due
- September 28, 2023: PREPA informs the Panel as to the type of hearing desired (e.g., none, oral argument, in person, via Zoom).
- October 12, 2023: FEMA's Surreponse Due
- October 25, 2023: All additional documents must be submitted by both PREPA and FEMA.
- November 1, 2023: Hearing or oral argument.

Cobra Contract Dispute – approx. \$401 million

Cobra has been pursuing payment of amounts it believes are owed under its contracts with PREPA. Baker Donelson has been involved in this dispute on two fronts—first, in PREPA's efforts to seek reimbursement of Cobra contract costs from FEMA and second, in PREPA's efforts to respond to Cobra's claims in the Title III Court, providing support to Proskauer Rose, which represents FOMB as representative of PREPA in that forum. On August 28, 2023, PREPA and Cobra each submitted a summary of their position on the various costs at issue to a Title III Court mediator. The parties are currently **about \$401 million** apart in their positions.

Pending FEMA Appeals – \$104,158,230.37

Baker Donelson prepared and filed appeals of FEMA's two adverse funding decisions with respect to the Cobra contracts that remain pending. In addition, there are several other appeals that remain pending. When FEMA finally issues decisions on these First Appeals, PREPA will have the option (to the extent the appeals are denied) to file second-



level administrative appeals or seek arbitration before the CBCA. A summary of the appeals and their status is provided below:

PW/Project No.	Filing Type	Description	Date Filed	Amount at Issue	Status
PW 298 GMP 49804	First Appeal	DTE	Filed 11/19/2021	\$1,211,123.38	Under FEMA Review (decision due 04/18/2022; arbitration available 07/17/2022)
	RFI	DTE	Time extension granted until 03/31/2023		
GMP 49803	First Appeal	Dominion	Filed 12/03/2021	\$1,118,614.38	Under FEMA Review (decision due 05/02/2022; arbitration available 07/31/2022)
GMP 49811	First Appeal	PPL	Filed 02/04/2022	\$1,898,742.59	Under FEMA Review (decision due 07/04/2022; arbitration available 10/02/2022)
GMP 243527	First Appeal	Force Account Labor 90/10	Filed 04/1/2022	\$5,867,741.44	Under FEMA Review (decision due 08/29/2022; arbitration available 11/27/2022)
PW 306 GMP 49813	First Appeal	Tampa Electric	Filed 04/4/2022	\$1,073,165.46	Under FEMA Review (decision due 09/01/2022; arbitration available 11/30/2022)
PW 301 GMP 49805	First Appeal	Duke Energy	Filed 05/24/2022	\$3,537,289.47	Under FEMA Review (decision due 09/23/2022; arbitration available 01/21/2023)
GMP 137955	First Appeal	Earthquake Peaking Units	Filed 09/16/2022	\$10,090,052.10	Under FEMA Review (decision due 02/13/2023; arbitration available 05/14/2023)
PW 466 GMP 49848	First Appeal	Cobra (Second Contract – 100% Cost Share)	Filed 01/20/2023	\$5,599,775.33	Under FEMA Review (decision due 06/18/2023; arbitration available 09/16/2023)
PW 11211 GMP 49831	First Appeal	Cobra (Second Contract – 90% Cost Share)	Filed 02/17/2023; Supplemented with Correction of Clerical Error on 04/04/2023	\$68,061,726.22	Under FEMA Review (decision due 07/16/2023; arbitration available 10/14/2023)
GMP 171517	First Appeal	Costa Sur Power Plant Discharge Channels	Filed 03/13/2023	\$5,700,000.00	Under FEMA Review (decision due 08/07/2023; arbitration available 11/05/2023)
Total				\$104,158,230.37	

