

**GOVERNMENT OF PUERTO RICO  
PUERTO RICO PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

**IN RE:** PUERTO RICO ELECTRIC POWER  
AUTHORITY'S PERMANENT RATE

**CASE NO.:** NEPR-MI-2020-0001

**SUBJECT:** Order Establishing Agenda for  
Prehearing Conference, Granting  
Interventions, and Granting Access to  
Confidential Documents

**Order Establishing Agenda for Prehearing Conference, Granting Interventions, and  
Granting Access to Confidential Documents**

The prehearing conference in this investigation will occur on **November 8, 2024 at 10am Atlantic Standard Time**. The agenda is attached to this Order. The Energy Bureau's Secretary will send all parties the virtual participation link.

**ICSE's and ICPO's Requests for Participation and Access to Confidential Information**

On November 7, 2024, the Institute of Competitiveness and Economic Sustainability ("ICSE") requested authorization to participate in this proceeding, including the November 8 Prehearing Conference, and associated access to confidential information.


Also on November 7, 2024, the Independent Consumer Protection Office ("ICPO") filed notice of its appearance and requested access to the AAFAF confidential communication. ICPO has statutory authority under Act 57-2014 Section 6.42 to participate in matters affecting electric service customers.

I grant both entities' requests to participate in this proceeding and to access the confidential AAFAF communication. I therefore **DIRECT** the Energy Bureau's Secretary to provide ICSE and ICPO access to the confidential AAFAF communication, subject to the following conditions:

1. Access shall be limited to their authorized representatives after executing the Non-Disclosure Agreement in the form prescribed by this Energy Bureau's August 31, 2016 Resolution in Case No. CEPR-MI-2016-0009;
2. They shall maintain the confidentiality of the communication in accordance with the Non-Disclosure Agreement and the Energy Bureau's confidentiality procedures; and
3. They shall use the information solely for purposes related to this proceeding.

All parties shall include ICPO and ICSE in their service lists for this proceeding.

Be notified and published.



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Scott Hempling  
Hearing Examiner



## Agenda for Prehearing Conference of November 8, 2024

- 1) **Announcement of docket; guidelines for speakers**
- 2) **Appearances**
  - a) PREPA
  - b) LUMA
  - c) Genera
  - d) Institute of Competitiveness and Economic Sustainability
  - e) Independent Consumer Protection Office
  - f) Other
- 3) **Summary of the Bureau's concerns and its instructions to the Hearing Examiner**
- 4) **Options for addressing the Bureau's directive to the Hearing Examiner**
  - a) Two-phase investigation
    - i) Phase One: Is there a liquidity emergency; and if so, what are the immediate solutions? This expedited phase culminates in a Hearing Examiner report based on an evidentiary record.
    - ii) Phase Two: If there is a liquidity emergency, what are the causes; and how can we prevent repetition? This phase culminates in a separate Hearing Examiner report based on an evidentiary record.
  - b) One-phase investigation to determine the existence of a liquidity emergency, culminating in a Hearing Examiner Report (same as Phase One above); followed by an inquiry into the causes, conducted within the main rate case.

*Premises for each of the above two options:*

  - i) *There can be no Bureau approval of an emergency rate unless and until the "electric power company" has requested it. Act 57, section 6.25(d). The investigation and report would provide the Bureau the information necessary to make under that subsection a "preliminary determination" that is "duly grounded." Then if prompted by an electric power company request, the Bureau can readily act within the 10-day limit.*
  - ii) *After that action, the Bureau would have the "public hearings" required by section 6.25(d), including formal adjudicatory procedures, to determine (within 60 days after the end of the hearings) whether to affirm or modify the emergency rate that it had approved via the "preliminary determination."*
  - c) Electric power company seeks an emergency rate case next week--putting that matter immediately before the Bureau. This step would require the Bureau to act within 10 days, without the benefit of a Hearing Examiner's report based on fuller evidence. The Bureau could then hold the next-stage formal adjudication itself or send it to a Hearing Examiner.
  - d) Other options?
- 5) **LUMA's jurisdictional questions**
  - a) Investigation under Rule 8543, Chapter V
  - b) Applicability of confidentiality requirements



- c) Absence of a complaint
- d) Objective of the proceeding
- E. Other?

**6) Questions about the scope**

- a) How does this investigation relate to the main rate case?
- b) How does this investigation relate to other Bureau matters?
  - i) budget review
  - ii) System Remediation Plan
  - iii) 10-Year Infrastructure Plan
  - iv) fuel and purchased power review
  - 5. registry of approved energy projects
- c) Other questions about scope

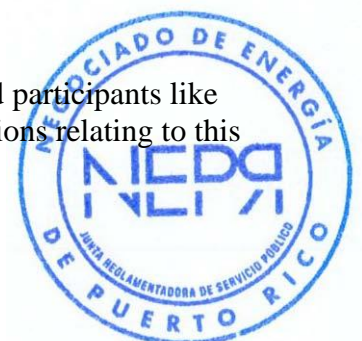
**7) Logistical considerations**

(These considerations assume that we focus first on liquidity's existence rather than its causes)

- a) What information should be in the submissions to the Hearing Examiner?
  - 1. Possible criteria for an emergency rate: (a) insufficiency of current and future cash flow, leading to inability to operate the system normally, causing immediate or imminent harm; (b) causes not the fault of the requestor; (c) causes not anticipated and not provided for by current rates and current operational procedures; (d) the emergency procedure is the only reasonable remedy; (e) the emergency rate is proportional to the emergency; (f) insufficiency of normal rate procedures to solve the problem; (g) other
  - 2. Other information?
- b) What schedule gets the job done, efficiently and quickly?
  - i) Applicant testimony
  - ii) Responsive testimony
  - iii) Hearing for questions by Hearing Examiner and by participants
  - iv) Briefs if necessary
  - v) Hearing Examiner Report
- c) Will the submissions and the Examiner-led hearing be public or confidential?

**8) Housekeeping**

- a) Each participant submitted names and email addresses. Would participants like the Bureau to include those email addresses in all communications relating to this proceeding?



- b) PREPA asked about my role in the other investigation. Here is language from my contract: "JRSP has a need to contract Scott Hempling Attorney at Law, LLC, as an independent consultant to assist the PREB in two matters: Examining Officer for the adjudication related to the electric power system interruptions in June 2024 (outages) and as lead consultant in the rate case and for these purposes has submitted a proposal for services. . . ."
- c) Other?

## CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on November 6, 2024. I also certify that on November 7, 2024 a copy of this Order was notified by electronic mail to [jmartinez@gmlex.net](mailto:jmartinez@gmlex.net); [arivera@gmlex.net](mailto:arivera@gmlex.net); [yahaira.delarosa@us.dlapiper.com](mailto:yahaira.delarosa@us.dlapiper.com); [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com), [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov); [legal@genera-pr.com](mailto:legal@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [lrn@roman-negron.com](mailto:lrn@roman-negron.com); [agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com). I also certify that on November 7, 2024, I proceeded with the filing of the Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, on November 7, 2024.



  
Sonia Seda Gaztambide