

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

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Preliminary Guidance on Rate
Case Procedures and Notice of Upcoming
Conference.

RESOLUTION AND ORDER

I. Introduction

On December 10, 2024, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order (“December 10 Resolution”) providing clarity regarding its expectations for and an update on the expected filing requirements for the rate review. Through the December 10 Resolution, the Energy Bureau emphasized that any filing for new rates must comply with the Energy Bureau’s established filing requirements and indicated its expectation to finalize such requirements by early February 2025.

Through this Resolution and Order, the Energy Bureau provides preliminary guidance on rate case procedures and scheduling to ensure an orderly and efficient process that advances the public interest while complying with statutory requirements. This approach aims to ensure that the rate case process will be conducted in a manner that is efficient, transparent, and aligned with the Energy Bureau’s statutory obligations under Act 57-2014¹, while providing all stakeholders with clear procedural guidance and opportunities to participate.

II. Substantive Issues

All items listed are tentative, pending receiving comments at the Technical Conference scheduled for **December 20, 2024**.

A. Substantive Scope

The rate case will cover the full scope of revenues and expenditures involved in providing electric service in Puerto Rico. All revenues means all revenues from customers, from companies that use the electric infrastructure, and from state and federal government agencies. All expenditures means all expenditures for normal operations, storm resilience and restoration, Puerto Rico Electric Power Authority (“PREPA”) owned infrastructure, and anything else.

This comprehensive approach will allow customers, government actors, industry actors, and current and future lenders to know the true cost of electric service. Only with this full knowledge can Puerto Rico prepare for a time when the costs continue but the governmental help diminishes.

B. A three-year rate case, covering FY2026, FY2027, and FY 2028

This three-year rate case would (a) merge the budget process with the rate case process, and (b) reflect the power-source changes caused by the 2020 and the 2025 IRP.

Specifically, the Energy Bureau would set separate rates for each of three fiscal years, based on what the evidence shows about changes in those three years caused by the current (2020) IRP and the to-be-filed-and-addressed-in-2025 IRP. The final rate order would create a three-year-rate path that stated real rates for Year 1, and projected rates for Year 2 and Year

¹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended (“Act 57-2014”).



3. It would include a process for updating the rates for Year 2 and Year 3. The effective date for the Year 1 rates would be July 1, 2025.

For this three-year approach to work, the Energy Bureau will need to merge into the rate case the annual budget process. The 2017 rate order envisioned that the budget process and the rate case process would be companions. Since 2017, however, the two processes—budgeting and ratemaking—became separated because while the budget process has occurred each year, the rate cases that were supposed to occur every three years did not occur.

Because the Energy Bureau's final rate order likely will not issue until a later date, the rates that initially take effect will need to be provisional rates (as envisioned in Act 57 Article 6.25(e)—meaning, rates subject to change, back in time, once the Energy Bureau sets final rates). With this notice that initial rates are subject to change, the Energy Bureau can set its final rates as of that initial date without technically engaging in retroactive ratemaking.

C. The 180-day requirement

Article 6.25(c) of Act 57 states: “The review and the order issuance processes shall not exceed one hundred eighty (180) days from the Energy Bureau's determination by resolution that the rate review request is complete; provided, however, that the Energy Bureau may extend the review process for an additional term that shall not exceed sixty (60) days.”

To satisfy this requirement under conditions of great rate-case complexity, the Energy Bureau is contemplating not declaring the rate filing “complete” until the parties have filed all prefiled testimony, including, at the end, LUMA's² rebuttal. This approach recognizes that LUMA's rebuttal will probably make changes to its original filing. Only then will all participants, and the Energy Bureau, know what rate levels LUMA is proposing. With this approach, the Energy Bureau then will have 180 days to hold the evidentiary and public hearings, receive briefs, deliberate, and issue the final order.

D. Revenue requirement and rate design: Two separate phases, each with its own 180-day deadline

Given the complexity of setting rates for the first time in seven years, it is unrealistic to give full evidentiary attention to both the revenue requirement and rate design in a single 180-day period. The Energy Bureau is contemplating two phases, each with its own 180-day period. These two phases could overlap; they would not necessarily be consecutive.

E. Consultant reports made public; report-writers made available for questioning

In the 2016-2017 rate case, the Energy Bureau required its advisory consultants to submit public reports. The Energy Bureau adopted this approach so the parties could see, at least in part, what advice the Energy Bureau was receiving. The consultants then appeared at the hearing to be questioned by the Energy Bureau's questioner and by counsel for the parties.

The Energy Bureau intends to repeat this procedure in the 2025 rate case. The Energy Bureau does not view this procedure as legally required. It is common in the U.S., at the federal and state levels, for a utility regulatory agency to receive advice from its advisors privately. As long as that advice does not consist of information not in the evidentiary record, that practice is lawful—and the Energy Bureau will use it here. But given the many issues and their complexity, the Energy Bureau believes that the record will be more useful if the participants have access to the consultants' initial views through public reports and have an opportunity to question the consultants on those reports.

² LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred as, “LUMA”).



III. Procedural Issues

A. *Technical Conference to invite and address questions about the substantive issues*

This Technical Conference will occur **on December 20, 2024 at 10 a.m. (Atlantic Standard Time)** to receive comments from all participants regarding the substantive issues described in **Part II above**, including without limitation the rate-case scope, three-year rate case approach, the separation of revenue requirement from rate design, the public consultant reports process, and other key structural elements of the upcoming rate case. The Technical Conference will be conducted by the Energy Bureau's consulting team, led by Scott Hempling. LUMA, PREPA, Genera and all other parties interested in participating may, but need not, submit questions or comments in advance.

This Technical Conference is open to all. All persons interested in participating, must request access to participate **on or before 2:00 p.m. of the day before the Technical Conference** by (i) sending an email to secretaria@jrsp.pr.gov, or (ii) contacting the Energy Bureau's Clerk at (787) 523-6262. For those unable to attend this Friday, or who need more time to consider the elements discussed, we invite them to submit written comments by **December 27, 2025**. The public and stakeholders may submit written comments to the Energy Bureau as follows:

- i. Include in their title the following "**Comments on Rate Case December 20, 2024 Technical Conference, Case No. NEPR-AP-2023-0003**";
- ii. Be addressed to the attention of **Edison Avilés Deliz, Chairman**;
- iii. Be filed by:
 - a. electronic mail at comentarios@jrsp.pr.gov;
 - b. through the Energy Bureau's electronic filing tool at <https://radicacion.energia.pr.gov/login>;
 - c. postal mail addressed to the Puerto Rico Energy Bureau's Clerk's Office, at World Plaza Building, 268 Muñoz Rivera Ave., Suite 202, San Juan, PR 0918-1925; or
 - d. in person at the Energy Bureau's Clerk's Office, at World Plaza Building, 268 Muñoz Rivera Ave., Suite 202, San Juan, PR. The hours of operation of the Clerk's Office are Monday through Friday from 7:30 a.m. to 4:00 p.m., excluding holidays.

The Energy Bureau's Clerk will send LUMA, Genera and PREPA the link to join the Technical Conference via their respective legal counsels.

The Technical Conference will be held on the *Microsoft Teams* platform. The Technical Conference will be streamed live in both English and Spanish through the Energy Bureau's YouTube channels. Both recordings will be available to the public.

B. *Procedure for completing the filing requirements*

The Energy Bureau expects to issue filing requirement by **February 1, 2025**. The following events will occur on the stated dates:

1. **December 18-19, 2024:** Energy Bureau issues requests for information ("ROIs") focused on, but not necessarily limited to:
 - a. Implementation of FY2026 test year;
 - b. Data requirements for FY2027 and FY2028 projections;
 - c. Complete financial mapping of all revenue sources and expenditures;



- d. Coordination with both the 2020 IRP³ and upcoming 2025 IRP;
- e. Status of audited financials and accounting remediation initiatives;
and
- f. Status of cost-of-service studies.

2. **January 8-10, 2025:** Energy Bureau hosts a half-day Technical Conference Energy Bureau to discuss any questions relating to the ROIs. This Energy Bureau will be led by Energy Bureau consultant Dr. Asa Hopkins and his selected colleagues.

- a. Purpose: Ensure that LUMA, PREPA, and Genera PR LLC (“Genera”) fully understand ROI requirements.
- b. Conference will address key filing requirements based on previous regulation and LUMA's Phase 1 Report.
- c. Participants are encouraged to submit clarifying questions before the conference.

3. **January 17, 2025:** ROI responses due from LUMA, PREPA, and Genera.

4. **January 30-31, 2025 (approximate):** Final Filing Requirements Order to be issued.

C. Informal Procedures

Though this proceeding is formal adjudication, there are efficiency benefits to proceeding informally, such as when there are questions for clarification—either of participants about various ROIs, or from Energy Bureau consultants about various responses. At the December 20 Technical Conference, the Energy Bureau's consultants will ask the participants to provide their thoughts on allowing and structuring these informal interactions.

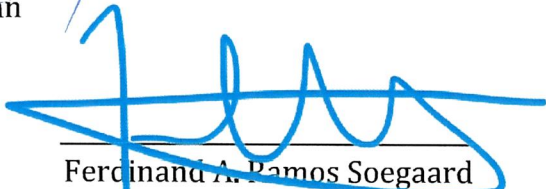
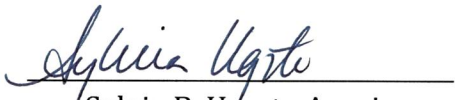
IV. Conclusion

The Energy Bureau **SCHEDULES** a Technical Conference on **December 20, 2024, at 10:00 am AST** and **ORDERS** LUMA, Genera and PREPA representatives and their respective legal counsel to attend the Technical Conference and be ready to discuss, among other things, the substantive issues discussed above and their thoughts on allowing and structuring informal interactions in this case

Be it notified and published.



³ Integrated Resource Plan (“IRP”).


Edison Avilés Deliz
Chairman
Lillian Mateo Santos
Associate Commissioner
Ferdinand A. Ramos Soegaard
Associate Commissioner
Sylvia B. Ugarte Araujo
Associate Commissioner
Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on December 16, 2024. Also certify that on December 16, 2024, I have proceeded with the filing of this Resolution and Order and was notified by email to mvalle@gmlex.net; arivera@gmlex.net; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; andrea.chambers@us.dlapiper.com; regulatory@genera-pr.com; legal@genera-pr.com.

I sign in San Juan, Puerto Rico, today, December 16, 2024.


Sonia Seda Gaztambide
Clerk