

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

NEPR

Received:

Jan 17, 2025

9:01 PM

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

**MOTION IN COMPLIANCE WITH RESOLUTION AND ORDER DATED
DECEMBER 20, 2024**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority (PREPA), through its undersigned counsel, and respectfully States and Prays as follows:

1.1 On December 16, 2024, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (the "Energy Bureau") notified a Resolution and Order addressing both substantive and procedural matters concerning the establishment of new electricity rates.

1.2 On December 20, 2024, the Energy Bureau issued another Resolution and Order requesting LUMA¹, Genera, PR, LLC and PREPA to submit responses to a set of Request for Information (ROIs) on or before January 17, 2025. Furthermore, the Energy Bureau scheduled a Technical Conference for January 10, 2025.

1.3 After the Technical Conference was held, the Energy Bureau's consultants notified a document titled "Consultants' Request of Parties Arising from Technical Conference of January 10, 2025". The consultants asked the parties to include additional items in their submission by January 17.

¹ LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred as, "LUMA").

1.4 In compliance with the December 20 Resolution, PREPA hereby submits as Exhibit A its responses to the ROIs and the requests from the Energy Bureau's Consultants.

WHEREFORE, PREPA respectfully requests that the Energy Bureau take notice of PREPA's compliance with the December 20 Resolution and consider the submission as responsive to the requirements set forth therein.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17th day of January 2025.

CERTIFICATE OF SERVICE: We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and courtesy copies were sent via e-mail to counsels of record at margarita.mercado@us.dlapiper.com, Yahaira.delarosa@us.dlapiper.com, julian.angladapagan@us.dlapiper.com, lrn@roman-negron.com, hrivera@jrsp.pr.gov; p vazquez.oipc@avlawpr.com; agraitfe@agraitlawpr.com.

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PREPA's Response to PREB's December 20, 2024 ROIs and Consultant's Request of Parties Arising from Technical Conference of January 10, 2025

PREB's December 20, 2024 ROI

Update the Phase I Report and its associated Appendix A to reflect the following:

1. As stated in the Energy Bureau's Order of December 16, 2024, this rate case will establish expected revenue requirements, and rates, for FY2027 and FY2028 in addition to the test and rate year of FY2026.
 - a. Confirm that all references to the test year can be updated to FY2026; and
 - b. Detail the ability of each utility to provide estimates of changes to costs, revenues, and other provided values (akin to pro forma adjustments) for the two subsequent fiscal years (FY27 and FY28), for each schedule.

PREPA Response:

- a. PREPA confirms that all references to the test year can be updated for FY2026.
 - b. See PREPA's response to item 'A. *Optimal Budget and alternative budgets*' below.
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2. As stated in the Energy Bureau's Order of December 16, 2024, this rate case will map all costs and all revenues, regardless of source or payee, including the Puerto Rico Government and Federal government grants, cost sharing, and loans
 - a. Ensure that the schedules include information about all costs and revenues;
 - b. Ensure that the schedules contain debt that is subject to the Title III process, as well as other debts (such as debts to the Puerto Rico Government); and
 - c. Ensure that the schedules contain costs and revenues associated with pension plans.

PREPA Response:

- a. PREPA confirms for costs and revenues under its purview.
 - b. See PREPA's response to item 'B. *Legacy Debt*' below.
 - c. PREPA confirms.
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3. As stated in the Energy Bureau's Order of December 16, 2024, this rate case must account for changes in the generation portfolio that are consistent with the Approved IRP and the results of the ongoing IRP process.
 - a. Schedule F-3 requires capital expenditures for generation, as well as for the remainder of the electric transmission and distribution systems. Provide a detailed discussion of how the filing can reflect the various generation options (retirements and additions) under consideration in the 2025 IRP analysis; and
 - b. When making projections of expenditures for FY26, FY27, and FY28, it will likely be required to itemize the costs associated with specific assets entering or leaving service as a result of some trigger event (such as the availability of a replacement resource), or other capital investments which are uncertain in time. Detail how LUMA's filing will enable the Energy Bureau to make these itemized determinations when setting expected revenues and rates for FY27 and FY28.

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PREPA Response:

No comment from PREPA.

4. As stated in the Energy Bureau's Order of December 16, 2024, the Energy Bureau is planning to address the revenue requirement in this proceeding, and rate design in a separate (perhaps overlapping) proceeding. Identify which schedules LUMA believes are required for the revenue requirement proceeding, and which would only be necessary for a rate design proceeding.

For several schedules in Appendix A, the Appendix states "LUMA intends to file a modified cost of service analysis that uses direct allocation of costs wherever possible. LUMA acknowledges the data limitations and the complexities underlying their root causes, and continues to actively participate in moving the utility toward remediation."

PREPA Response:

No comment from PREPA.

5. Provide an update on activities to mitigate the limitations of PREPA's financial reporting, and identify and describe any variation among the various schedules in the impact of these activities.

PREPA Response:

See response to questions 6-8. Schedules may need to be modified if unaudited information is not allowed by the Energy Bureau.

6. Provide an update on the accounting / balance sheet remediation initiatives.

PREPA Response:

The accounting remediation process is being conducted and managed by the Puerto Rico Department of Treasury ("Treasury Department"). As of January 17, 2025 PREPA is still awaiting the issuance of the Phase I report which will include proposed recommendations and plans for the Treasury Department for PREPA accounting and balance sheet remediation.

7. What are the "most recent available audited financials"? When are subsequent audited financial expected to be available?

PREPA Response:

The most recent available audited financials are for the fiscal year ending June 30, 2022. PREPA's FY2023 audited financial statements (fiscal year ending June 30, 2023) are currently expected to be issued on or before March 31, 2025. Initiation of the FY2024 (fiscal year ending June 30, 2024) audit process is dependent upon the issuance of the FY2023 audit and will begin immediately after issuance.

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8. In some cases, the requested Schedule (e.g., Schedules E-3 and E-4) would include the changes in values rather than the absolute values. Clarify whether the changes are available as requested, even if the underlying absolute values are not available due to financial reporting or audit limitations.

PREPA Response:

Consider whether 1) unaudited financial statements can be used or 2) the most recent audit, FY22, plus two unaudited years, FY23 and FY24, and the FY25 budget. PREPA notes that Schedules E-3 and E-4 were not designated by LUMA for input from either PREPA or Genera.

9. Amend the Phase I Report and its associated Appendix A to identify Schedules that can be provided in part [e.g., defer those portions of Schedules that will be addressed by the Title III process, and provide those portions of the data which are not subject to that deferral].
For several schedules in Appendix A, the Appendix states "LUMA intends to file a modified cost of service analysis that uses direct allocation of costs wherever possible. LUMA acknowledges the data limitations and the complexities underlying their root causes, and continues to actively participate in moving the utility toward remediation."

PREPA Response:

No comment from PREPA.

10. Provide a detailed update regarding LUMA's progress in developing a cost of service analysis, including the scope of LUMA's analyses and the timeframe on which different levels of analysis are expected to be available.

PREPA Response:

No comment from PREPA.

11. Identify and provide outstanding questions that PREPA has about the Filing Requirements, which the Energy Bureau can address in its Order.

PREPA Response:

Will the Energy Bureau provide expectations or guidance on which party or parties among LUMA, Genera and PREPA, are responsible for or should provide input to each of the required schedules set forth in the Filing Requirements? Will each party be expected to review and provide comments or input to the Energy Bureau for schedules that are fully or mostly prepared by another party?

12. Identify and provide outstanding questions that LUMA has about the Filing Requirements, which the Energy Bureau can address in its Order.

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PREPA Response:

No comment from PREPA.

13. Identify and provide outstanding questions that Genera has about the Filing Requirements, which the Energy Bureau can address in its Order.

PREPA Response:

No comment from PREPA.

CONSULTANTS' REQUEST OF PARTIES ARISING FROM TECHNICAL CONFERENCE OF JANUARY 10, 2025

Respond to all information requests stated in the Bureau's Order of December 20, 2024, a clarified by Dr. Asa Hopkins during the technical conference of January 10, 2025.

A. Optimal budget and alternative budgets: How to handle?

Please comment on the advantages and disadvantages of each option, then make a recommendation based on explicit criteria. Explicit criteria concerning the alternative budgets would include (a) estimates by your entity of the additional work effort and time needed to prepare, explain and document the alternatives; and (b) the usefulness of that extra effort to the Bureau.

1. The option described in Part I.A.2 of the January 3 document: optimal budget plus three alternative budgets reflecting 25%, 50%, and 75% of the rate increase caused by the optimal budget—with explanations for the latter three budgets of the specific reductions from the optimal budget, and the consequences of those reductions.
2. Optimal budget plus one alternative, at 50% of the increase associated with the optimal budget—with explanations of the reductions and the consequences. The submitter could update the alternative budget for each of the second (FY27) and third (FY28) year.
3. Optimal budget plus one alternative—that one alternative being a budget and revenue requirement based on the rate increase that the submitter deems appropriate. The alternative would explain the reductions from the optimal budget and the reductions. The submitter could update the alternative budget for each of the second (FY27) and third (FY28) year.
4. Optimal budget only.
5. Other options—for purposes of giving the Bureau sufficient information to make conscientious, fully informed tradeoffs between rate levels and service quality.

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PREPA Response:

Responses are in consideration of PREPA only.

<u>Option</u>	<u>Advantage</u>	<u>Disadvantage</u>	<u>Est. Time Needed by PREPA</u>
1. Optimal budget plus three alternative budgets reflecting 25%, 50%, and 75% of the rate increase	<ul style="list-style-type: none">• Requires distinct prioritization within the ranges proposed• Communicates ranked priority of expenditures from proposers to PREB	<ul style="list-style-type: none">• Time and labor intensive• Could ignore differences in priority between PREPA, LUMA and Genera.• Could encourage inflation of the optimal budget, such that the truly needed budget amounts fall within the lesser alternatives	2 to 2.5 months
2. Optimal budget plus one alternative, at 50% of the increase associated with the optimal budget	<ul style="list-style-type: none">• Same as #1 but less informative of priorities	<ul style="list-style-type: none">• Same as #1	2 to 2.5 months
3. Optimal budget plus one alternative based on the rate increase that the submitter deems appropriate	<ul style="list-style-type: none">• Same as #1&2 but less informative of priorities	<ul style="list-style-type: none">• Same as #1	2 to 2.5 months
4. Optimal Budget Only	<ul style="list-style-type: none">• Most time-effective	<ul style="list-style-type: none">• Potentially requires PREB to determine a qualitative prioritization scheme without proposer input	1 to 1.5 months
5. Other Options	N/A	N/A	N/A

Based on the above, PREPA recommends option 4 – Optimal Budget Only, due to time constraints and the magnitude of its expected proposed changes. PREPA believes the other options 1 through 3 would be more advantageous to PREB if PREPA had a significantly larger share of the budget and more levers to pull to alternative cases.

B. Legacy debt

For purposes of the revenue requirement proceeding, what type of numbers should the filing requirements require? Please provide a recommendation and reasoning.

1. zero, on grounds that we don't know the number yet.
2. FOMB's latest settlement offer that is publicly available.
3. the full face amount of legacy debt plus accrued interest.
4. halfway between the FOMB's position and the bondholders' claim.

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5. other?

PREPA Response:

Given the pending litigation before the Title III court, PREPA recommends seeking guidance from the Oversight Board and the PREPA fiscal plan for 2024 / FY2025 that is likely to be certified and published in the near future. The next Title III hearing is scheduled for February 5, 2025, and may provide more clarity on the next steps.

C. Riders

Concerning the riders for fuel, purchased power, CILT, and subsidies: Should parties who wish to propose changes in design make those proposals in the revenue requirements proceeding, in the separate rate design proceeding, or at some other time? Provide a recommendation and reasoning. Your procedural recommendation should take into account the complexity of your proposed changes and the documentation necessary to support them. If your recommendation is to submit redesigns in the revenue requirements proceeding, what do we need to say about the filing requirements relating to redesign of the riders?

PREPA Response:

PREPA does not have a procedural recommendation at this stage of the proceedings but acknowledges there may be elements of the proposed revenue requirement that could be considered for redesign of the riders.

D. RPS compliance costs

Please comment on whether, to what extent, and how PREPA's proposed budget should address costs associated with Renewable Portfolio Standard (RPS) compliance. Your response should address

1. whether detailed RPS compliance costs should be required as part of the revenue requirement filing; and
2. if such costs should be included, what level of detail and supporting documentation should be required.

Provide reasoning with your recommendation. The reasoning should address the complexity of documenting and projecting RPS compliance costs, and identify the supporting materials needed to justify those costs in a revenue requirement filing.

PREPA Response:

PREPA seeks clarification on what "RPS compliance costs" PREB is referring to in the question above.

E. Performance level associated with the proposed revenue requirement

The filed budgets should include the fixed fee and 100% of the performance-metrics award. The budgets submitted also should specify the level of performance associated

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with the portion of the revenue requirement that is not associated with the performance-metrics award.

Each of the alternative budgets should address differences from the optimal budget, in terms of effects on the related revenue requirement and on the expected level of performance.

Comment on these tentative requirements. Recommend any guidance that the Bureau should issue to assist submitters in complying with the requirement.

PREPA Response:

No comment from PREPA.

F. Legal issues

On the five legal issues stated in the Appendix to the January 3, 2025 document entitled "Technical Conference of January 10, 2025: Consultants' Agenda and Explanation," please do any or all of the following:

1. Provide any requests for clarification, stating what specifically is not clear. Even better, provide your preferred clarification.

PREPA Response:

PREPA has no requests for clarification.

2. Recommend a procedure for briefing the questions.

PREPA Response:

PREPA's position is to submit a memorandum of law addressing the questions raised by the Hearing Examiner. Therefore, PREPA recommends that the Hearing Examiner grant at least 45 days to submit this memorandum along with the responses.

3. For questions 3 and 4: Comment on whether, and the extent to which, these questions are relevant to rate proceeding, understanding that these questions are on the Commissioners' minds, could become relevant as a result of Bureau decisions in the rate proceeding, and likely will require attention and decision at some point.

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PREPA Response:

Pursuant to the Puerto Rico Electric Power Authority Act, PREPA is responsible “[t]o propose and **collect just, reasonable, nondiscriminatory rates and fees**, and other charges approved by the Bureau, for the use of the facilities of the Authority, or for electric power services, or other commodities sold, loaned, or provided by the Authority, **that are sufficient to cover reasonable expenses incurred** by the Authority in the development, improvement, extension, repair, conservation, and operation of its facilities and properties, for the payment of the principal of and interest on its bonds, and for fulfilling the terms and provisions of the agreements entered into with or for the benefit of purchasers or holders of any bonds of the Authority and other creditors.” Likewise, this Act establishes that PREPA is responsible, among other things, (1) to provide and allow electric power to be provided in a reliable, clean, efficient, resilient, and affordable manner, thus contributing to the general well-being and sustainable development of the people of Puerto Rico; (2) to guarantee that universal electric power service is provided; and (3) **to conduct business responsibly and efficiently, applying sound fiscal and operating practices**. As the operators, these principals apply to both LUMA and Genera.

The Puerto Rico Energy Transformation and Relief Act created the Energy Bureau. The duties and responsibilities imposed on the Bureau include: “Oversee the quality, efficiency, and reliability of the electric power services provided by any electric power company certified in Puerto Rico to ensure a robust network that addresses the needs of the Island; and formulate and implement strategies to achieve the objectives of this Act including, but not limited to, attaining the goal of reducing and stabilizing energy costs permanently, controlling volatility in the price of electricity in Puerto Rico, establishing demand response programs, renewable portfolio standards, and energy efficiency standards, and promoting the storage of energy and integration of distributed generation, among others. In exercising its powers and authorities, the Energy Bureau shall require that the prices included in any power purchase agreement, any wheeling rate, and interconnection charge are just and reasonable, consistent with the public interest, and compliant with the parameters established by the Bureau through regulations.”

In light of the aforementioned, the Bureau's ability to prevent the recovery of imprudent costs in rates is directly tied to its role in ensuring just and reasonable rates under the Puerto Rico Energy Transformation and RELIEF Act. Establishing mechanisms for accountability influences how the Bureau evaluates proposed rates and the treatment of contested expenses, a central component of the current proceeding. Questions 3 and 4 directly impact the Energy Bureau's assessment of just and reasonable rates. The questions presented reflect issues that are not only likely to arise during the rate proceeding, but also foundational to the Energy Bureau's role as a regulator. The Energy Bureau is tasked with overseeing the quality, efficiency, and reliability of electric power services and ensuring that rates are reasonable and sufficient to cover reasonable expenses. These responsibilities necessarily include mechanisms to ensure that ratepayers are not unduly burdened by inefficiencies or mismanagement.

Finally, the answers to these questions will also contribute to a transparent, efficient and equitable regulatory proceeding consistent with the principles established under the Puerto Rico Electric

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Power Authority Act and the Puerto Rico Energy Transformation and Relief Act. Rate proceedings are inherently about balancing the interests of utilities and ratepayers. Clarifying whether the Bureau's findings could have preclusive legal effects reinforces accountability for actions deemed imprudent and ensures ratepayer protections are enforced beyond the rate case itself. By addressing the collateral estoppel effect of the Energy Bureau's findings, the Commissioners can provide clarity on the broader impact of rate decisions, ensuring consistency and predictability in regulatory outcomes. This forward-looking perspective aligns with the Bureau's role in shaping a transparent and accountable energy sector in Puerto Rico.