

**GOVERNMENT OF 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: Hearing Examiner's Order
Scheduling Conference and Offering
Observations on LUMA's Procedural Proposal

**Hearing Examiner's Order Scheduling Conference and Offering
Observations on LUMA's Procedural Proposal**

On March 5, 2025, LUMA submitted a Motion (March 5 Motion) recommending a way to arrange the relationships between (a) provisional rates and permanent rates; and (b) the existing revenue requirement proceeding and the planned-for rate design proceeding. LUMA's goal, as I understand it, is to minimize the period during which interclass subsidization is occurring. That subsidization likely exists, LUMA says, because today's customer-class cost responsibility differs from that used to set the 2017 base rates that customers pay today.

After receiving and studying the March 5 Motion and its accompanying Exhibit 1, I asked LUMA's counsel to schedule a conference at which I could discuss with the parties how to implement LUMA's proposal consistent with the statutes. LUMA's counsel has reported that key participants are available on **Friday, March 7, at 1:00 pm AST**. This Order therefore schedules a virtual conference at that time. Secretary Seda will circulate a link.

Everyone, I assume, shares this goal: Minimize the financial effects on customers of paying the wrong rates. Rates can be wrong because the revenue requirement is wrong, because the inter-customer-group revenue allocations are wrong, or because the rate designs for each customer class are wrong.

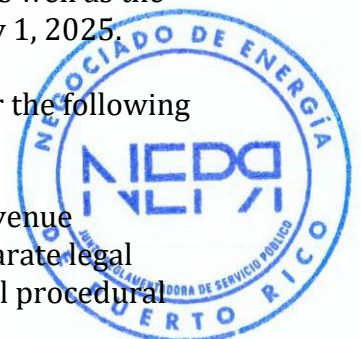
The way to minimize the effects on customers of paying the wrong rates is to do two things. First, set the right rates—rates that reflect the right revenue requirement, the right inter-customer-group revenue allocations, and the right designs for each customer class. Second, make the right rates legally effective as of (i.e., retroactive back to) the earliest possible date. Under our present circumstances, that earliest possible date is July 1, 2025, when new provisional rates will go into effect.

To achieve that result, LUMA proposes that the rates set provisionally on July 1, 2025, remain provisional rates until we complete not only the revenue requirement proceeding but also the rate design proceeding. So if the Energy Bureau issued its revenue requirement order on, say, March 17, 2026, and issued its rate design order on, say, May 17, 2026, the provisional rates established on July 1, 2025, would remain in effect until May 17, 2026. Then, allowing time for implementation, the new permanent rates, reflecting the revenue requirement established on March 17, 2026, as well as the rate designs established on May 17, 2026, would be retroactive back to July 1, 2025.

In preparation for this Friday's conference, I ask counsel to consider the following observations:

The Energy Bureau's Order of February 12, 2025, stated that the revenue requirement proceeding and the rate design proceeding would be two separate legal proceedings, not two phases of one proceeding.¹ The reason for this formal procedural

¹ Take care not to equate "phase" and "proceeding." See LUMA's March 5 Motion, Exhibit 1 at 1, 2. A phase is something within a proceeding; it is not a separate proceeding. A proceeding is a formal proceeding with a distinct case number.



separation was twofold. First, Act 57-2014 requires that a final order issue within 180 days of the Energy Bureau's finding that an application is complete. Second, it was not feasible to adjudicate both revenue requirements and rate design within a single 180-day period.

If the revenue requirement effort were to remain a distinct proceeding, it would have its own 180-day period. On the 180th day (say, March 17, 2026—assuming a completeness finding on Sept. 17, 2025), there would be an order setting permanent rates. Those new permanent rates would be retroactive back to July 1, 2025. The Energy Bureau then would declare those new permanent rates to be provisional rates, effective March 17, 2026. So the outcome of the rate design proceeding would be retroactive back only to March 17, 2026, rather than to July 1, 2025. And there would be two distinct retroactive reconciliations. That is the result that LUMA wants to avoid.

LUMA recommends instead that the July 1, 2025, provisional rates not become permanent rates until the Energy Bureau issues its order establishing new rate designs. This approach would allow the new revenue requirement, and the new rate designs, to be effective all the way back to July 1, 2025. And there would be only one reconciliation. For this approach to be lawful, it seems that two things need to happen:

- First, we would have to have one official proceeding, rather than two official proceedings, because only with a single official proceeding can we delay the setting of permanent rates until the Energy Bureau determines rate design. We would have a single official proceeding consisting of two phases—a revenue requirement phase and a rate design phase. This change to our present approach will require an order from the Energy Bureau, because it involves a change to the Bureau's February 12, 2025, Order (which stated that there would be two separate proceedings).
- Second, we would have to change the date for the completeness finding to a later date—a date that follows the rate design application rather than a date that follows the revenue requirement application. This procedural change can occur via a Hearing Examiner order per my delegated authority.

The above material represents my current thoughts on how to achieve LUMA's proposal under the statutes. I look forward to your thoughts at Friday's conference.

Be notified and published.



Scott Hempling
Hearing Examiner




CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on March 5, 2025. I also certify that on March 5, 2025, a copy of this Order was notified by electronic mail to epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; Robert.berezin@weil.com; Gabriel.morgan@weil.com; corey.brady@weil.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; thomas.curtin@cwt.com; escalera@reichardescalera.com; arizmendis@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com; mvalle@gmlex.net; arivera@gmlex.net; jmartinez@gmlex.net; jgonzalez@gmlex.net; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; carolyn.clarkin@us.dlapiper.com; andrea.chambers@us.dlapiper.com; jfr@sbgblaw.com; alopez@sbgblaw.com; regulatory@genera-pr.com; legal@genera-pr.com; hrivera@jrsp.pr.gov; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; agraitfe@agraitlawpr.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; kate.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; jan.albinolopez@us.dlapiper.com; varoon.sachdev@whitecase.com; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com. I also certify that on March 5, 2025, I have proceeded with the filing of the Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, on March 5, 2025.




Sonia Seda Gaztambide
Clerk