

**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: Follow-Up Questions to
Participants' Submissions of March 13, 2025

**Hearing Examiner's Two Follow-Up Questions
to Participants' Submissions of March 13, 2025**

I thank all counsel for their helpful submissions dated March 13, 2025. I have two follow-up questions for LUMA. Others may comment as well. Please do all possible to provide answers by **Monday 5:00 pm AST**. As the answers are likely to be short, even better would be responses by tonight.

Question #1

LUMA's March 13 Response (at 4) states (emphasis in original):

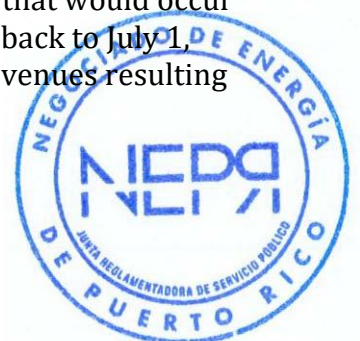
[T]he statute endows the Energy Bureau with discretion to adopt **one provisional rate in connection with a single petition for rate reviews**; and (2) that an interpretation that the Energy Bureau may approve two provisional rates in connection with a single rate modification request, is at odds with the text and intent of Act 57-2014.

Then LUMA states (*id.* at 4-5):

LUMA believes that the alternative most in line with the text of the law and the nature of the provisional rate is the second alternative raised by the Hearing Examiner: an adjustment of the incremental charge rider for the provisional rate after the conclusion of the revenue requirement phase. This alternative seems consistent with the law, given that said adjustment would be made to a temporary rate that was approved in the context of a singular rate review petition and a single rate review proceeding. The fact that the provisional rate is identified separately on the bills by way of a rider, allows for the corresponding operational adjustment, representing ease of implementation and the advantage of not confusing customers with consecutive credits and surcharges. LUMA respectfully submits that this interpretation allows accommodating the interests that were discussed at the March 7th Virtual Conference, including the Energy Bureau's intention to address the captioned proceeding in a bifurcated manner.

How is the adjustment of the incremental-charge rider not a second provisional rate? The rider is an adder to the 2017 rate. The sole purpose of the rider is to convert the 2017 rate into a higher rate, where that higher rate is a provisional rate authorized by Act 57, section 6.25(e). How is it that a direct increase in the first provisional rate would be an unlawful "second" provisional rate, but an indirect increase in the first provisional rate, via an increase in the rider, would be merely an "adjustment" to a rider rather than a new provisional rate?

Also: If we take that approach, think next about the single reconciliation that would occur after the rate design phase. Would that reconciliation still go all the way back to July 1, 2025 (though with the calculation requiring attention to the change in revenues resulting from the change in riders)?



Also: What would be the legal status of the PREB's order adjusting the rider? Presumably that order would be the result of an evidentiary hearing that led the PREB to determine that the proper revenue requirement, for purposes of calculating the rider, differed from the revenue requirement underlying the original provisional rate. Assuming—purely for purposes of this dialogue—that the PREB wants to have a single proceeding, with a single final order setting permanent rates after determining both the revenue requirement and the rate design (though in two phases), with that final order fully retroactive to July 1, 2025, why would the directive to change the rider not be the result of a final order on revenue requirement—thereby in conflict with the PREB's assumed preference for a single order?

Let's assume that the PREB wants to carry out this proceeding free of any legal uncertainty. Is LUMA's conclusion about adjusting the rider free of any legal uncertainty?

Question #2

LUMA's Exhibit 1 filed on March 13 addresses the practical situation of a PREB decision ordering a permanent rate that is less than the provisional rate. The assumption is that the three companies would have spent, during fiscal year starting July 1, 2025, revenues produced by the provisional rate that they now would have to refund. I asked about the method of refund and the possible consequences of that refund to operations.

LUMA's response contains this thought:

This reconciliation will functionally appear as reduced revenue for PREPA. However, both the provisional rate and the authorized revenue requirements will contain a net income component. If designed properly, PREPA will receive less net income than authorized while the reconciliation occurs. As a result, the refund to customers will only affect the net income component and have no impact on utility spending.

I would appreciate an explanation of what LUMA means by "net income component." By "net income component" LUMA is referring to the "margin," defined in the Filing Requirements and required as a part of Schedule B-4? I have understood that amount to be not mere excess cash, like an investor-owned utility's bank account, possibly related to retained earnings. Rather, the margin, as I understand the definition in the Filing Requirement, is an amount that PREB will require customers to fund through their rates so as to satisfy future lenders about PREPA's ability to repay debt. If so, diminishing that amount via refunds would violate whatever lender-satisfying criteria the PREB used to set the margin. Alternatively, the availability of that margin for refunds would imply that the margin was higher than necessary to satisfy those lender-satisfying criteria. Please explain.

Be notified and published.



Scott Hempling
Hearing Examiner



CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on March 14, 2025. I also certify that on March 14, 2025, a copy of this Order was notified by electronic mail to 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; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; jan.albinolopez@us.dlapiper.com; varoon.sachdev@whitecase.com; 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; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; mmc Gill@gibsondunn.com; LShelfer@gibsondunn.com. I also certify that on March 14, 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 14, 2025.




Sonia Seda Gaztambide
Clerk