

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

IN RE: REVIEW OF LUMA'S INITIAL
BUDGETS AND RELATED TERMS OF
SERVICE

CASE NO.: NEPR-MI-2021-0004

SUBJECT: PREPA Employee Retirement
System Funding Beyond March 2025.

RESOLUTION AND ORDER

I. Procedural Background

On November 15, 2024, the Puerto Rico Electric Power Authority ("PREPA") filed with the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") a document titled *Urgent Motion to Address PREPA Employee Retirement System Funding* ("November 15 Motion"), through which PREPA related that after December 31, 2024, it would no longer have the resources to provide monthly pension benefits to current and former employees. PREPA stated that since January 2024, it has been directed by Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF") and the Financial Oversight and Management Board for Puerto Rico ("FOMB") to forgo using FEMA Reimbursement funds for PREPA's pension obligations, and instead, to allocate those funds to replenish LUMA's¹ Service Accounts. PREPA explained that since January 2024, it had relied on a \$300 million loan and FOMB approved funding sources for its pension obligations.²

In the November 15 Motion PREPA requested that the Energy Bureau identify and implement a sustainable funding solution to ensure PREPA's continued ability to meet its pension obligations beyond December 2024. PREPA highlighted that "without such a solution, PREPA will lack the resources needed to meet its pension obligations, leaving thousands of retirees and their families - many in vulnerable stages of life - in financial uncertainty."³

On November 18, 2024, the Energy Bureau issued a Resolution and Order ("November 18 Resolution"), through which the Energy Bureau noted that PREPA's November 15 Motion did not provide the information necessary for the Energy Bureau to identify potential solutions under the current budget and did not propose potential short-, medium-, or long-term approaches to mitigate the deficiency. In recognition of the importance of PREPA meeting its pension obligations and of the adverse impact the lack of funding would have on the beneficiaries of those pensions, the Energy Bureau ordered PREPA to: (i) file a proposal for, to the extent possible, reallocate funds from the HoldCo FY2025 Approved Budget to cover pension obligations (even if partially); and/or (ii) file a petition, supported by LUMA, as may be required, clearly identifying which of the potential solutions allowed under Act No. 57-2014⁴ PREPA proposes (other than the rate case already commenced by the Energy Bureau under docket NEPR-AP-2023-0003) to solve the alleged pension obligations issue.

On November 20, 2024, PREPA filed a document titled *Motion in Compliance with the November 18 Resolution and Order Regarding PREPA Employee Retirement System Funding* ("November 20 Motion"), through which PREPA asserted that it was not feasible to reallocate approved HoldCo FY 2025 Budget funds to address the pension funding crisis due to limited HoldCo resources and its necessity for PREPA to fulfill its continuing responsibilities. In

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

² November 15 Motion, p. 2.

³ *Id.*, p. 3.

⁴ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").



addition, PREPA related that the approved HoldCo FY 2025 Budget of \$34.217 million was inadequate as compared with the monthly pension obligation of \$24 million.⁵

In the November 20 Motion PREPA provided proposals for short-, medium- and long-term solutions.⁶ These proposed solutions included: as a short- term mitigation mechanism, FEMA Reimbursement Request of \$74.255 million, which would cover three months of pension payments; as a mid-term solution, a loan from the Central Government of Puerto Rico; and as a long-term solution, resolution through Title III Proceedings.

On December 20, 2024, PREPA filed a document titled *Urgent Motion for Budget Revision to Partially Cover PREPA Employee Retirement System Funding for FY2025* ("December 20 Motion"), through which, PREPA reiterated the importance of providing necessary pension funding and summarized PREPA's efforts to secure that funding. PREPA informed the Energy Bureau that the pension fund would be exhausted as of December 2024.

PREPA also advised that on December 18, 2024, FEMA obligated and deposited in PREPA's account \$74.255 million in reimbursements. PREPA requested that to avert a financial crisis that would leave thousands of retirees and their families without pension benefits beginning January 2025, the Energy Bureau revise the HoldCo Operating & Maintenance Expense Budget to allocate those funds under a new line-item titled *Emergency PREPA Employee Retirement System Contribution*.⁷

On December 26, 2024, the Energy Bureau issued a Resolution and Order ("December 26 Order") approving, as a short-term measure, the allocation of \$74,255,336.63 of FEMA reimbursements for payment of PREPA's pension obligations and requiring PREPA to identify the source of budgeted funds it will employ to pay pension benefits after these funds are exhausted.

On January 26, 2025, PREPA filed a document titled *Motion in Compliance with December 26 Resolution and Order Regarding PREPA Employee Retirement System Funding* ("January 26 Motion") in which PREPA restated that the reallocation of funds from HoldCo FY2025 budget to address the pension funding situation was not feasible. In the January 26 Motion, PREPA proposed two (2) new strategies, to address the pension funding crisis and ensure the continuity of payments to retirees. According to PREPA, these solutions would require collaboration between PREPA, the Energy Bureau, the Government of Puerto Rico, and private operators to achieve sustainable outcomes.⁸ PREPA proposed the following strategies:

- (i) The analysis of LUMA and Genera⁹ Budgets for Efficiency and Savings to identify efficiencies (or inefficiencies), efficiency in spending, and federal funds management results. PREPA proposes a reduction of 10% in LUMA's budget and 2% in Genera's budget and concurrent reallocation of these amounts (in monthly installments) to PREPA to help fund its monthly pension obligations. Nevertheless, according to PREPA, these amounts together represent \$75,000,000, which would only provide three months of funding for PREPA's ERS obligations, leaving a \$225,000,000 yearly gap; and¹⁰
- (ii) LUMA reimbursement to PREPA of \$496 million paid from PREPA's federal funds reimbursement accounts for service account funding which according to PREPA resulted in funding that covered LUMA's costs and

⁵ November 20 Motion, p. 4.

⁶ *Id.*, p. 5.

⁷ December 20 Motion, p. 4.

⁸ January 26 Motion, p. 8.

⁹ GENERA PR, LLC ("Genera")

¹⁰ January 26 Motion, p. 10.



inefficiencies regarding federally funded reconstruction projects and related reimbursements. These reimbursed funds, diverted to support LUMA's service account funding, were otherwise intended to enhance PREPA's liquidity and financial stability. PREPA proposes that LUMA repay this amount in structured monthly installments of \$30M, allowing PREPA to restore its financial capacity and allocate these funds toward addressing the pension funding crisis. This repayment is essential for ensuring that PREPA can meet its statutory obligations while maintaining its operational integrity¹¹

JH
In the January 26 Motion, PREPA requested that the Energy Bureau take notice of PREPA's compliance with the December 26 Order and its ongoing efforts to address the pension funding crisis and urged the Energy Bureau to initiate an investigation into LUMA's procurement practices and financial management, as detailed in FEMA's December 27, 2024, letter. PREPA alleged that such an investigation was "critical to ensuring accountability, recovering mismanaged funds, and redirecting resources toward resolving the pension funding crisis". Additionally, PREPA requested the Energy Bureau consider and approve the proposed solutions. PREPA further proposed collaboration with the Energy Bureau, the Central Government of Puerto Rico, and private operators to develop and implement sustainable mid-term and long-term strategies to ensure financial security for thousands of retirees and their families.

AM
Upon review of the January 26 Motion, the Energy Bureau determined it was in the public's best interest that the two (2) new proposed solutions be subject to analysis under the existing investigation regarding PREPA's cashflow concerns under *In Re: Puerto Rico's Electric System Cashflow and Cash Position Concerns*, Case No. NEPR-IN-2024-0004. The Energy Bureau ordered Mr. Scott Hempling, as designated Hearing Examiner of the investigation in progress under the proceeding *In Re: Puerto Rico's Electric System Cashflow and Cash Position Concerns*, Case No. NEPR-IN-2024-0004, to include the analysis of the foregoing proposed strategies as part of his investigation.

II. Analysis and Conclusion

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Through the January 26 Motion, PREPA outlined two new proposed strategies to address its pension funding crisis. Upon evaluation, the Energy Bureau determined that the proposals warranted analysis within the ongoing investigation *In Re: Puerto Rico's Electric System Cashflow and Cash Position Concerns*, Case No. NEPR-IN-2024-0004, and referred the matter to the designated Hearing Examiner, Mr. Scott Hempling.

However, Mr. Hempling is also presiding the rate case proceeding *In Re: Puerto Rico Electric Power Authority Rate Review*, Case No.: NEPR-AP-2023-0003, which demands his full attention given the complexity and procedural requirements of the rate review process.

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Meanwhile, PREPA has informed the Energy Bureau that it only has sufficient funds to cover pension obligations **through March 2025**. The \$74 million allocated from FEMA reimbursements, as approved by the Energy Bureau on December 26, 2024, covers pension payments for three months — January, February, and March 2025. After March 2025, PREPA will lack the resources to continue meeting its pension obligations.

The Energy Bureau notes that Act 57-2014 provides one viable mechanism to address this funding shortfall: **a temporary rate adjustment**. This mechanism is specifically designed to address emergency or temporary situations in an expedited manner. Nevertheless, the Energy Bureau cannot impose such an adjustment *motu proprio*; rather, the process must be initiated at the request of the electric power company.

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The Energy Bureau **HIGHLIGHTS** that the ongoing rate review process will ultimately address PREPA's pension funding issue. However, given the procedural timeline of the rate case, it will not resolve the immediate shortfall PREPA faces starting April 2025. Therefore, unless another funding mechanism is immediately identified, a temporary rate adjustment is warranted to address PREPA's pension funding crisis.

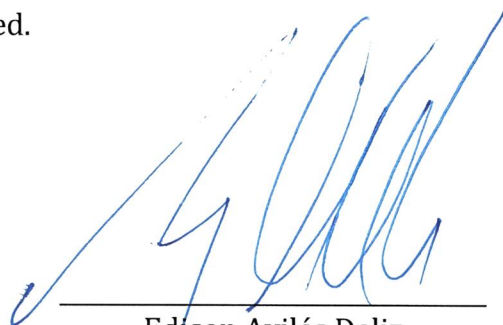
¹¹ *Id.*, pp. 10-11.



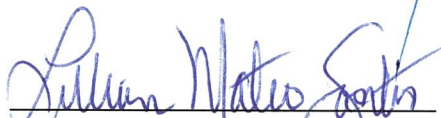
The Energy Bureau **ORDERS** PREPA, if necessary, to collaborate with LUMA, to expeditiously file a petition seeking a temporary rate adjustment to ensure the continuity of PREPA's pension payments starting April 2025.

The Energy Bureau further **ORDERS** LUMA to take all the necessary steps to ensure a rider for the recovery of the pension funds, if implemented, is included in the next billing cycle.

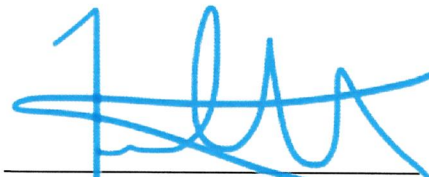
Be it notified and published.



Edison Avilés Deliz
Chairman



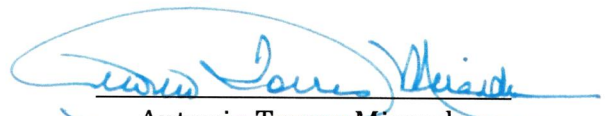
Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on March 24, 2025. I also certify that on March 24, 2025 I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and notified a copy of it by electronic mail to RegulatoryPREBOrders@lumapr.com; margarita.mercado@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; jan.albinolopez@us.dlapiper.com; mvalle@gmlex.net; arivera@gmlex.net; alopez@sbgblaw.com, jfr@sbgblaw.com, hrivera@jrsp.pr.gov, legal@genera-pr.com; regulatory@genera-pr.com.

For the record, I sign this in San Juan, Puerto Rico, on March 24, 2025.


Sonia Seda Gaztambide
Clerk