

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-2023-003

SUBJECT: Guidance for Phase 2 Rate
Review Filing and Scheduling of Technical
Conference

NEPR

Received:

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MOTION TO INTERVENE AND REQUEST FOR NOTICE

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

The Official Committee of Unsecured Creditors of PREPA (the “Committee”) respectfully moves for leave to intervene in the instant proceedings for the reasons that follow:

1. The above-captioned proceedings were filed on June 30, 2023 with respect to Guidance for Phase 2 Rate Review as to the Puerto Rico Electric Power Authority (“PREPA”). The Puerto Rico Energy Bureau (“PREB”) ordered a three-phase process to review rates.
2. In the Resolution and Order of March 15, 2024, PREB “[notified] all stakeholders that the period of intervention will begin with the Phase 2 Step 1 filing, but the formal review process requires [PREB] to determine that all elements are filed and deemed compliant with the rate case requirements.” See, Resolution and Order of March 15, 2024, page 5, Section B.
3. On June 15, 2017, the United States Trustee for the District of Puerto Rico appointed the Committee as the Official Committee of Unsecured Creditors of the Commonwealth of Puerto Rico in the Commonwealth of Puerto Rico’s case 17-bk-3283 (LTS) under Title III of PROMESA. This appointment was expanded on August 25, 2017, to also include the Committee’s representation of PREPA’s prepetition unsecured creditors in case 17-bk-4780 (LTS), as well as the unsecured creditors of certain other Title III debtors. See, **Exhibits A and B**.
4. As a result of the foregoing, the Committee is the statutory representative of thousands of PREPA’s prepetition unsecured creditors, including contractual counterparties, tort claimants, and others.
5. Section 5.05 of PREB’s Regulation provides that “any person with a legitimate interest” can file a request for intervention in an administrative case. That section also provides that any request to intervene is to be evaluated based on the factors laid out in the general statute governing administrative procedures in Puerto Rico (LPAU, for its Spanish initials).
6. “Those parties who are affected by an adjudicative process and which have not been designated as parties often move to intervene in the administrative proceeding.” *Simpson v. Consejo de Titulares*, 2024 TSPR 64, 2024 PR Supp. LEXIS 61, 2024 WL 3102117 (June 18,

2024), citing D. Fernández Quiñones, *Derecho Administrativo y Ley de Procedimiento Uniforme*, 3 ed., Colombia, Ed. Forum, 2013, p. 178 (translation ours).

7. “Intervention is one of the mechanisms that enables incorporating third parties into an adjudicative proceeding.” *Simpson, supra*. The following factors are to be evaluated in deciding whether to grant intervention:

- a. Whether the movant’s interests may be affected by the proceeding
- b. Whether there are no other legal means by which the movant can adequately protect its interests
- c. Whether the movant’s interests are already duly represented by parties in the proceeding
- d. Whether the movant’s participation can help prepare a more complete record of the proceeding
- e. Whether the movant’s participation can extend or delay the proceeding
- f. Whether the movant represents or is a spokesperson for other groups or entities within the community
- g. Whether the movant can provide information, expertise, specialized knowledge or technical advice that would not be otherwise available in the proceeding

Simpson, supra, citing 3 LPRA 9603 (translation ours).

8. The aforementioned criteria are to be applied **liberally** in favor of granting intervention, and the Puerto Rico Supreme Court has held that agencies must “facilitate the participation of such citizens whose interests may be affected by administrative action.” *Comision Ciudadanos v. G.P. Real Property*, 173 D.P.R. 998, 1011 (2008) (translation ours). The Financial Oversight and Management Board for Puerto Rico, as the Title III representative of PREPA, has also advised that it has no objection to the Committee’s intervention in the instant proceedings.

9. Here, as discussed below, all factors militate in favor of granting intervention.

10. As to factor (a), it is beyond dispute that the interests of the Committee’s constituents, *i.e.*, PREPA’s prepetition unsecured creditors, may be affected by any and all determinations with respect to the review of PREPA’s rates, including because such determinations may affect the recoveries of such creditors under a forthcoming plan of adjustment for PREPA in its Title III case. Further, the record developed in the proceedings before PREB, along with its outcome, are expected to be relied upon and/or submitted as evidence in connection with the confirmation of a plan of adjustment for PREPA in its Title III case—underscoring the probability that the interests of the Committee’s constituents may be affected by the proceedings before PREB.

11. As to factors (b) and (c), these operate in favor of the Committee just as they operated in favor of the Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica

(“SREAEE”), which was granted intervention by PREB. Just like the SREAEE, the Committee is an entity separate from PREPA and neither the Committee nor its constituents are otherwise represented in these proceedings. Moreover, the Committee lacks any other legal avenues to adequately protect its constituents’ interests in these proceedings.

12. As to factors (d) and (g), the Committee has played an integral role in prior litigation in PREPA’s Title III Case on issues directly related to affordability and proper rates for electricity for the residents of Puerto Rico and expects to play an equally meaningful role with regard to PREPA’s soon to be filed amended plan of adjustment by, among other things, participating in the briefing and expert discovery on issues that the Committee believes are the subject of this proceeding. The Committee thus believes that, to the extent helpful or necessary, it may be in a position to provide similar expert opinion(s) on matters likely to be addressed in this proceeding.

13. As to factor (e), the Committee’s participation will not delay these proceedings in any manner. These proceedings can continue at the same pace that they have been moving forward as of now, even with the granting of this Motion to Intervene. On the contrary, the Committee’s presence may expedite these proceedings to the extent that the Committee is able to provide information that will aid PREB in its rate determination.

14. Finally, as to factor (f), the Committee, by its very nature, serves as a representative for members of groups and entities of the community—namely, PREPA’s unsecured creditors—who are not otherwise represented in this proceeding and may be directly affected by it.

15. In view of the foregoing, the Committee respectfully moves to intervene in the captioned proceeding and requests that the Committee be added to its service list.

RESPECTFULLY SUBMITTED on April 2, 2025.

CERTIFICATE OF SERVICE: I hereby certify that, on this date, we have filed this motion through the online filing system of PREB and sent a copy to the PREB Clerk at secretaria@energia.pr.gov, secretaria@jrsp.pr.gov, legal@jrsp.pr.gov, and sseda@jrsp.pr.gov; to the Hearing Examiner Scott Hempling at shempling@scotthemplinglaw.com; and 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.bradley@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;

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Counsel for the Committee



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s/JUAN J. CASILLAS AYALA
RUA Núm.: 12145

s/JUAN C. NIEVES GONZÁLEZ
RUA Núm.: 19087

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

**THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,**

As representative of

**THE COMMONWEALTH OF PUERTO
RICO, *et al.***

Debtors¹.

PROMESA

Title III

Case No. 17-CV-01578-LTS

Case No. 17-03283

(Joint Administration Requested)

**APPOINTMENT OF OFFICIAL COMMITTEE OF UNSECURED
CREDITORS IN THE COMMONWEALTH OF PUERTO RICO**

Pursuant to section 1102(a)(1) of the Bankruptcy Code, made applicable to these proceedings by section 301 of the Puerto Rico Oversight, Management and Economic Stability Act of 2016 or “PROMESA”, Guy G. Gebhardt, Acting United States Trustee for Region 21 hereby appoints the following to the Official Committee of Unsecured Creditors in case no. 17-BK-03283 (the Commonwealth’s Title III Case):

1) The American Federation of Teachers (AFT)

Attention Mark Richard, Counsel to the President of the AFT
555 New Jersey Ave., N.W.
11th floor
Washington, DC 20001

¹ The Debtors in these Title III Cases, along with each Debtor’s respective bankruptcy case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). Case Nos. 17 BK 3283-LTS and 17 BK 3284-LTS are jointly administered by order of the court.

- 2) **Doral Financial Corporation**
C/O Drivetrain LLC
630 Third Avenue
21st Floor
New York, NY 10017
- 3) **Genesis Security**
5900 Ave. Isla Verde
L-2 PMB 438
Carolina, PR 00979
- 4) **Puerto Rico Hospital Supply**
Call Box 158
Carolina, PR 00986-0158
- 5) **Service Employees International Union (SEIU)**
1800 Massachusetts Avenue N.W.
Washington, D.C. 20036
- 6) **Total Petroleum Puerto Rico Corp.**
Citi View Plaza Tower I
48 Road 165 Oficina 803
Guaynabo, PR 00968-8046
- 7) **Unitech Engineering**
C/O Ramón Ortiz Carro
Urb Sabanera
40 Camino de la Cascada
Cidra, Puerto Rico 00739

DATED: June 15, 2017

GUY G. GEBHARDT
Acting United States Trustee for Region 21

U.S. DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
Edificio Ochoa
500 Tanca Street, Suite 301
San Juan, Puerto Rico 00901-1922
Tel.: (787) 729-7444
Fax: (787) 729-7449

(Electronically Filed)

By: s/ Monsita Lecaroz-Arribas
Monsita Lecaroz-Arribas
Assistant U.S. Trustee
USDC-PR No. 207707

Exhibit B

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,
et al.

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS
(Jointly Administered)

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER
AUTHORITY (“PREPA”),²

Debtor.

PROMESA
TITLE III

No. 17 BK 4780-LTS
(Joint Administration Requested)

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**AMENDED NOTICE OF APPOINTMENT
OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (iv) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808).

² The last four (4) digits of PREPA’s federal tax identification number are 3747.

Pursuant to section 1102(a)(1) of the Bankruptcy Code, made applicable to these proceedings by section 301 of the Puerto Rico Oversight, Management and Economic Stability Act of 2016 or “PROMESA”, Guy G. Gebhardt, Acting United States Trustee for Region 21 hereby AMENDS the notice of appointment of the Official Committee of Unsecured Creditors (the “Committee”) filed in case no. 17-BK-03283 (The Commonwealth of Puerto Rico’s Title III Case) at Docket 338 to reflect the following changes to the Committee:

(1) From and after the date of the filing of this Amendment, the Committee will serve as the official committee of unsecured creditors in the Commonwealth, HTA, ERS, and PREPA cases. The Committee will not serve as the official committee of unsecured creditors in the COFINA case.

(2) Notice is provided that the United States Trustee has appointed to the Committee two additional members, Ferrovia Agroman and Vitrol, Inc., who are creditors of HTA and PREPA, respectively.

The members of the Committee are now:

- 1) **The American Federation of Teachers (AFT)**
Attention Mark Richard, Counsel to the President of the AFT
555 New Jersey Ave., N.W.
11th floor
Washington, DC 20001
- 2) **Doral Financial Corporation**
C/O Drivetrain LLC
630 Third Avenue
21st Floor
New York, NY 10017
- 3) **Genesis Security**
5900 Ave. Isla Verde
L-2 PMB 438
Carolina, PR 00979

- 4) **Puerto Rico Hospital Supply**
Call Box 158
Carolina, PR 00986-0158
- 5) **Service Employees International Union (SEIU)**
1800 Massachusetts Avenue N.W.
Washington, D.C. 20036
- 6) **Total Petroleum Puerto Rico Corp.**
Citi View Plaza Tower I
48 Road 165 Oficina 803
Guaynabo, PR 00968-8046
- 7) **Unitech Engineering**
C/O Ramón Ortiz Carro
Urb Sabanera
40 Camino de la Cascada
Cidra, Puerto Rico 00739
- 8) **Ferrovial Agroman**
C/O Manuel Sanchez Pereira
1250 Ponce de Leon
Edificio San Jose Suite 901
San Juan PR 00907
- 9) **Vitol, Inc.**
2925 Richmond Ave.
Houston, Texas 77098

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DATED: August 25, 2017

GUY G. GEBHARDT
Acting United States Trustee for Region 21

U.S. DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
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(Electronically Filed)

By: s/ Monsita Lecaroz-Arribas
Monsita Lecaroz-Arribas
Assistant U.S. Trustee
USDC-PR No. 207707