

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 on Rate
Case Procedures

Hearing Examiner's Order on Rate Case Procedures

This Order provides clarifications and decisions relating to matters that arose during the conferences held on February 21, 2025, and March 7, 2025. It also provides guidance relating to the Energy Bureau's Resolution and Order dated April 21, 2025.

We will have a conference on **Tuesday, April 29, 2025, 10.30 am AT**, to address any questions or concerns about this Order or the Energy Bureau's April 21 Order.

Procedural schedule; initial submissions

The Energy Bureau's Resolution and Order of April 21, 2025, requires a single proceeding with two phases, one on revenue requirement and one on rate design. By today's Order, I adopt the attached procedural schedule. The schedule combines the revenue requirement phase and the rate design phase. The two phases overlap. The Secretary when circulating this Order will include an Excel version of the schedule.

Prepetition filing on revenue requirement: As stated in the schedule, LUMA will file its main application on revenue requirement on **April 30, 2025**. The Energy Bureau's April 21 Order, at p.2, refers to this April 30 document as a "prepetition filing." As stated in that Order, those materials "will not constitute the formal rate modification petition; rather, they are intended solely to give the Energy Bureau and any authorized intervenors an advance review window."

Formal application on revenue requirement and rate design: LUMA then will make the formal application no later than **July 3, 2025**. That application must contain (a) the same revenue requirement materials that LUMA filed on April 30, 2025; (b) any additional revenue requirement materials required by the Hearing Examiner or the Energy Bureau in the period between April 30, 2025, and July 3, 2025; (c) an application and testimony supporting a new rate design, as required by rate design filing requirements that the Energy Bureau or the Hearing Examiner will issue by June 4, 2025; (d) an application for provisional rates; and (e) a proposed amendment to the FY 2025 budget to cover any spending, proposed by the application on provisional rates, that exceeds the spending

level in the existing FY 2025 budget.¹ Various paragraphs below contain more guidance on some of these five items.

LUMA may, of course, file the formal application sooner than July 3, 2025. The Energy Bureau's April 21 Order stated a goal of minimizing the effect on consumers of paying "imprecise rates" (i.e., rates that reflect a revenue requirement, revenue allocation, and rate design set in 2017), and minimizing the period during which they pay those "imprecise rates." The date on which provisional rates go into effect sets the date from which the reconciliation of permanent rates with provisional rates can occur. The earlier that provisional rates can go into effect, the more we minimize the period during which customers pay the "imprecise rates."

Form of the provisional rate: To make timely implementation of the provisional rate feasible, LUMA may, if necessary, (a) implement the provisional rate's increase (if any), relative to current rates, through a rider, rather than as a direct change to base rates; and (b) calculate the rider amount as an equal-cents/kWh charge rather than as an equal-percentage charge. LUMA's application shall explain the reasons for each of these two choices. Because the July 3, 2025, rates are provisional, i.e., subject to reconciliation with the permanent rates, the latter choice will not have permanent effect.

Materials accompanying the applications: Accompanying the April 30 and July 3 applications and associated prefiled testimony must be, in some form (e.g., testimony text, workpapers, or exhibits), (a) all data and explanations that any utility would reasonably expect intervenors to request through requests of information (ROIs); and (b) to the extent feasible, responses to the questions attached to my Order dated March 24, 2025.

All filings in this proceeding must have a Word version, and a PDF version that can be copied-and-pasted and searched. All spreadsheets must be in unlocked, native electronic format (e.g., Excel), with formulas explicit. All filenames should state the party first and include the date.

Emergency rate: The above stated requirements relating to the provisional rate and permanent rate do not preclude LUMA from submitting, per section 6.25(d) of Act 57-

¹ Section 7.3(d) of the T&D OMA states: "In the event any Budget for a given Contract Year has not been finalized . . . by July 1 of such Contract Year, the applicable approved Budget for the immediately preceding Contract year . . . as adjusted for inflation . . . (such Budget, a "Default Budget") shall remain in effect until such time as the applicable Budget for such Contract year is so finalized." On July 1, 2025, FY 2026 will begin without an approved budget. The beginning budget for FY 2026 will therefore be the budget for FY 2025—amended as required by the PREB Order of April 21, 2025. The amendment, as explained in that PREB Order, is necessary to reflect the increase in spending, above the pre-existing FY 2025 level, called for by the newly proposed provisional rates.



2014, a request for a “rate adjustment due to emergency or temporary events.” Any filing under section 6.25(d) should take care not to double-recover costs that are included in the proposed provisional rates or the proposed permanent rates.

Supplement Relating to Schedules A-1 and A-2

The Energy Bureau’s Order of February 12, 2025, prescribed the Filing Requirements for the rate application. Included in those Requirements are Schedules A-1 (Optimal Budget) and A-2 (Constrained Budget). These schedules detail and organize the 100+ cost areas about which the Energy Bureau will make decisions in this proceeding. In designing those schedules, the Energy Bureau’s consultants envisioned that LUMA’s rate filing, and ultimately the Energy Bureau’s final decision, would track those items.

At an informal, nonsubstantive session on March 4, 2025, between the Energy Bureau’s consultants and LUMA’s consultants, it became clear that LUMA’s compliance with all of Schedules A-1 and A-2, in time to meet a July 1, 2025, effective date for the provisional rates, is a practical impossibility. The reason, as I understand it, is that PREPA and LUMA do not keep their cost records in a way that allows LUMA to readily map those records to most of the specific items in Schedules A-1 and A-2. That mapping would be feasible, LUMA suggested, over a multi-month period with a budget nearing \$1 million. Given the need for new rates to go into effect as early as possible in FY 2026, neither that time period nor that money is available at present. On March 5, 2025, LUMA circulated a spreadsheet that categorized the Schedules A-1 and A-2 items, preliminarily, by relative difficulty of satisfaction. The count was 33 low difficulty, 45 medium, 16 high, and 12 “under evaluation.”

LUMA’s current recordkeeping constraints need not preclude compliance with the Energy Bureau’s requirement that LUMA file Schedules A-1 and A-2, if we all apply some substantive and temporal flexibility. Therefore:

For LUMA’s **April 30, 2025**, submission, the budget portion specifically, LUMA may use a format and organization that aligns with its present recordkeeping, while making strong effort to supply at least the information in the “low difficulty” category. That application otherwise must comply with the requirements of Schedules B through J (as described in the Energy Bureau’s orders of February 12, 2025, and February 27, 2025).

No later than **May 12, 2025**, LUMA shall file a Supplement Relating to Schedules A-1 and A-2. LUMA shall organize this Supplement according to the Schedules A-1 and A-2. Each numbered or lettered item in those Schedules shall—

- contain a verbal description of activities relating to the item;
- present the best possible estimate of the cost associated with the item;



- explain the basis of the estimate—such as whether the basis is an actual figure maintained in LUMA’s budget system, an estimated percentage of a larger activity area maintained in LUMA’s budget system, or is instead a looser estimate based on experience and projection;
- include, wherever applicable, a reference to other Schedules or workpapers, filed either with the April 30 submission or with the May 12 submission, that formed the basis for the estimate; and
- identify one or more witnesses able to discuss the item at the evidentiary hearing.

It is possible that for some of the numbered or lettered items in Schedules A-1 or A-2, LUMA will have no credible basis on which to make any estimate. For those items, LUMA shall request a waiver, supporting the request with a full explanation of the reasons for the unavailability of the information.

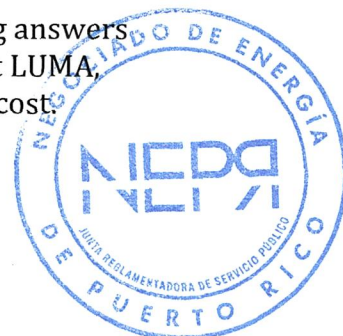
The Supplement shall also propose and justify a cost sufficient to achieve, for future rate applications and future regular reporting requirements, a mapping of LUMA’s internal cost records with the organization and detail of Schedules A-1 and A-2.

Legal standards

About each cost that the rate application seeks to recover in rates, the Energy Bureau and its consultants will be asking these questions:

- Is the proposed cost necessary to produce performance consistent with the statutory standard—“adequate, safe, reliable, efficient, and nondiscriminatory electric power service”? Act 57-2014, sec. 6.21(a).
- Is the proposed cost no higher than the level required by prudent utility practice?
- Is the proposed cost sufficient to enable the company to achieve the relevant performance metrics?
- Is the proposed cost consistent with the approved Integrated Resource Plan and its implementation timeline?

All witnesses testifying about costs should address those questions—by giving answers that are analytic rather than formulaic. The focus must be not merely on what LUMA, Genera, or PREPA thinks an activity will cost, but on what the activity should cost.



Customer-class revenue allocation

The 2017 rate decision based the 2017 rates on particular cost allocations among customer classes. Those cost allocations were based on, among other things, then-existing customer-category billing determinants (kW demand, kWh consumption, and number of customers). Over the ensuing eight years, those determinants have changed, while the rates have not changed. That mismatch produces unfairness.

LUMA's proposed provisional rates and proposed permanent rates therefore shall reflect new customer-class revenue allocations based on reasonably reliable forecasts of billing determinants and classification factors. (New billing determinants are required by Schedule E-2.) More specifically, LUMA shall calculate the customer-class cost allocations using (1) the new updated revenue requirement; (2) new updated customer-class billing determinant forecasts (kW demand, kWh consumption, and number of customers); and (3) new classification factors (i.e., energy, demand, and number of customers), to the extent that those factors are reliably available. Even if LUMA is not fully confident in these forecasts and factors, LUMA must assume that the 2017 allocation is no longer an accurate picture of reality, and therefore cannot be the basis for permanent just-and-reasonable rates.

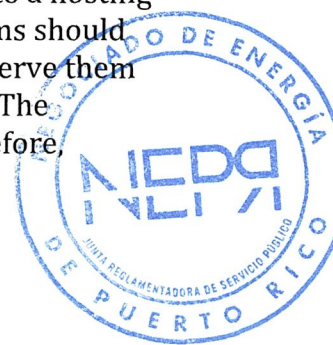
This requirement of new customer-class allocations, based on new billing determinants and classification factors, applies to both the proposed provisional rates and the proposed permanent rates. Because the provisional rates are subject to refund, the new permanent rates that the Energy Bureau orders at the end of this proceeding—those new permanent rates reflecting new customer-class cost allocations (which might vary from the allocations in the provisional rates)—will be retroactive back to the effective date of the provisional rates.

Discovery

All ROIs, responses, objections, and motions to compel are subject to the requirements stated here.

Rolling discovery opens once I grant interventions (very soon after April 30, 2025). For responses to ROIs, Day 1 is the calendar day following the day the ROI is received. **All days counted are calendar days. All deadlines are 5:00 pm AST.** All written submissions, both requests and responses, must be in Word. Please do not submit nonsearchable documents, except for original documents received by you in that form.

Parties will submit ROIs, responses, objections, and motions to compel to a hosting platform that the consultants' team will introduce in May. Authors of these items should not file them formally with the Energy Bureau. As well, authors also need not serve them on the parties, because the platform will notify all counsel of each submission. The platform will automatically number each ROI and identify the requestor. Therefore,



requestors should not number their ROIs. Through the platform, parties will be able to access all ROIs and responses, which they can sort by substantive category or party. To reduce duplicative ROIs, requestors should review prior ROIs before submitting theirs.

The only discovery-related submissions that parties will submit to the Energy Bureau (with copies to the service list) are appeals of Hearing Examiner decisions. Appeal documents should provide the Energy Bureau all background necessary to decide the dispute. There is no need for multiple paragraphs summarizing procedural history.

For ROIs creating no objection, the ROI recipient must respond as soon as feasible, and **no later than Day 10**.

Objections: Recipients of ROIs must submit objections (with item-specific explanations—no boilerplate, please) as soon as possible after receiving the ROI, and no later than **Day 5**. On receiving the objection, the Hearing Examiner will rule, or convene a conference, as soon as is feasible. Meanwhile, meet-and-consent-or-dispute must occur, and be completed, as soon as is feasible, and no later than **Day 10**. The requestor and recipient can agree informally, without the Hearing Examiner's involvement, to give the ROI recipient additional time to respond to an ROI. Or they can settle their dispute (assuming that the Hearing Examiner has not already resolved it), notifying the Hearing Examiner and all counsel. If by **Day 10** the parties have not settled their dispute, the requestor shall notify the Hearing Examiner by **Day 11** so that he can rule.

- If the Hearing Examiner sustains the objection, an ROI requestor wishing to appeal his decision must file with the Energy Bureau (not via the platform) an appropriate appeal Motion within **5 days** of the Hearing Examiner's ruling.
- If the Hearing Examiner rules against the objection, the ROI recipient must provide the response to the ROI within **5 days** of the ruling, unless the ROI recipient chooses to appeal to the Energy Bureau. In that case, the ROI recipient must file an appropriate appeal Motion with the Energy Bureau within **5 days** of the Hearing Examiner's ruling. Within that same **5-day period**, the ROI requestor must file with the Energy Bureau its reasons for the request.

ROI recipient's failure to respond: If a recipient of an ROI fails to respond timely with responsive material, and has not even submitted an objection, the requestor may file on the platform a motion to compel **within 5 days** of the recipient's failure to respond. Requestors may also file on the platform a motion to compel when (1) the Hearing Examiner has ruled against an objection but the ROI recipient has not provided a response within 5 days of the Hearing Examiner's ruling; or (2) the recipient's response was non-responsive. I expect this paragraph to be unnecessary, because if it becomes necessary I will consider sanctions.



Appeals to the Energy Bureau: For anyone dissatisfied with a Hearing Examiner's ruling, the deadline for filing an appeal with the Energy Bureau is **5 days** after the Hearing Examiner's ruling.

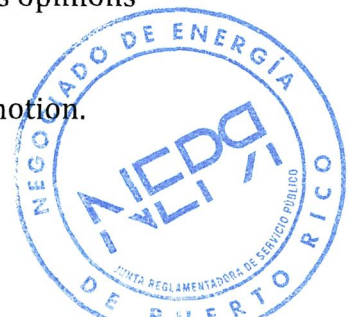
Conclusion on discovery: Everybody wants this process to proceed smoothly and inexpensively. So please: ROI requestors should ask only for what they truly need. Recipients should avoid lengthy, repetitive, boilerplate objections. Have good reasons for the questions; provide good reasons for objections. Please do not cause me to recommend, or the Energy Bureau to impose, sanctions.

Use of EPRI reports

The Electric Power Research Institute (EPRI) has prepared, or will be preparing, internal reports for the Energy Bureau on the physical condition of the electric system. Energy Bureau consultants who submit expert reports in this proceeding might rely on portions of those reports. The EPRI employees who prepared the reports will not be appearing at the hearing. To ensure fair treatment of all parties, the following procedures will apply, where an Energy Bureau consultant cites and relies on an EPRI report:

- The Energy Bureau consultant in his expert report will "adopt" portions of the EPRI report specified by the consultant.
- The Energy Bureau consultant will include the EPRI report as an exhibit to his report.
- The Energy Bureau consultant will have reviewed EPRI's data, methods, and conclusions, will endorse those methods and conclusions, and will say so in his expert report.
- The Energy Bureau will not treat the EPRI report as independent proof of any statement contained within the report. The only evidence from the EPRI report that Energy Bureau will consider is evidence that the Energy Bureau consultant specifically relies on, adopts, and discusses.
- At the evidentiary hearing, the Energy Bureau consultant will respond to questions that any party has about the EPRI report, to the extent that the Energy Bureau consultant has relied on that report.
- Parties will be free, as always, to challenge the Energy Bureau consultant's credibility, his mastery of EPRI's information, and the weight of his opinions given that he did not carry out the EPRI study.

Anyone with concerns about this approach should state those concerns via motion.



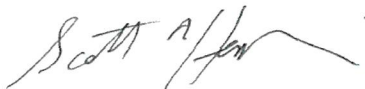
Performance metrics

The Energy Bureau's February 12 Order stated that in this rate proceeding the Energy Bureau will, if necessary, adjust performance metrics, allocation of compensation among performance areas, or both, to reflect the lower spending associated with the Constrained Budget. As discussed during the February 21 conference, the Energy Bureau then will reflect those changes in an appropriate order issued in the proceeding on performance metrics.

Public notices

Governing statutes require LUMA and PREPA to issue public notices at various points in time, such as after LUMA files the formal application on or before July 3, 2025. While I have no authority to require it, I urge the companies to begin issuing public notices after the April 30 submission. Doing so reduces the possibility that parties first arriving in July will ask discovery questions that could more efficiently have been asked in May.

Be notified and published.



Scott Hempling
Hearing Examiner



Revenue Requirement and Rate Design: Combined Schedule**

Starting now	Participants submit requests to intervene in rate case
30-Apr	Applicants file "prepetition" revenue requirement application and direct testimony
1-May	Hearing Examiner begins approving rate case interventions (ongoing)
1-May	Discovery opens on revenue requirement. (All discovery is rolling discovery, as described in Hearing Examiner's Order of April 25.)
2-May	<i>Technical conference on rate design</i>
12-May	Applicants file revenue requirement supplement (Schedules A-1, A-2)
15-May	<i>Technical conference on rate design</i>
16-May	<i>Hearing Examiner circulates draft rate design filing requirements</i>
22-May	<i>Participants submit comments on draft rate design filing requirements</i>
25-May	<i>Technical conference on rate design filing requirements (if necessary)</i>
4-Jun	<i>Order establishing rate design filing requirements*</i>
20-Jun	Intervenors' answering testimony on revenue requirement, and any testimony of PREPA, LUMA, or Genera responding to one of the other two companies on revenue requirement
3-Jul	Applicants file complete formal application, consisting of revenue requirement materials, <i>rate design materials</i> , permanent rates, provisional rates, and proposed amendment to the FY 2025 budget
TBD	PREB approves provisional rates
TBD	Public hearing on provisional rates (per Act 57-2014, section 6.25(e))
6-Jul	PREB ratifies Hearing Examiner's prior approval of rate case interventions*
1-Aug	PREB consultants' expert reports on revenue requirement
3-Aug	<i>Intervenors file answering testimony on rate design</i>
25-Aug	<i>PREB consultants file expert reports on rate design</i>
3-Sep	Determination of completeness of formal application



5-Sep	Intervenors' rebuttal to PREB consultants' expert reports on revenue requirement
10-Sep	<i>Intervenors' rebuttal to PREB consultants' expert reports on rate design</i>
17-Sep	Applicants' surrebuttals to all intervenor testimony and to PREB consultants' expert reports on revenue requirement
19-Sep	Prehearing conference to organize evidentiary hearing on revenue requirement
23-Sep	Final ROIs on revenue requirement
1-Oct	Final responses to ROIs on revenue requirement
6-Oct	Start of evidentiary hearing on revenue requirement
10-Oct	<i>Applicants' surrebuttals to all intervenor testimony and PREB consultants' expert reports on rate design</i>
30-Oct	<i>Final ROIs on rate design</i>
31-Oct	End of evidentiary hearing on revenue requirement*
TBD	Public hearing
TBD	Public comment deadline
5-Nov	<i>Prehearing conference to organize evidentiary hearing on rate design</i>
15-Nov	<i>Final responses to ROIs on rate design</i>
1-Dec	<i>Start of evidentiary hearing on rate design</i>
3-Dec	Initial briefs on revenue requirement*
10-Dec	End of evidentiary hearing on revenue requirement*
5-Jan	Reply briefs on revenue requirement*
10-Jan	<i>Initial briefs on rate design*</i>
30-Jan	Final order (internall) on revenue requirement*
30-Jan	<i>Reply briefs on rate design*</i>
3-Mar	Final order on revenue requirement and rate design (approximately 180 days after determination of completeness; 60-day extension possible to 3-May)*
*Estimated date	
**Rate design items in italics	



Revenue Requirement and Rate Design: Combined Schedule**


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25-Aug	<i>PREB consultants file expert reports on rate design</i>
3-Sep	Determination of completeness of formal application



CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on April 24, 2025. I also certify that on April 25, 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; andrea.chambers@us.dlapiper.com; julian.angladapagan@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; josef.trachtenberg@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; gcastrodad@sbgblaw.com; jan.albinolopez@us.dlapiper.com; jennalvarez@sbgblaw.com; varoon.sachdev@whitecase.com. I also certify that on April 22, 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 April 25, 2025.


Wanda I. Cordero Morales
Interim Clerk

