

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

NEPR

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IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: LUMA's Response to PREPA's
June 25th Motion

LUMA'S RESPONSE TO PREPA'S JUNE 25TH MOTION

TO THE HONORABLE PUERTO RICO ENERGY BUREAU AND HEARING EXAMINER, SCOTT HEMPLING:

COME NOW LUMA Energy, LLC ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo"), (jointly referred to as "LUMA"), through the undersigned counsel, and respectfully state and submit the following:

1. As the Honorable Puerto Rico Energy Bureau ("Energy Bureau") and the Hearing Examiner are aware, LUMA is arduously working towards filing a complete and compliant rate review application, on or before July 3, 2025,¹ pursuant to the requirements outlined in the captioned proceeding.

2. On June 6, 2025, the Hearing Examiner, Mr. Scott Hempling, took notice of LUMA's unfruitful requests to the Puerto Rico Electric Power Authority ("PREPA") to provide its revenue requirement for FY2026 to 2028 and all accompanying workpapers, so that these may be incorporated into the upcoming rate review petition to be filed with the Energy Bureau by the July 3rd deadline.

3. In light thereof, and after a Virtual Conference was held on June 9, 2025 with the purpose of addressing the process through which information related to the upcoming rate review

¹ See *Hearing Examiner's Order Revising Deadline for Rate Case Application*, issued on April 28, 2025.

application would be shared by PREPA with LUMA, LUMA and PREPA agreed on a workplan that was submitted for the record in a joint motion on June 17, 2025.

4. Following another Virtual Conference held on June 18, 2025, the Hearing Examiner issued an *Order* on June 20, 2025 summarizing the joint workplan:

PREPA commits to providing LUMA by June 25, 2025, PREPA's proposed revenue requirement.

LUMA will file on July 3, 2025, a rate application that complies fully with the Energy Bureau's Order of April 21, 2025. That application will have a consolidated revenue requirement—one that includes the individual revenue requirements of LUMA, PREPA, and Genera. If PREPA submits to LUMA the necessary revenue requirement information by June 25, LUMA will include that information in the consolidated revenue requirement. If PREPA does not submit the necessary revenue requirement information by June 25, LUMA will submit a consolidated revenue requirement that uses, as a proxy, PREPA's Fiscal Year 2025 revenue requirement, adjusted for inflation. In both scenarios, LUMA's proposed revenue allocation and rate design will reflect the latter consolidated revenue requirement—the one with the PREPA proxy. The reason is that at this late date, explained LUMA consultant Mr. Shannon, he had to use the PREPA proxy so as to create the revenue allocation and rate design in time for the July 3 deadline. There is now insufficient time, Mr. Shannon said, to carry out the unavoidably manual tasks necessary to change that already-calculated revenue allocation and rate design to reflect PREPA's actual information. That fine-tuning can occur later

See Hearing Examiner's Revised Order Summarizing Conference of June 18, 2025 on Compliance with the Energy Bureau's Order of April 21, 2025 ("June 20th Order"), at p. 1.

5. On June 25, 2025, late in the evening, PREPA filed an *Urgent Motion for Extension of Time to Notify Revenue Requirement Data and File Rate Case Application* ("June 25th Motion"). Therein, PREPA sought an extension of the June 25, 2025 deadline to transmit its revenue requirement data to LUMA. PREPA requested that the Energy Bureau "grant a corresponding extension of the Rate Application deadline from July 3 to July 7, 2025, to provide LUMA sufficient time to incorporate PREPA's final revenue data into the application and complete its required filings." *See June 25th Motion, at p. 8.*

6. On June 26, 2025, the Hearing Examiner issued an *Order Adjusting PREPA Deadline* (“June 26th Order”) noting that June 25, 2025 was “PREPA’s chosen deadline” for providing its proposed revenue requirement and accompanying testimony to LUMA, despite its proximity to the July 3, 2025 deadline for filing the consolidated rate application. The Hearing Examiner expressed concern over the lateness of PREPA’s request and the inconvenience caused to the parties and the proceedings, stating the following:

PREPA should have started earlier. Everyone watching this situation—this Hearing Examiner, the Energy Bureau’s consultants, the Commissioners, the bondholders, the customers, the public, FOMB, the Legislature, the Governor, P3A, AAFAF, everyone—has to be wondering whether PREPA is capable of carrying out its statutory functions. For me, that wondering has become worrying.

See June 26th Order, at pp. 1-2.

7. Nevertheless, the Hearing Examiner’s June 26th Order granted PREPA’s request, extending its deadline to June 30, 2025, for submitting the required materials to LUMA.

8. Although the Hearing Examiner granted PREPA’s request, LUMA is compelled to respond to a number of PREPA’s unfounded aspersions that falsely characterize LUMA’s role and performance, generally and in the ongoing rate review proceedings. Such assertions are misleading and should be stricken from the record. LUMA therefore submits this response to correct the record, ensuring that the proceedings remain focused on accurate information and that responsibility is properly attributed based on substantiated facts rather than rhetoric and unsupported allegations.

9. PREPA’s June 25th Motion attempts to shift responsibility for PREPA’s own fiscal and operational challenges onto LUMA by alleging persistent failures in revenue collection and federal reimbursement processes. However, these allegations are demonstrably false and

completely unsubstantiated by the record or by any concrete evidence presented in the proceedings.

10. PREPA omits the broader context of its own statutory obligations and longstanding operational and financial management issues, which have been the subject of scrutiny by the Energy Bureau and the Hearing Examiner and, indeed, are the reason why PREPA has private operators. *See* Case No. NEPR-IN-2024-0004, *In Re: Puerto Rico’s Electric System Cash Flow and Cash Position Concerns*. The Hearing Examiner’s June 26th Order highlights PREPA’s pattern of delayed action and lack of timely preparation, raising serious concerns about PREPA’s capacity to fulfill its remaining, limited statutory function. *See also* June 18th Virtual Conference.²

11. PREPA’s financial and operational limitations have been widely documented. For example, the statements of intent of the Puerto Rico Legislature, when it enacted both Act 120-2018, known as the *Puerto Rico Electric Power System Transformation Act*, and Act 17-2019, known as the *Puerto Rico Energy Public Policy Act*, include findings on the dire state of the T&D System. In enacting Act 120-2018, the legislature stated that “[p]ractically no infrastructure maintenance was performed during the past decade.” The Puerto Rico legislature also stated that Puerto Rico’s electric power generation and distribution systems were deficient and obsolete. Moreover, a 2016 Study commissioned by the Energy Bureau in PREPA’s last rate case, which was conducted by Synapse Energy Economics, Inc., found that the T&D System was “falling apart quite literally”³ due, in part, to capital constraints and an inability to replace and construct lines. Lack of funds forced PREPA to play “a catch-up game on maintenance – following outages,

² Specifically, Mins. 15:33-20:58, for Hearing Examiner’s line of questioning towards PREPA’s Executive Director, Mary C. Zapata-Acosta. Available at <https://www.youtube.com/watch?v=OsaSQpq-Ok>.

³ See Synapse Report, at 18. Available at <https://energia.pr.gov/wp-content/uploads/sites/7/2016/11/Expert-Report-Revenue-Requirements-Fisher-and-Horowitz-Revised-20161123.pdf>.

instead of improving the fundamental system.”⁴ These legislative findings and independent study reflect a consistent theme: the decades-long degradation of Puerto Rico’s energy system predominantly driven by a well-documented historical lack of investment in the grid, resulting from both poor planning and insufficient funding.⁵

12. PREPA’s assertion in the June 25th Motion that revenue collections by LUMA are the root cause of PREPA’s pension funding crisis is not only untrue and unsubstantiated, but also ignores the fact that PREPA, as the “legal owner and fiduciary of the electric system,” retains ultimate responsibility for the allocation and use of funds, including those related to pension obligations.

13. PREPA’s attempt to blame LUMA for its inability to timely comply with the requirements of a rate case submission that it has known about since last year, is a but another example of its repeated attempts to deflect from its own accountability and is wholly unsupported by the evidence in the record.

14. LUMA takes note of the Hearing Examiner’s June 26th Order maintaining the July 3rd deadline for LUMA to file its rate review application, despite granting PREPA’s extension request. The rate review application will fully integrate LUMA’s and Genera’s information. As

⁴ *Id.*, at p. 33.

⁵ See Case No. NEPR-AP-2025-0002, *Motion Submitting Temporary Rate Adjustment Petition*, LUMA Ex. 1.0, Testimony of A. Figueroa, at p. 4, lines 75.82 (*establishing that “[u]pon commencement of operations on June 1, 2021, LUMA inherited a T&D System that was not up to the minimum industry standard of performance required by the T&D OMA. PREPA was ranked by its customers as the worst-performing utility when compared to the other utilities participating in the J.D. Power Electric Utility Customer Satisfaction surveys for many electric utilities in North America. Other operational indicators, such as reliability metrics, price, wait times, and billing accuracy, indicated that PREPA was not performing at the same level as its comparable utilities. The T&D System was fragile, having suffered from decades of neglect.”*).

required by the Hearing Examiner, LUMA will submit PREPA's materials with the Rate Review filing package.

15. As the record of this proceeding shows, due to PREPA's delay, its revenue requirement information cannot be used to prepare and submit a consolidated revenue requirement. This means that LUMA cannot fully integrate PREPA's materials in the formal rate review application.

WHEREFORE, LUMA respectfully requests that the Energy Bureau and the Hearing Examiner **take notice** of the above.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 27th day of June, 2025.

WE HEREBY CERTIFY that this Motion was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Motion will be notified to Hearing Examiner, Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record.

A courtesy copy of the present Motion will also be notified to the following:

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