

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: Request for Intervention

ICSE'S FORMAL REQUEST FOR INTERVENTION

TO THE HONORABLE ENERGY BUREAU:

Comes now the **Institute of Competitiveness and Economic Sustainability ("ICSE" as its Spanish acronym)**, represented by the undersigned, respectfully states and prays:

I. Introduction

On July 3, 2025, the Energy Bureau entered its Resolution denying ICSE's intervention "*at this time*" based on failure to file a formal petition to intervene as prescribed under Section 5.05 of Regulation 8543 and Section 3.5 of the Puerto Rico Uniform Administrative Proceedings Act ("LPAU", in Spanish), 3 LPRA § 9645.

Previously, on May 21, 2025, the Bureau entered the *Hearing Examiner's Response to Procedural Questions about Rate Design and Requests to Intervene; and Order Granting Interventions*, in which it was stated:

Prospective parties may file requests to intervene at any time, **including after July 3**. But requests that arrive deep into the procedural schedule risk opposition on grounds of disruption.

A party has no right to discovery, and no access to the discovery platform, until the party's intervention has received PREB approval. The

PREB's practice is to approve interventions only after the application has arrived.

Based on those facts, the approach that is best for the party, and that produces the least amount of work for me and for the PREB, is to submit the requests before July 3 when possible. Then the PREB can approve them immediately after receiving the application – thereby allowing the party to begin discovery immediately. **But it is both permissible and traditional for entities to request intervention after the PREB has received the rate application.**

If an entity has already submitted a request to intervene, it need *not* do so again.

To the best of ICSE's knowledge, the Bureau has not varied the Hearing Examiner's answers of May 21, 2025. Therefore, ICSE respectfully requests that it be granted intervention based on the arguments established in Part III of this motion.

In this motion, ICSE does not seek extensions of time or different deadlines to those afforded to other parties. As a matter of fact, ICSE has been notified through its undersigned counsel the (1) *Motion Submitting Rate Review Petition*, (2) *Request for Confidential Treatment of Portions of LUMA's Rate Review Petition*, (3) *Request for Confidential Treatment of Portions of LUMA's Response to Requests of Information Issued on March 24, 2025*, (4) *Request for Short Extension of Time to File Spanish Language Summary of Two Procedural Motions*, and (5) LUMA's motion corresponding annexes (collectively "LUMA's Rate Filing"). Therefore, granting intervention to ICSE will not affect the procedural calendar, which was also notified to ICSE's counsel. See also the *Hearing Examiner's Order Setting Deadlines Relating to Provisional Rates; Granting Requests to Intervene of SESA and Walmart; Clarifying Provisional-Rate Terminology; Providing for Limited Informal Communications; and Correcting Testimonial Error* of July 7, 2025.

II. Intervention

Section 3.5 of LPAU, 3 LPRA § 9645, establishes that a request for intervention is weighed under the following non-exclusive factors:

1. That the petitioner's interest may be adversely affected by the adjudicative proceeding.
2. That there are no other legal means by which the petitioner may adequately protect their interest.
3. That the petitioner's interest is already adequately represented by the parties in the proceeding.
4. That the petitioner's participation may reasonably help develop a more complete record of the proceeding.
5. That the petitioner's participation may excessively prolong or delay the proceeding.
6. That the petitioner represents or acts as a spokesperson for other groups or entities in the community.
7. That the petitioner may contribute information, expertise, specialized knowledge, or technical advice that would otherwise not be available in the proceedings.

The Section also requires that when evaluating these factors, the administrative agency must apply these factors in a liberally consistent manner. *Id.*

Under Article 6.25(b)(9) of Act 57-2014, 22 LPRA § 1054x, specifically requires that a rate case must provide for "citizen participation in the rate evaluation process." Therefore, this is an additional principle that has the effect of liberalizing the already loosened standard of intervention petitions pursuant to Section 3.5 of the LPAU.

III. Arguments to ICSE's Request for Intervention

1. That the petitioner's interest may be adversely affected by the adjudicative proceeding.

ICSE is a nonprofit and nonsectarian organization. The Institute's interest is not that of any interest group, which are of course legitimate to Puerto Rico's democratic society. ICSE's interests are those of advocating for the existence of a regulatory framework and of sound regulatory practices that promote the most competitive outcomes to our economy. In that regard, ICSE's advocacy is not limited to a particular economic interest.

In more specific terms, ICSE has argued as an interested party before the PREPA's bankruptcy proceeding in the PROMESA Title III Court ("Title III Court") for affordable electricity rates and fought against the legacy charge proposed by the Fiscal Oversight and Management Board (FOMB), highlighting the risks of disproportionately overcharging the productive sectors, particularly industrial and commercial consumers.

Our institutional interest is not represented by parties to this proceeding insofar as all participants are protecting their own commercial interests. ICSE's balanced approach to energy can only be adequately defended by itself.

2. That there are no other legal means by which the petitioner may adequately protect their interest.

It has always been ICSE's position before the Title III Court that this proceeding is the most essential for achieving affordable rates for the people of Puerto Rico. ICSE's litigation before the Title III Court in some regards was that of advocating for the independence of the Bureau in designing rates. Given the elimination of the legacy charge in FOMB's latest proposals, it is evident that the direction is shifting towards respecting

the Bureau's ratemaking powers. This highlights the importance and *exclusiveness* of this proceeding.

3. That the petitioner's interest is already adequately represented by the parties in the proceeding.

As previously stated, ICSE's interest is fostering economic competitiveness without favoring specific groups' interests and protecting the institutional role of the PREB. No entity to this proceeding is advocating for an open, transparent, and competitive electric market as their guiding principles.

4. That the petitioner's participation may reasonably help develop a more complete record of the proceeding.

Since its creation, ICSE has participated in multiple regulatory proceedings before the PREB such as: (1) the 2017 Rate Case, (2) the IRP, (3) multiple regulation proposals, (4) investigation on cash flow issues, (5) implementation of demand response and energy efficiency, (6) implementation of other public policy goals such as DER and renewable energy integration, and others. ICSE is also a party to the Title III Case and actively participated with expert testimonies and reports.

Our institutional memory and broad experience can only enrich this proceeding.

5. That the petitioner's participation may excessively prolong or delay the proceeding.

As previously stated, ICSE will comply with deadlines and is well-aware of the consequences of non-compliance.

6. That the petitioner represents or acts as a spokesperson for other groups or entities in the community.

ICSE has been a conciliatory force with various interest groups. In 2018, ICSE in collaboration with the Rocky Mountain Institute (RMI) conducted the *Public Collaborative for Puerto Rico's Energy Transformation* which grouped dozens of stakeholders. Furthermore, ICSE has also coordinated joinders before the Title III Court with various entities such as the Puerto Rico Bar Association, the United Retailers Center of Puerto Rico, the Association of Private Colleges and Universities of Puerto Rico, Colegio de Profesionales del Trabajo Social de Puerto Rico, Junta de Asociaciones con Pensionados y Jubilados de Puerto Rico, the League of Cities of Puerto Rico, among others.

7. That the petitioner may contribute information, expertise, specialized knowledge, or technical advice that would otherwise not be available in the proceedings.

ICSE collaborates with experts in diverse fields that may be available for participating in the present proceeding as expert witnesses. They would most certainly contribute to setting PREPA's rate.

IV. Conclusion

ICSE satisfies the criteria for granting intervention under Puerto Rico administrative law and the energy public policy broadening citizen participation enshrined in Act 57-2014. ICSE has extensive participatory experience before this Bureau and seeks to nurture this proceeding with its conciliatory approach that ultimately seeks conceptual consistency in regulatory matters.

Lastly, we would like to inform that some notifications of filings have been received either by Fernando Agraït or José Pou Román. So, at times, the document filed is not notified to one or the other. For example, the Resolution dated July 3, 2025 states that notification to ICSE was made through José Pou: no such notification was made. We respectfully request that all notifications be made to both.

Also, Mr. Pou works in Mr. Agraït's law office. The July 3 Resolution also states that Windmar was notified through Mr. Pou. Insofar that Mr. Agraït is not Windmar's attorney of record, the same applies to Mr. Pou. It is also respectfully requested that no notifications directed at Windmar be made through Mr. Pou.

WHEREFORE, it is respectfully requested that the PREB grant ICSE's request for intervention; that both Mr. Agraït and Mr. Pou be notified of all future filings in this case, including resolutions of the Bureau; and that the Bureau take notice that either Mr. Agraït or Mr. Pou represent Windmar.

RESPECTFULLY SUBMITTED.

I **CERTIFY** the present document was submitted electronically in the PREB's filing system and copy sent to the Hearing Examiner and the attorneys of record.

[Signatures in next page]

In San Juan, Puerto Rico, July 7, 2025.

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