

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

NEPR

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IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

**PREPA'S MOTION TO AMEND RATE APPLICATION AND OBJECTION TO LUMA'S
REQUESTED PROVISIONAL RATE RIDER AMOUNT¹**

TO THE HONORABLE ENERGY BUREAU,

COMES NOW, the Puerto Rico Electric Power Authority, through the undersigned legal counsel and, very respectfully, state and pray as follows:

1. On July 3, 2025, LUMA Energy LLC and LUMA Energy ServCo (jointly, "LUMA") filed its *Motion Submitting Rate Review Petition* ("Rate Application"). Per PREPA's preliminary analysis of LUMA's Rate Application, LUMA is requesting a provisional rate adjustment that encompasses two (2) main categories of alleged urgent funding needs:

A. \$398.6 million in incremental funding to cover operational expenditures beyond the Fiscal Year 2026 Temporary Default Budget.

B. Outage Event Reserve Account: \$120 million specifically for the replenishment and balance of the underfunded outage event reserve account. This account is contractually established under the T&D OMA with a minimum balance of \$30 million, intended to cover costs incurred in response to outage events. The total accumulated underfunding in this account is \$209 million, which, combined with the \$30 million needed to restore its contractual balance, totals \$239 million to be collected over

¹ This is a preliminary evaluation in nature due to the limited time available to review the extensive documentation submitted by LUMA. Pursuant to the Hearing Examiner's Order of July 7, 2025, PREPA uses the term "provisional-rate rider amount" in this motion to refer to the incremental charge LUMA seeks under its request for provisional rates. Notwithstanding, PREPA informs its agreement with the definition of "provisional rates" provided in the direct testimony of LUMA's expert, Mr. Shannon, and notes that all of PREPA's direct testimony and related filings were prepared on the understanding that "provisional rate" refers exclusively to that incremental increase.

two years (FY2026 and FY2027). The \$120 million is requested as a provisional rate adjustment to begin addressing this urgent need.

2. According to LUMA, this temporary or provisional rate increase is based on incremental costs which it considers just, reasonable, high-priority, and non-controversial.

3. PREPA hereby requests that the Rate Application be amended, as explained below, to reflect the correct funding need for PREPA Employee Retirement System ("PREPA ERS"). Further, PREPA submits its general objection to the provisional-rate rider amount requested by LUMA.

A. Request to amend Rate Application – PREPA ERS

4. As a threshold matter, PREPA notes that the funding amount presented by LUMA for PREPA ERS funding is incorrect.² For Fiscal Year 2026, PREPA requires **\$307,475,422** to fund the PREPA ERS. To allow PREPA to meet its statutory and contractual obligations to the PREPA ERS, it is respectfully requested that LUMA's proposed revenue requirement for provisional rates be updated to reflect

² The PREPA ERS Funding Requirement for Fiscal Year 2027 and Fiscal Year 2028 is also incorrect in LUMA Schedule B-3 of the July 3, 2025 Rate Application. The correct funding requirement for PREPA's pension obligations in Fiscal Year 2027 and Fiscal Year 2028 is \$298,658,581 and \$298,438,608, respectively. It is worth noting that the figures included in LUMA's Schedule B-3 were an early and non-final draft submitted by PREPA to LUMA in April 2025, which reflected the FY 2025 Fiscal Plan as certified by Financial Oversight and Management Board (the "Oversight Board"). The PREPA ERS funding requirement projections included in FY 2025 Fiscal Plan were prepared by the Oversight Board and its advisors. The projection reflects the Oversight Board's proposed Plan of Adjustment that includes the following pension reform measures: (i) close the pension system to future participants; (ii) freeze pension benefits as of the effective date of the POA ("Effective Date") for active employees currently participating and accruing service, including, for the avoidance of doubt, Mobility Employees; (iii) eliminate the Cost-of-Living Adjustment ("COLA") for all participants after the Effective Date; (iv) convert PREPA ERS from being funded based on ADC's or other annual payroll rates to a PayGo system to fund annual benefits; and (v) establish a PREPA PayGo Trust to support the payment of pensions. The PREPA PayGo Trust, as proposed by the Oversight Board, is to be funded based on the estimated amounts needed to pay the restructured pension benefits plus additional amounts needed to build up an approximately one-year reserve of benefit payments. This reserve was designed and included to provide a funding backstop in the event of disruptions (e.g., due to a hurricane or other natural disaster). The figures presented in PREPA's Schedule B-3 are projections prepared by the PREPA ERS administrator and of the minimum annual funding required and do not include the buildup of the one-year reserve of benefit payments.

the correct figures.³ PREPA ERS pension benefit payments are among PREPA's most urgent, legally binding, financial responsibilities. These obligations are not only recurring but are required to safeguard the accrued and ongoing retirement benefits and livelihood of thousands of current and former employees. As such, this obligation is high priority and non-controversial.

5. In light of the foregoing, PREPA respectfully requests that LUMA's Schedule B-3 of the Rate Application, located in "*ANNEX I.A LUMA Exhibits and Schedules*", be stricken from the record and replaced with the document titled "*PREPA Ex. 39 6.30.25 - PREPA Exhibit 5-Schedule B-3 - Debt Service*", which was submitted as part of the Rate Application under "*ANNEX I.C PREPA Exhibits and Schedules*". This amendment to the Rate Application will ensure that the record reflects the most current and accurate information.

B. PREPA's objection to the provisional-rate rider amount requested by LUMA⁴

6. In its Rate Application, LUMA attributes PREPA's liquidity constraints primarily to the inadequacy of existing base rates and claims that these constraints impede the execution of its capital program and daily operations. However, the Rate Application fails to acknowledge LUMA's own role in exacerbating these liquidity shortfalls and omits any reference to the more than \$10 billion in federal mitigation and permanent improvement funds available for PREPA's transmission and distribution system. Additionally, while LUMA has

³ PREPA is cognizant that LUMA's ability to incorporate PREPA's final figures for the PREPA ERS was limited due to time constraints resulting from PREPA's submission of these figures on July 30, 2025.

⁴ For purposes of this argument, PREPA treats LUMA's proposed provisional rate rider amount as referring exclusively to the provisional rate increase sought by LUMA to cover its own operational expenditures. This characterization expressly excludes PREPA's separate request for a provisional rate increase to cover payments to the PREPA ERS, which is distinct in purpose and scope from LUMA's operational funding needs.

reported expenditures of approximately \$1.6 billion over nearly four (4) years—from its interim service commencement in June 2021 through the third quarter of FY2025—it has secured only about \$345 million in FEMA reimbursements to date. Moreover, approximately \$570 million in FEMA Working Capital Advances remain unused in LUMA's T&D Federally Funded Capital Account.

7. PREPA objects to LUMA's proposed provisional rate rider amount because it would shift the financial consequences of LUMA's own mismanagement onto ratepayers. LUMA has yet to demonstrate meaningful improvements in core revenue-enhancing areas—namely, collecting electric-service charges, curbing electricity theft, and monetizing third-party attachments. Until LUMA produces verifiable results on these fronts, imposing additional charges on customers to cover LUMA's operations would be both unjust and unreasonable.

8. PREPA further opposes LUMA's proposed provisional rate rider amount to the extent it would fund mitigation and permanent improvement projects for PREPA's transmission and distribution system that qualify for federal reimbursement. LUMA has failed to obtain billions of dollars in available FEMA and other federal funds, and ratepayers should not be compelled to cover those costs merely because LUMA has not secured the reimbursements to which PREPA is entitled. Any provisional increase to cover these mitigation and permanent work projects, therefore, should be withheld unless and until LUMA first leverages the federal funding already available for these projects.

9. It is worth noting that the Energy Bureau has already faulted LUMA for its poor performance in reducing electricity theft, its inadequate management and monetization of third-party attachments, and its persistent delays in accessing federal funding. See Case No. NEPR-MI-2021-0004, Resolution and Order (June 26, 2024).

10. With respect to federal funding, multiple oversight bodies—including the Energy Bureau, the Puerto Rico Public-Private Partnerships Authority (“P3A”), the Central Office for Recovery, Reconstruction and Resiliency (“COR3”) and FEMA—have criticized LUMA for its inefficient management of the application and draw-down process, which they have directly linked to PREPA’s liquidity constraints. The Energy Bureau, for example, has noted LUMA’s unexplained delays in submitting project worksheets to FEMA and its inadequate use of available resources to expedite federally funded work. See Case No. NEPR-MI-2021-0004, Resolution and Order (June 26, 2024). In its letter of February 13, 2025, P3A concluded that the system-wide “funding shortage is directly and inexorably related to LUMA’s failure to properly manage the federal funding process,” emphasizing that LUMA diverted monies earmarked for operating expenses to capital projects without first securing FEMA reimbursements—thereby triggering a cascading liquidity crisis. The Energy Bureau similarly censured LUMA for omitting two critical Monacillo transformers from its budget to “maximize federal funding,” for seeking FEMA aid for ineligible assets, and for demonstrating an overall lack of proficiency in federal-funding protocols. See Case No. NEPR-MI-2021-0004, Resolution and Order (March 5, 2025). Finally, FEMA declined reimbursement

because LUMA “failed to follow [its] own procurement rules,” continuing to employ seconded personnel from its affiliates beyond the permissible 30-day emergency-exigency period. See FEMA correspondence dated March 7, 2025, regarding disasters 4339-DR-PR, 4473-DR-PR, and 4671-DR-PR. Collectively, these findings converge on a single point: LUMA’s systemic mismanagement of federal-funding mechanisms has materially impaired PREPA’s liquidity.

11. Accordingly, PREPA opposes LUMA’s proposed provisional rate rider amount to the extent it would unfairly transfer to ratepayers the financial consequences of LUMA’s own mismanagement—namely, its failure to improve collections, curb electricity theft, and monetize third-party attachments—while simultaneously asking customers to finance capital projects that should be funded through billions of dollars in readily available FEMA and other federal reimbursements. Until LUMA can demonstrate verifiable progress in maximizing recurring revenue streams and securing federal funds, the proposed provisional rate rider amount requested by LUMA to cover its over operational expenditures is unjust, unreasonable, and controversial. As such, PREPA objects to it and requests that it be denied.

WHEREFORE, PREPA respectfully requests the Energy Bureau and Hearing Examiner to take notice of the foregoing, and **DENY** LUMA’s proposed provisional rate rider amount.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 11th day of July 2025.

CERTIFICATE OF SERVICE: We hereby certify that this document was filed

with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and courtesy copies were sent via e-mail to the LUMA Energy, LLC, through: Margarita Mercado, margarita.mercado@lumaenergy.com; Juan González, jgonzalez@gmlex.net; Alexis G. Rivera Medina, arivera@gmlex.net; and Juan Martínez, jmartinez@gmlex.net; and to Genera PR, LLC, through: Jorge Fernández-Reboredo, jfr@sbgblaw.com; Gabriela Castrodad, gcastrodad@sbgblaw.com; Jennise Alvarez, jennalvarez@sbgblaw.com; regulatory@genera-pr.com; José J. Díaz Alonso, jdiaz@sbgblaw.com; and legal@genera-pr.com; Co-counsel for Oficina Independiente de Protección al Consumidor, hrivera@jrsp.pr.gov; contratistas@jrsp.pr.gov; p vazquez.oipc@avlawpr.com; Co-counsel for Instituto de Competitividad y Sustentabilidad Económica, jpouroman@outlook.com; agraitfe@agraitlawpr.com; Co-counsel for National Public Finance Guarantee Corporation, 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; Co-counsel for GoldenTree Asset Management LP, lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; iglassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; Co-counsel for Assured Guaranty, Inc., hburgos@cabprlaw.com; dperez@cabprlaw.com; mmcgill@gibsondunn.com; lshelfer@gibsondunn.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; thomas.curtin@cwt.com; Co-counsel for Syncora Guarantee, Inc., escalera@reichardescalera.com; arizmendis@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; Co-Counsel for the PREPA Ad Hoc Group, dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; david.herman@dechert.com; michael.doluisio@dechert.com; stuart.steinberg@dechert.com; Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica, nancy@emmanuelli.law; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; Official Committee of Unsecured Creditors of PREPA, jcasillas@cstlawpr.com; jnieves@cstlawpr.com; Solar and Energy Storage Association of Puerto Rico, Cfl@mcvpr.com; apc@mcvpr.com; javrua@sesapr.org; mrios@arroyorioslaw.com; ccordero@arroyorioslaw.com; Wal-Mart Puerto Rico, Inc., Cfl@mcvpr.com; apc@mcvpr.com; Mr. Victor González, victorluisgonzalez@yahoo.com; and the Energy Bureau's Consultants, jrinconlopez@guidelhouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; jorge@maxetaenergy.com; rafael@maxetaenergy.com; RSmithLA@aol.com; msdady@gmail.com; mcranston29@gmail.com; dawn.bisdorf@gmail.com; ahopkins@synapse-energy.com; clane@synapse-energy.com; guy@maxetaenergy.com; Julia@londoneconomics.com;

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