

**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  
Discovery, Riders Relating to Provisional  
Rates, Pension Issues, Permanent-Rate  
Effective Date, Inflation Rate, and  
Provisional-Rate Billing Determinants

**Hearing Examiner's Order on Discovery, Riders Relating to Provisional  
Rates, Pension Issues, Permanent-Rate Effective Date, Inflation Rate,  
and Provisional-Rate Billing Determinants**

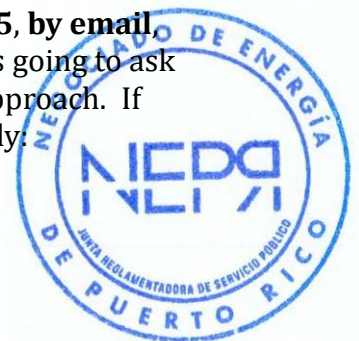
This Order addresses matters that arose during our conference today, July 14, 2025.

**Discovery into and comments on provisional rates**

ICPO requested an opportunity to ask discovery questions about the proposed provisional rates. I am going to grant this opportunity but limit it. And I urge parties to think twice before taking the opportunity. Consider:

- It is unprecedented to have discovery into, and comments on, a provisional rate. The common practice is that provisional rates go into effect automatically, as long as the utility has complied with the regulator's filing requirements and the statute's notice requirements. They go into effect automatically because they are subject to reconciliation.
- For over a week, the PREB's consultants have been studying the application, raising whatever questions they think are necessary for the Commissioners to make the best possible decision. They have been doing that work in part to save other parties the effort.

I therefore wish to know by **noon tomorrow, Tuesday, July 15, 2025, by email**, (copying all) if anyone is actually going to ask questions. Because if no one is going to ask questions, then the Energy Bureau will continue on its planned expedited approach. If someone does say that they intend to ask questions, the following steps apply:



- Questions are due **noon Thursday, July 17, 2025**, preferably sooner.
- LUMA's responses are due **Tuesday, July 22, 2025, at 5pm**.
- Questions and responses go on the Accion platform. The Accion platform organizes and identifies ROIs by categories. Accion has added "Provisional Rate" to the list of choices in the Related Category drop-down menu. Accion will add additional Categories for Rate Design. You will see all Categories on the Submit ROI form, where you select the Related Category that applies to your ROI.
- On provisional rates, there is no time for followup questions to the July 22 responses.
- Any final comments on the provisional rate are due, using standard pleading practice, **Friday, July 25, 2025 at 5pm**, preferably sooner. As with discovery, comments on provisional rates are unprecedented, because these rates are subject to reconciliation.

### **Other discovery procedures**

As discussed most recently in my Order of July 10, 2025, and during the conference of July 14, 2025: While discovery will occur on the Accion platform, followup conversations for clarification can occur informally, via email and telephone, provided the questioner copies the witnesses' attorneys on the communications. When the questioner is an Energy Bureau consultant, these off-the-record communications must avoid anything other than clarification.

If the informal followup communication produces a clarification that is, in effect, a substantive amendment to the respondent's original response on the Accion platform (meaning that it contains information that should be available to all), the respondent must add the followup answer to the Accion platform. Doing so both ensures full circulation and avoids duplicative requests for clarification.

The method for achieving this result is the same for any need to amend a previously provided answer. All respondents have a continuing obligation to update any response that they later determine is incomplete or incorrect, or when they acquire new material information after their original answer. To update or supplement a response, use **Manage My ROIs**, find your original response, and use the Supplemental Response button at the bottom of the response form.



## **Two riders relating to incremental costs**

For the portion of the provisional revenue requirement not part of base rates, there will be two riders: one for all nonpension costs, and one for any allowed pension costs. On customers' bills, LUMA will locate these riders under "Reconciliation Clauses."

## **Pension issues**

PREPA sought to strike LUMA's Schedule B-3, in favor of PREPA's Schedule B-3. During the July 14 conference, PREPA's counsel and I agreed that both Schedules would remain in the record. When the Energy Bureau decides whether to allow pension costs in rates, and if so how much, it will cite as support whichever of the two schedules it has relied on. This solution relates to both the provisional rate and the permanent rate.

For the pension-cost provisional-rate rider to collect all approved pension dollars, LUMA will need to multiply that dollar amount by the same factor for uncollectibles that LUMA has applied to the rest of the revenue requirement.

## **Inflation rate**

The proposed consolidated revenue requirement must reflect for each of the three companies the same inflation factor: 1.03438.

## **Effective date and its relationship to provisional-rate billing determinants**

*Effective date:* For purposes of reconciling the permanent rate with the provisional rate, the effective date is July 1, 2025. The reason is that the associated budgets and revenue requirements are fiscal-year budgets and fiscal-year revenue requirements.

*Billing determinants:* Assume that the customer bills reflecting the provisional rate start issuing September 1. We will have a revenue requirement reflecting 12 months, but provisional rates in effect for only 10 months. If LUMA uses kWh billing determinants reflecting consumption over 12 months for a period lasting 10 months, the provisional rate will undercollect during that 10-month period. Reconciliation will later solve the undercollection problem, but the undercollection reduces cash flow and therefore reduces the pace of performance improvement. LUMA will consider this issue and report.



Scott Hempling  
Hearing Examiner



## CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on July 14, 2025. I also certify that on July 14, 2025, a copy of this Order was notified by electronic mail to mvalle@gmlex.net; arivera@gmlex.net; jmartinez@gmlex.net; jgonzalez@gmlex.net; katiuska.bolanos-lugo@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; carolyn.clarkin@us.dlapiper.com; andrea.chambers@us.dlapiper.com; sromero@sbgblaw.com; gcastro@sbglaw.com; jennalvarez@sbglaw.com; jfr@sbglaw.com; regulatory@genera-pr.com; legal@genera-pr.com; hriviera@jrsp.pr.gov; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidhouse.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; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; jdiaz@sbglaw.com; javrua@sesapr.org; Brett.ingerman@us.dlapiper.com; agraitfe@agraitlawpr.com; jpouroman@outlook.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; thomas.curtin@cwt.com; escalera@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; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; juan@londoneconomics.com; mmcgill@gibsondunn.com; LShelfer@gibsondunn.com; jnieves@cstlawpr.com; arrivera@nuenergypr.com; apc@mcvpr.com. I also certify that on July 14, 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 July 14, 2025.



Sonia Seda Gaztambide  
Clerk