

**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  
Bondholders' Preliminary Response to  
Provisional Rate Request

**LUMA'S RESPONSE TO PREPA BONDHOLDERS' PRELIMINARY RESPONSE TO  
PROVISIONAL RATE REQUEST**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

**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:

**I. INTRODUCTION**

1. LUMA filed its Motion Submitting Rate Review Petition ("Rate Review Petition") on July 3, 2025. On July 11, 2025, the PREPA Bondholders (the "Bondholders") submitted their Preliminary Response to Provisional Rate Request ("the Bondholder's Response") asking that the Puerto Rico Energy Bureau ("PREB") deny LUMA's provisional rate request. The Bondholders' arguments should be rejected, and the PREB should grant LUMA's provisional rate request.

2. The Bondholders' arguments are based on a false premise: that LUMA has taken a position adverse to the Bondholders with regard to PREPA's debt and its repayment. That is not the case.

3. First, LUMA's provisional rate request complies with the PREB's directives and does not ignore PREPA's debt. As the Bondholders concede, the provisional rate request included debt service as a legacy debt rider. Including the debt in this manner made logical sense. In fact, it

was the only way LUMA could account for the debt in its provisional rate request – *because PREPA’s debt repayment obligations have not yet been resolved in the PROMESA Title III proceeding*. There was no other way to account for the debt in LUMA’s submission, given that the amount and timing of repayment has not yet been determined. And as for the amount of the legacy debt rider, LUMA used a \$0 placeholder because, again, it does not currently know the amount needing to be repaid or repayment timing, both of which will be determined in the future through the Title III proceeding. By using a \$0 placeholder, LUMA was in no way suggesting that PREPA’s debt would not need to be repaid; in fact, LUMA submitted to the PREB PREPA’s calculation of the potential range of PREPA’s future debt obligations, in the form of “high” and “low” debt scenarios in Schedule B-3. That is the information the PREB requested and is all of the information LUMA currently has regarding PREPA’s future debt obligations.

4. Second, as a practical matter, PREPA’s debt is irrelevant to the provisional rate request. PREPA’s legacy debt cannot be serviced until after the Title III proceeding concludes, which will not happen during the period in which the provisional rate is in effect. That is consistent with LUMA’s submission.

5. Third, the provisional rate request does not elevate capital expenditures above debt service. It is devoid of any such discussion, and LUMA takes no position on whether debt service is subordinate to, or takes priority over, capital expenditures. As the operator of the Puerto Rico Transmission and Distribution System (“T&D System”), LUMA has proposed capital expenditures that it believes are essential to comply with its obligations as a prudent T&D operator. Its position on the necessity of those capital expenditures has nothing to do with debt repayment, and LUMA disputes the Bondholders’ self-serving suggestion that the proposed capital expenditures are in any way unnecessary. On the contrary, the requested capital expenditures are

vital to maintaining Puerto Rico’s electrical power system and are steps any responsible utility operator would take.

6. Fourth, the Bondholders are wrong that the provisional rate request is missing information regarding the “Other” category. LUMA explained the composition of that category in the body of its Rate Review Petition and filed clarification responses on July 15, 2025, and a revised calculation of said category on July 22, 2025, *see* LUMA Ex. 1.06 (7.22.25), submitted in attention to the Bondholder’s discovery request, NPFGC-of-LUMA-PROV-19.

7. In sum, the PREB should reject the Bondholders’ arguments and approve the provisional rate request submitted by LUMA.

## **II. ARGUMENT**

### **A. LUMA’s Provisional Rate Request Accounts for PREPA’s Debt and Does Not Ignore Legal Requirements.**

8. Contrary to the Bondholder’s argument, LUMA’s Rate Review Petition does not “exclude” PREPA’s debt to Bondholders.<sup>1</sup> LUMA included the repayment of PREPA’s debt through the Legacy Debt Rider (“LDR”).<sup>2</sup> This provision promotes transparency regarding PREPA’s debts while fulfilling LUMA’s obligation to include only costs that have a strong degree of certainty in its base rate request.<sup>3</sup>

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<sup>1</sup> Bondholders’ Response at 2.

<sup>2</sup> *See* LUMA Ex. 1.0, Testimony of Alejandro Figueroa, lines 715-721; LUMA Ex. 2.0, Testimony of Andrew Smith, lines 663-665, lines 905-913, and lines 920-925; LUMA Ex. 20.0, lines 778-784, Testimony of Sam Shannon, at Question 98; PREPA Ex. 39, Debt Service Requirements.

<sup>3</sup> *See* NARUC Staff Subcommittee on Accounting and Finance (Summer 2003) at 35. (“One of the overriding principles to remember when reviewing expense related adjustments is the concept of known and measurable, particularly when dealing with adjustments to historic test periods. It is widely accepted that adjustments should have a strong degree of certainty associated with them, and that there should be a reasonable ability to measure the item underlying the adjustment.”) *available at* <https://www.canr.msu.edu/ipu/uploads/migration/2020/04/NARUC-Rate-Case-and-Audit-Manual-2003.pdf>. In this case we are looking at a forward test year, but we do not have a basis for forecasting what

9. The proposed LDR will go into effect once PREPA's Title III proceeding is resolved and not before Fiscal Year 2027.<sup>4</sup> Because PREPA's Title III proceeding is ongoing, LUMA cannot know the amounts necessary for PREPA's debt service until that proceeding concludes. At that point, PREPA will begin making payments, and LUMA will specify the annual amount for recovery in a filing prior to the start of each fiscal year.<sup>5</sup> The PREB can order that the legacy debt costs be recovered through the rider when the amounts are known with certainty.

10. By including the LDR, LUMA complied with the PREB's orders in this case. The Bondholders cite no authority for the proposition that the LDR was an inappropriate or improper way to account for PREPA's debt, because there is no such authority. In fact, it was the only logical way to account for that debt. It does not make any sense to handle PREPA's debt in any other way, nor would it even be possible to do so, because LUMA can include only costs that have a high degree of certainty or are "known and measurable" amounts in its base rate request. The final amount of PREPA's debt that needs to be repaid will not be determined until confirmation of a Title III plan and therefore is not certain at this time.<sup>6</sup>

11. For similar reasons, the Bondholders' argument that LUMA's provisional rate request somehow leaves PREPA "locked out of" capital markets makes no sense. PREPA is "locked out" of capital markets because it is in bankruptcy, and that state of affairs will continue until it emerges from the Title III proceeding or the FOMB determines to seek financing for

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level of debt service costs will be approved by the bankruptcy court, so there is no basis for certainty as to the forecast to use.

<sup>4</sup> See LUMA Ex. 20.0, Testimony of Sam Shannon, at Question 98

<sup>5</sup> *Id.*

<sup>6</sup> LUMA Exhibit 2.0, Testimony of Andrew Smith, lines 920-925; LUMA Ex. 20.0, lines 778-784, Testimony of Sam Shannon.

PREPA. Nothing about how PREPA's debt is accounted for in LUMA's provisional rate request will have any impact whatsoever on PREPA's ability to raise funds before the conclusion of the Title III proceeding by issuing additional debt.

12. The Bondholders' submission also suggests that LUMA should have balanced PREPA's future "debt service obligations" against its evaluation of what qualifies as appropriate capital and operational expenditures during LUMA's capital planning process.<sup>7</sup> That argument misunderstands and conflates LUMA's and the PREB's roles in the rate-making process. LUMA understands its role in the process to be submitting, for the PREB's consideration, its proposal for a rate based on T&D expenditures LUMA believes are necessary to provide the level of service it is obligated to provide under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 20, 2022 ("T&D OMA"), as well as the potential range of debt service obligations that PREPA will need to meet once the Title III case is resolved. LUMA has done so. As stated in the statutes cited by the Bondholders, it is *PREB's* role to evaluate and weigh LUMA's proposed expenditures, PREPA's costs, and the capacity of customers to pay increased rates.<sup>8</sup> LUMA has submitted the information that PREPA provided concerning its legacy debt on Schedule B-3 of the Rate Review Petition as the PREB has requested so that the PREB can perform that evaluation.

**B. The Provisional Rate Request Does Not Elevate Capital Expenditures Above Debt Service or Propose Unnecessary Expenditures.**

13. The Bondholders are simply wrong that LUMA's provisional rate request takes the position that capital expenditures should be paid before PREPA's debt. It states no such thing, and

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<sup>7</sup> Bondholders' Response at 2.

<sup>8</sup> See Response at 6 (discussing "[t]he *Energy Bureau's*" obligations and duties (emphasis added)).

LUMA has taken no position on whether capital expenditures or bonds should receive payment priority. Any suggestion to the contrary is false.<sup>9</sup> LUMA has requested a provisional rate that would provide it with funds to undertake essential capital projects, at a time where PREPA's debt *cannot* be serviced because the Title III proceeding has not yet concluded. That is not prioritization of one over the other – it's just reality. Whether bonds or capital expenditures should receive payment priority, and how the two should be balanced, is an issue for the Title III court to address at a later date once more is known about the nature of PREPA's final debt obligations, not in connection with LUMA's provisional rate request.

14. The rest of the Bondholders' argument is really just an attack on the supposed necessity of LUMA's proposed capital expenditures. The Bondholders submit no evidence to support their meritless attack, whereas LUMA submitted detailed testimony from witnesses with extensive experience operating the T&D System and deep familiarity with the state of the T&D system. LUMA's evidence shows that those expenditures are essential to meet LUMA's obligations to provide an adequate level of electricity service to the Puerto Rican people and to meet LUMA's obligations under the T&D OMA.<sup>10</sup> The Bondholders' bald assertions that Puerto

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<sup>9</sup> This issue of whether the Bondholders' bonds should receive payment priority has not been properly joined. The Bondholders' entire argument rests on a single, declaratory sentence, supported by a "See, e.g." cite to several complex Trust Agreement provisions. *See* Response at 7. This does not even give LUMA and the PREB sufficient information to reasonably evaluate the Bondholders' assertion of payment priority. The PREB should disregard the Bondholders' cursory argument.

<sup>10</sup> *See e.g.*, LUMA's pre-filed testimonies, LUMA Ex.1.0, lines 595-600 ("Deferral or postponement of maintenance and capital improvement deprives the utility from the resources otherwise needed to support those investments and has a compounding effect on the performance of the T&D System, as it delays the delivery of improvements necessary to, at the very least, keep up with ordinary equipment degradation, which could delay or negate the pace at which customers can benefit from other improvements being made."); LUMA Ex. 5.0, lines 1231-1298 (describing NFC costs for the Capital Programs Department included in the provisional rate request); LUMA Ex. 6.0, lines 1176-1243 (describing NFC costs for the Operations Department included in the provisional rate request); LUMA Ex. 11.0, lines 1157-1231 (describing NFC costs for the IT/OT Department included in the provisional rate request); LUMA Ex. 17.0, lines 741-783 (describing NFC costs for the Facilities Department included in the provisional rate request);

Rico's T&D system should operate at a bare minimum level is contrary to established law and public policy. As attested to by LUMA in the Rate Review Petition and independent studies, the T&D System that LUMA inherited was fragile, "deteriorated," and "falling apart quite literally,"<sup>11</sup> after having suffered decades of deferred maintenance and insufficient investment by PREPA.<sup>12</sup> The situation is so dire that each of the United States Department of Energy, the Governor of Puerto Rico, and PREB has declared that an electric energy emergency exists in Puerto Rico:

- "An emergency exists in Puerto Rico due to a shortage of electric energy, a shortage of facilities for the transmission of electric energy, and other causes . . . Recent investments in the Puerto Rico grid have provided insignificant improvement towards augmenting reliability and security of the grid."<sup>13</sup>
- "I hereby declare a modification and expansion of the state of emergency concerning Puerto Rico's electric system, including but not limited to, the transmission and distribution system, as well as generation and the auxiliary infrastructure that makes it possible to operate Puerto Rico's energy system in a reliable and affordable manner and in compliance with applicable laws, including

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LUMA Ex. 18.0, lines 677-701 (describing NFC costs for the Fleet Department included in the provisional rate request);

<sup>11</sup> Synapse Report at 18, see also at 12, 26, *available at* <https://energia.pr.gov/wp-content/uploads/sites/7/2016/11/Expert-Report-Revenue-Requirements-Fisher-and-Horowitz-Revised-20161123.pdf>.

<sup>12</sup> See LUMA Exhibit 1.0, pre-filed testimony of Mr. Alejandro Figueroa, lines 347-376.

<sup>13</sup> United States Department of Energy, Order No. 202-25-2 (May 16, 2025) (emphasis added), *available at* <https://www.energy.gov/sites/default/files/2025-05/EXEC-2025-006064%20-%20PR%20202c%20Emergency%20Measures%20Transmission%20signed%20by%20Secretary%20Wright%205-16-25.pdf#:~:text=Pursuant%20to%20the%20authority%20vested%20in%20the%20Secretary,meet%20the%20emergency%20and%20serve%20the%20public%20interest>.

environmental laws, and, additionally, to modernize and reinforce said system to be in line with our times and circumstances.”<sup>14</sup>

- “There is a compelling and urgent case that Puerto Rico is in a state of energy emergency. The island’s electricity grid cannot reliably meet demand under normal operating conditions, let alone in the face of unexpected events such as additional generator failures, heat waves, or hurricanes. This chronic insufficiency of generation capacity, coupled with rapidly increasing peak electricity demand, creates a situation where energy service interruptions are not just likely—they are expected and unavoidable without immediate action.”<sup>15</sup>

15. The Bondholders’ arguments completely disregard the current state of Puerto Rico’s T&D System. In essence, they contend, without any evidence, that even if crucial elements of the T&D System like distribution lines are out of service or soon to fail, no capital expenditure is necessary because the proverbial “duct tape” holding the T&D System together is currently working.<sup>16</sup> Not only is that demonstrably false, but the Bondholders’ attitude that maintenance is not necessary until catastrophe strikes is the same approach that led to the privatization of the utility and the continuing state of disrepair due to PREPA’s underfunding.

### **C. The Provisional Rate Request Is Not Missing Information.**

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<sup>14</sup> Governor of Puerto Rico, Hon. Jennifer González, Executive Order No. EO-2025-016 (April 2, 2025), available at <https://docs.pr.gov/files/Estado/OrdenesEjecutivas/2025/OE-2025-016%20ENG.pdf>.

<sup>15</sup> Puerto Rico Energy Bureau, Resolution and Order of March 28, 2025, Case No. NEPR-MI-2024-0005, In re: Electric System Priority Stabilization Plan (emphasis added), at 4, available at <https://energia.pr.gov/wp-content/uploads/sites/7/2025/04/20250328-MI20240005-Resolution-and-Order.pdf>.

<sup>16</sup> PREPA Bondholders’ Preliminary Response to Provisional Rate Request, p. 8.



16. LUMA’s provisional rate request is not missing information.<sup>17</sup> The entirety of the Bondholders’ criticism seems to stem from the fact that LUMA did not include a detailed breakdown of the “Other” cost category in the Executive Summary portion of LUMA’s submission.<sup>18</sup> But, of course, an “Executive Summary” is just that – a summary – and as the Bondholders are surely aware, LUMA has provided detailed information regarding the “Other” category elsewhere in its submissions. LUMA submitted support for that line item in Exhibit 1.06 (Tab. 0.0, System Funding Summary) and later submitted supplemental and revised information in attention to requests for information.<sup>19</sup>

**D. The Bondholders’ Response Exceeds the Scope of Their Intervention in this Proceeding.**

17. When the PREB authorized the Bondholders’ intervention in this proceeding, it did so on the grounds that they could assist to “develop a sound record and contribute specialized knowledge through their alleged extensive experience in municipal finance and the utility industry.”<sup>20</sup> The Bondholders’ Response has absolutely nothing to do with that. Rather, it focuses on debt repayment claims that are appropriately addressed (and already at issue) in the Title III proceeding – not here. By raising them here, the Bondholders are ignoring the purpose for which they were permitted to intervene. LUMA requests that the PREB instruct the Bondholders that in

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<sup>17</sup> Response at 11.

<sup>18</sup> Response at 11.

<sup>19</sup> Exhibit 1, LUMA’s Motion in Compliance with July 8th Order, ROI-LUMA-AP-2023-0003-20250708-PREB-002, Figure 2-1, System Funding Summary; LUMA Ex. 1.06, Tab. 0.0, System Funding Summary and Responses to NPFGC-of-LUMA-PROV-19 and PC-of-LUMA-PROV-35, including a revised version of LUMA Ex. 1.06.

<sup>20</sup> PREB Resolution and Order of July 3, 2025 at 4, available at <https://energia.pr.gov/wp-content/uploads/sites/7/2025/07/20250703-AP20230003-Resolution.pdf>.

the future, arguments related to the repayment priority of their debt should be addressed exclusively in the Title III court.

### **III. CONCLUSION**

18. For the foregoing reasons, the Bondholders' arguments are unavailing, and the PREB should grant LUMA's provisional rate request.

**WHEREFORE**, LUMA respectfully requests that the PREB **grant** its provisional rate request.

### **RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 25<sup>th</sup> day of July, 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. To wit, to the Puerto Rico Electric Power Authority, through: Mirelis Valle-Cancel, mvalle@gmlex.net; 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; José J. Díaz Alonso, jdiaz@sbgblaw.com; Stephen Romero Valle, sromero@sbgblaw.com; Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com; Maraliz Vázquez-Marrero, mvazquez@vvlawpr.com; ratecase@genera-pr.com; regulatory@genera-pr.com; and legal@genera-pr.com; Co-counsel for Oficina Independiente de Protección al Consumidor, hriviera@jrsp.pr.gov; contratistas@jrsp.pr.gov; pvazquez.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; mmcgrill@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;

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