

**COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ENERGY BUREAU**

**IN RE: PUERTO RICO ELECTRIC  
POWER AUTHORITY RATE  
REVIEW**

**CASE NO.:** NEPR-AP-2023-0003

**SUBJECT:** PREPA Bondholders'  
Supplemental Response to Provisional Rate  
Request

**NEPR**

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**PREPA BONDHOLDERS' SUPPLEMENTAL  
RESPONSE TO PROVISIONAL RATE REQUEST**

**TO THE PUERTO RICO ENERGY BUREAU:**

Petitioners National Public Finance Guarantee Corporation, GoldenTree Asset Management LP, Syncora Guarantee, Inc., Assured Guaranty Inc., and the PREPA Ad Hoc Group<sup>1</sup> (collectively, the “Bondholders”), by and through the undersigned counsel, hereby submit this Supplemental Response to the provisional rate request submitted by LUMA on behalf of itself, Genera, and PREPA. This filing, which supplements the *PREPA Bondholders' Preliminary Response to Provisional Rate Request* (July 11, 2025),<sup>2</sup> is made in connection with the Hearing Examiner's July 14th order setting a deadline of July 25 for supplemental comments.<sup>3</sup>

On July 17, 2025, National submitted eleven discovery questions to LUMA and Genera regarding their provisional rate requests. These questions covered **hundreds of millions of dollars** requested by LUMA and Genera that, based on a preliminary review, appeared to be

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<sup>1</sup> The members of the PREPA Ad Hoc Group are listed in the *Eighth Verified Statement of the PREPA Ad Hoc Group pursuant to Bankruptcy Rule 2019*, ECF No. 5671, filed in *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, Case No. 17-BK-04780-LTS (D.P.R. May 19, 2025).

<sup>2</sup> No party objected to, or otherwise responded to, the Bondholders' Preliminary Response, and those arguments therefore stand unopposed. For the sake of efficiency, the Bondholders will not repeat those arguments here and instead incorporate the arguments by reference.

<sup>3</sup> *Hearing Examiner's Order on Discovery, Riders Relating to Provisional Rates, Pension Issues, Permanent-Rate Effective Date, Inflation Rate, and Provisional-Rate Billing Determinants*, Case No. NEPR-AP-2023-0003, at p.2 (July 14, 2025). A Spanish summary of this filing is attached hereto as Appendix A, pursuant to the orders of May 9th and June 4th. The Bondholders reserve their rights, and waive none, to seek additional information through discovery, and to respond to the Rate Petition more generally throughout the course of this proceeding or otherwise.

unnecessary—including because such amounts were already covered by federal funds, were already disallowed by the Energy Bureau, or were otherwise insufficiently justified. As proponents of the rate petition, it was the private operators’ burden to fully substantiate their requests to collect from ratepayers and spend hundreds of millions of additional dollars.<sup>4</sup> Even after being asked pointed questions, they still have not carried their burden. At the same time, LUMA and Genera fail to provide for debt service, thus impermissibly seeking to elevate massive unnecessary expenses over debt obligations in violation of applicable law. The Bondholders agree that rates must increase, but the incremental revenue should not be misused.

Far from meeting their burden, in response to National’s questions LUMA and Genera provided cursory responses that generally do some combination of: avoiding the actual question; making vague, generalized assertions that are unsupported by evidence; and deferring to other parties instead of answering. What’s more, despite many of the discovery questions specifically asking for “any supporting documents,” LUMA and Genera mostly failed to provide supporting documents—with one notable exception being LUMA’s submission of a “corrected” table in response to a discovery question that now *increases* LUMA’s ask by another \$27 million.<sup>5</sup>

These so-called responses confirm what the Bondholders feared—that the private operators are attempting to push through significant unnecessary and/or unsubstantiated expenses for their own benefit, even while they fail to include any amount for debt service. This behavior violates

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<sup>4</sup> LUMA admits as much: “Moreover, during any rate review process, the burden of proof shall lie on the requesting electric power service company to show that the proposed rate is just and reasonable, consistent with sound fiscal and operational practices that provide a safe and adequate service at the lowest reasonable cost. *See* Article 6.25(b) of Act 57-2014.” *Rate Review Petition*, Case No. NEPR-AP-2023-0003, at p.19 (July 3, 2025).

<sup>5</sup> *See* LUMA Response NPFGC-of-LUMA-PROV-19 (increasing total requested amount for “Bankruptcy and Advisor Costs” from \$51.7 million to \$78.7 million, which now includes another \$8.75 million for unexplained “LUMA[] interim costs and expenses,” \$51.3 million for lumped and unexplained “FOMB Advisor Costs,” and \$18.7 million for an unexplained “PREPA Bankruptcy Fee”).

applicable law and will simply ensure that PREPA remains locked out of the capital markets and unable to finance capital expenditures.

This is driven home by the fact that PREPA itself objected to the provisional rate request, rightly noting that LUMA has largely overlooked “the more than \$10 billion in federal mitigation and permanent improvement funds available for PREPA’s transmission and distribution system,” likely because of the relatively paltry sum of federal funds that LUMA has actually taken steps to obtain.<sup>6</sup> PREPA also observed that even as LUMA requests hundreds of millions of dollars from ratepayers, “approximately **\$570 million** in FEMA Working Capital Advances **remain unused** in LUMA’s T&D Federally Funded Capital Account.”<sup>7</sup> PREPA proposed that the provisional rate should not include amounts covered by federal funds, and that LUMA should “first leverage[] the federal funding already available for these projects.”<sup>8</sup> In sum, as PREPA put it, the proposed provisional rate “would shift the financial consequences of LUMA’s own mismanagement onto ratepayers.”<sup>9</sup> Non-exhaustive examples of significant, unjustified elements of the provisional rate request are described below.

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<sup>6</sup> *PREPA’s Motion to Amend Rate Application and Objection to LUMA’s Requested Provisional Rate Rider Amount*, Case No. NEPR-AP-2023-0003, at pp.3-4 (July 11, 2025).

<sup>7</sup> *Id.* at p.4 (emphasis added).

<sup>8</sup> *Id.*; *see also id.* at pp.5-6 (citing various examples of LUMA’s mismanagement of the federal funding process, including instances where the Energy Bureau and other governmental entities have faulted LUMA’s handling of the process).

<sup>9</sup> *Id.* Notably, the December 2024 FEMA 5-Year Plan allocated approximately \$2 billion in federal funding to LUMA for this period versus the less than \$1 billion that LUMA now projects in both its optimal and constrained budgets—again highlighting LUMA’s failure to deploy federal funds at an appropriate pace. The 5-Year Plan is publicly available at [https://recovery.pr.gov/documents/Appendix%20B%20-%20Transmission%20and%20Distribution%20Asset\\_20241212T164035.440Z.pdf](https://recovery.pr.gov/documents/Appendix%20B%20-%20Transmission%20and%20Distribution%20Asset_20241212T164035.440Z.pdf).

## **I. Over \$157 Million Charge for Cost Share That Is Federally Funded**

The provisional rate request, between LUMA and Genera, includes over \$157 million for so-called Federal Cost Share Match.<sup>10</sup> The private operators claim this amount must be charged to ratepayers to cover a 10% cost share associated with certain federally funded projects. However, PREPA’s fiscal plan—which was certified by the Financial Oversight and Management Board (“FOMB”) on February 6, 2025—contradicts the private operators’ claim. The Fiscal Plan repeatedly states that this 10% cost share is already covered by federal CDBG funds.<sup>11</sup>

For example, the 2025 Fiscal Plan states in no uncertain terms that cost share is “expected to be covered by the \$500 million funding from the CDBG-DR ER1 program *without incurring expenses to PREPA or its ratepayers.*”<sup>12</sup> The Fiscal Plan is littered with such statements. *See, e.g., id.* at p.61 (“The inflow of federal funds—as well as funding made available to meet the non-federal cost share—creates a significant opportunity to repair Puerto Rico’s energy infrastructure.”); *id.* at p.64 (“PREPA plans to meet a significant portion of its non-federal share obligations through the CDBG-DR program as it becomes available. To date, \$500 million has been made available under the Energy Grid Rehabilitation and Reconstruction (‘ER1’) Cost Share Program to meet the Cost Share. The sub-award agreement was signed on March 1, 2024.”); *id.* at p.105 (“Up to FY2027, Cost Share is assumed to be covered by the \$500 million CDBG-DR ER1 funding.”) (emphases added). It could not be clearer that cost share will be covered by federal funds for at least the next several years, and therefore it should not be charged to ratepayers.

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<sup>10</sup> LUMA Response ROI-LUMA-AP-2023-0003-20250708-PREB-002, attached to *LUMA’s Motion in Compliance with July 8<sup>th</sup> Order and Bench Orders entered during July 14<sup>th</sup> Virtual Conference*, Case No. NEPR-AP-2023-0003 (July 15, 2025).

<sup>11</sup> The 2025 Fiscal Plan is publicly available at <https://drive.google.com/file/d/1WksRhtfmoLvaZFb-5pUNkFXGEiT3t6vp/view?usp=sharing>.

<sup>12</sup> 2025 Fiscal Plan at p.98 (emphasis added).

Observing this contradiction between the 2025 Fiscal Plan and the private operators’ provisional rate request, National submitted discovery questions to LUMA and Genera asking that they provide “a specific, detailed explanation as to why requesting [over \$157 million total] from ratepayers for this item is not an impermissible double collection of funds that are already covered by federal funds.” The responses received do not provide any such explanation, and the Bondholders submit that this amount—which according to the certified 2025 Fiscal Plan already “has been made available” through federal funds—should not be included in the provisional rate.

LUMA’s one-paragraph response (to justify \$90 million charged to ratepayers) asserted that “LUMA is **not aware** of any such funds being made available as cost share for transmission and distribution (T&D) related projects.”<sup>13</sup> Yet LUMA failed to explain what it did (or did not do) to become aware of such federal funds—including *after* National identified this source of funding to LUMA by citation to the Fiscal Plan and the specific federal program identified therein. LUMA also failed to explain what it *will* do to obtain such available funds. Did LUMA (or will LUMA) seek to resolve this issue with the FOMB, which certified the 2025 Fiscal Plan and represented that the funding “has been made available”? Did LUMA (or will LUMA) discuss this issue with the Government of Puerto Rico, given its “understanding that the Government of Puerto Rico would work towards identifying alternate sources of funding that could be directed towards supporting state cost share requirements”? LUMA did not say. Nor did LUMA ever contend that such funds are not in fact available—it merely said it is “not aware.”

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<sup>13</sup> LUMA Response NPFGC-of-LUMA-PROV-16 (emphasis added).

LUMA's only purported justification for charging over \$90 million for cost share covered by federal funds is a February 2023 Energy Bureau order.<sup>14</sup> Given that the 2025 Fiscal Plan was certified two years later in February 2025, this attempted justification is obsolete. LUMA should not be seeking to charge \$90 million to ratepayers in 2025—contrary to the 2025 Fiscal Plan—based on an order from two and a half years ago.

Genera's response, in contrast, conceded that "in theory [cost share] should be covered by the PR-HUD."<sup>15</sup> Genera then alleged, "However, on June 26, 2025, in a meeting with the Fiscal Oversight and Management Board ('FOMB'), Genera was informed by the PR Energy Czar team that the PR-HUD [Puerto Rico Department of Housing] will not disburse the 10% cost share until the respective project has reached at least 75% construction completion."<sup>16</sup> Yet, Genera provided no supporting documentation or further explanation for this alleged requirement—which conflicts with what is repeatedly stated in the certified 2025 Fiscal Plan. Genera also failed to explain why the Puerto Rico Department of Housing purported to impose such a requirement, or whether PR-HUD understood that, as a result, Genera would then seek to collect this large sum from ratepayers. There appears to be a communication problem between the Puerto Rico Department of Housing and Genera (and LUMA, to the extent this alleged requirement was imposed on it as well).<sup>17</sup> The ratepayers should not be forced to pay over \$157 million because the private operators are not communicating effectively with the Puerto Rico government.

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<sup>14</sup> *See id.* ("LUMA sought to comply with said Order and has included the Federal Cost Share Match in its general revenue requirement and has requested collection of funds commencing with the provisional rate budget.").

<sup>15</sup> Genera Response ROI-NPFGC-of-GENERA-PROV-17.

<sup>16</sup> *Id.*

<sup>17</sup> *See id.* ("Genera has tried to schedule meetings with PR-HUD on various occasions to no avail.").

Even if this alleged requirement from the Puerto Rico Department of Housing were substantiated in the record (it has not been), and even if it could not be resolved through effective communication (which Genera also has not shown), the requirement would merely affect the timing of federal fund disbursement to the private operators, as Genera admitted.<sup>18</sup> In other words, the cost share would still be fully covered by federal funds. Despite being given a second chance through a specific discovery question, the private operators have not justified their attempt to rake in an additional \$157 million from ratepayers for amounts that are indisputably covered by federal funds.

## **II. \$120 Million Charge for an Outage Reserve Account Set to Be Funded at \$30 Million**

LUMA also included a \$120 million charge to ratepayers in its provisional rate request for a reserve account that is only contractually set to be funded at \$30 million—representing \$90 million in excess funding.<sup>19</sup> National therefore issued a discovery question asking LUMA to “explain and justify why the provisional rate includes \$120 million in funding for the Outage Reserve account, an account that is only intended to be funded up to \$30 million.”

LUMA’s response was non-responsive. It never explained why LUMA should be allowed to charge ratepayers the incremental \$90 million above what the reserve account is set to contain—which was the explicit point of the question.<sup>20</sup> Instead, LUMA’s response discussed why the reserve account exists (not the question), why its funding is allegedly essential (not the question), and why LUMA thinks it needs more working capital generally (not the question). LUMA’s

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<sup>18</sup> See *id.* (Genera stating that “interim financing or recovery through the Provisional Rate mechanism becomes necessary to bridge this timing mismatch...”).

<sup>19</sup> See LUMA Response ROI-LUMA-AP-2023-0003-20250708-PREB-002, attached to *LUMA’s Motion in Compliance with July 8th Order and Bench Orders entered during July 14th Virtual Conference*, Case No. NEPR-AP-2023-0003 (July 15, 2025).

<sup>20</sup> See LUMA Response NPFGC-of-LUMA-PROV-21.

response may speak to why the reserve account should be funded to its contractual level—\$30 million—but it does not speak to why LUMA also needs another \$90 million now, through the provisional rate, for amounts that LUMA claims to have spent in the past.

In fact, LUMA’s response shows there is no such need. LUMA admitted it is seeking “payment of **accumulated** storm costs”—*i.e.*, not the future emergency costs meant to be covered by the reserve account—and that despite the account not being fully funded in the past, it was able to “divert funds from its Operating Account to respond to emergencies.”<sup>21</sup> LUMA has failed to carry its burden of showing that ratepayers should be charged an incremental \$90 million for past amounts LUMA claims it is owed under its operating agreement. Such a showing is separate and distinct from whether the reserve account should be funded up to its \$30 million level.

### **III. \$22 Million Charge That the Energy Bureau Already Disallowed**

Genera has failed to carry its burden to substantiate its request for \$22 million from ratepayers for an amount that it admits the Energy Bureau already disallowed. In particular, Genera’s provisional rate request includes “\$22 million disallowed by the Energy Bureau from Genera’s proposed budget.”<sup>22</sup> Because Genera’s only attempted justifications for this \$22 million were vague and generic, National requested that it “provide *specific* detail, and any supporting documents, justifying why Genera should be allowed to recover” this amount from ratepayers. In an attempt to avoid any ambiguity, National flagged that Genera’s response should include “*specific and detailed* alleged impacts that are directly attributable to not receiving this particular \$22 million (as opposed to vague and unsubstantiated allegations of not ‘meet[ing] performance standards,’ a ‘shortfall’ in its budget, and unidentified ‘operational disruptions’).”

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<sup>21</sup> *Id.* (emphasis added).

<sup>22</sup> *Supplemental Direct Testimony of Genera CFO*, Case No. NEPR-AP-2023-0003, at p.5 (July 15, 2025).



In response, Genera once again failed to support its request for \$22 million. Instead, as before, Genera offered unsubstantiated, generalized statements, including that the amount is “essential to comply with its obligations under the LGA OMA,” and that not receiving it would “result[] in a material underfunding of core operational categories.”<sup>23</sup> Obviously, not receiving money will always and inevitably result in “underfunding” relative to receiving that money. But that was not the question. The question was what specific, articulable need does Genera have for *this \$22 million*—which was disallowed by the Energy Bureau—that is not already satisfied by the remainder of Genera’s significant provisional rate request. That question remains unanswered, and therefore Genera has not carried its burden.

After listing more very general categories of purported costs—“labor, procurement of materials, technical services, and internal support system”—Genera then pointed to a prior filing in a different case and asserted it shows “specific detail” regarding this \$22 million charge.<sup>24</sup> Not so. The filing includes two parts: (i) a brief cover motion seeking a budget reallocation of \$12 million across various high-level spend categories and an increase of \$10 million in another category “[d]ue to higher-than-anticipated consumption”; and (ii) a single-page Excel numerically depicting the same. There is no specific detail or explanation as to why Genera needs this particular \$22 million, and certainly none that would overcome the Energy Bureau’s prior determination to disallow this amount. The amount should not be included in the provisional rate.

#### **IV. \$25 Million Incremental Charge for Reserve Account Already Funded at \$11 Million**

Similarly, Genera fell back on generalities when asked to support its request for \$25 million to fund a “Generation Maintenance Reserve,” which is already funded at \$11 million as approved

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<sup>23</sup> Genera Response ROI-NPFGC-of-GENERA-PROV-20.

<sup>24</sup> *Id.*

in the FY2026 budget.<sup>25</sup> National asked Genera to explain “why the approximately \$11 million that has already been approved in the FY2026 budget for the GMR is allegedly not sufficient, and therefore why \$25 million is allegedly needed.”

Genera failed to do so. The first half of its short response stated what the GMR is (which was not the question).<sup>26</sup> The second half merely stated that the \$11 million “reflects a baseline GMR allocation designed under a constrained, transitional framework” and claimed that amount is insufficient “for costs associated with outage support contracts, specialty labor, or emergency OEM services and is materially below historical averages.”<sup>27</sup> Genera then ended by quoting the same inadequate testimony that National’s question had cited when requesting supporting detail in the first place.<sup>28</sup> This response is manifestly deficient. Of course Genera believes that \$11 million is a baseline and “insufficient,” and that \$36 million is the correct amount—that was the starting point for National’s question. The question was why specifically \$11 million is allegedly insufficient, and therefore why it is justified to charge \$25 million more to ratepayers through a provisional rate. Genera did not answer that question and instead only generally referred to contracts, labor, and services. That does nothing to distinguish the incremental \$25 million from the approved \$11 million—or from other parts of Genera’s provisional rate request, for that matter. Genera has not carried its burden to include this amount in the provisional rate, despite being called upon and given the opportunity to do so.

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<sup>25</sup> See *Supplemental Direct Testimony of Genera CFO*, Case No. NEPR-AP-2023-0003, at p.6 (July 15, 2025).

<sup>26</sup> See Genera Response ROI-NPFGC-of-GENERA-PROV-23.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

## **V. \$13 Million for LUMA’s 2% Adder in Addition to Inflation Adder**

LUMA’s provisional rate request includes a 2% adder, totaling \$13 million, called “Reserve for Excess Expenditures,” which LUMA states is “layered on top of the LUMA total budget” and is in addition to the budget inflation rate that LUMA already applied.<sup>29</sup> National therefore requested that LUMA “explain and justify, and provide any supporting documents, why LUMA believes it is appropriate ... particularly when LUMA is already applying a separate inflation rate upward adjustment.”

LUMA’s response was nonresponsive. Nowhere did it explain why this \$13 million adder is appropriate, which was the entire question.<sup>30</sup> LUMA merely cited its operating agreement as justification for charging this amount to ratepayers.<sup>31</sup> But LUMA’s operating agreement does not cut off the Energy Bureau’s authority and duty to consider whether LUMA’s provisional rate proposal is justified and supported by evidence. LUMA has not offered any rationale apart from the operating agreement as to why this \$13 million adder should be passed on to ratepayers, and therefore it has provided no evidentiary basis for the Energy Bureau to consider whether such an adder is justified.

In issuing the energy compliance certificate in connection with LUMA’s operating agreement, the Energy Bureau was clear that it retained its full authority and duties, and that it would not be bound by LUMA’s operating agreement.<sup>32</sup> The Bureau thereafter reaffirmed this

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<sup>29</sup> ROI-LUMA-AP-2023-0003-20250711-PREB-004, attached to *LUMA’s Motion in Compliance with July 8th Order and Bench Orders entered during July 14th Virtual Conference*, Case No. NEPR-AP-2023-0003 (July 15, 2025).

<sup>30</sup> See LUMA Response NPFGC-of-LUMA-PROV-18.

<sup>31</sup> See *id.*

<sup>32</sup> See *Order re: Request for Issuance of Certificate of Energy Compliance in Accordance with Act 120-2018*, Case No. NEPR-AP-2020-0002, at pp.9-10 (June 17, 2020) (LUMA operating agreement “[s]hall not be construed, in any way whatsoever, as to impair, restrict, relinquish or abridge the scope of the Energy Bureau’s: (1) administrative powers; (2) statutory and regulatory jurisdiction and/or authority; (3) statutory and regulatory oversight and enforcement powers; (4) rights; (5) duties; and (6) obligations, all in accordance with the applicable laws and

conclusion in many other proceedings, whenever LUMA invoked the operating agreement in attempts to limit the Bureau's authority and/or duties.<sup>33</sup> Thus, it has long been clear that LUMA must do more than cite provisions of its operating agreement as if they bind the Bureau. LUMA has failed to do so, and this \$13 million charge should not be included in the provisional rate.

Even if the operating agreement had the force here that LUMA seems to believe it does (contrary to prior orders), LUMA ignores that the relevant provision does not actually set the adder at 2%, but rather allows it "up to a maximum of two percent (2%)."<sup>34</sup> Thus, even if the Energy Bureau were bound by the terms of the operating agreement (it is not), the Energy Bureau could still determine to approve the adder at any amount between 0% and "up to a maximum" of 2%.

## **VI. Recent Private Operator and Other Developments**

In addition to the examples of infirmities with the provisional rate request stated above and in the Bondholders' Preliminary Response, other circumstances have developed since the provisional rate request was submitted that bear on this proceeding and the private operators' funding requests and status here. These matters deserve due consideration by the Energy Bureau as it prepares its decision.

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regulations."); *see also id.* at p.9 ("The Energy Bureau is not a party to the [operating agreement]. Thus, no obligation and/or duty may be imposed to the Energy Bureau under the [operating agreement].").

<sup>33</sup> *See, e.g., Resolution and Order Regarding Request to Align the Filing of the Quarterly Report*, Case No. NEPR-MI-2021-0002, at p.2 (Aug. 31, 2022) ("The Energy Bureau **REMINDS** LUMA that the Energy Bureau's authority to establish requirements to ensure compliance with public policy is neither determined nor restricted by the OMA." (emphasis original)); *Resolution and Order re: LUMA's Response in Opposition and Objection to December 22, 2021 Resolution and Order*, Case No. NEPR-AP-2020-0025, at pp.3-5 (Aug. 1, 2022) ("In the February 17 Motion, LUMA suggests that, according to the T&D OMA, the Energy Bureau does not have the authority to modify the proposed performance standards. The suggestion is incorrect.").

<sup>34</sup> LUMA Response NPFGC-of-LUMA-PROV-18 (quoting Section 7.3(b) of the operating agreement).

*First*, on July 22, 2025, the P3 Authority sent a letter to LUMA’s CEO titled “Notice of Disputes to LUMA Energy, LLC and LUMA Energy ServCo, LLC, under Article 15 of the T&D OMA,” which is attached hereto as Appendix B. The letter begins:

Puerto Rico’s electric customers have endured nearly four years of rolling outages, ballooning costs, and broken promises - **even as billions in federal reconstruction dollars sit idle**. Despite repeated written notices and good faith attempts to secure voluntary compliance, **LUMA continues to flout its most basic obligations under the T&D OMA**. The ten sections that follow chronicle a **pattern of chronic nonperformance** - from vegetation management failures that have plunged the Island into darkness, to stone-walled audits, **seconded-employee cost overruns, and a reimbursement backlog starving the grid of the very funds meant to rebuild it**.

When the Government launched its 2020 procurement, LUMA cast itself as the transformative operator uniquely qualified to greatly improve Puerto Rico’s electric system. Its proposal boasted “unparalleled, hands-on experience” with FEMA-funded megaprojects, a disaster-recovery résumé spanning 300 jurisdictions, and a front-end transition plan that would slash costs, curb theft, and unleash a flood of federal dollars - **all without raising rates**. Over an eleven-month transition, PREPA opened every door: asset tours, data rooms, and unrestricted systems access - all bankrolled by millions in customer funds to ensure LUMA knew exactly what it was taking on. **Fast-forward five years and close to \$3 billion in operational budgets, including \$500 million in Service Fees to LUMA, those representations and assurances were wholly unfounded. LUMA has only received \$345 million in federal reimbursements** out of approximately \$10 billion federally assigned funds for T&D projects for permanent works under the Hurricane María disaster, whereas PREPA has secured about \$1.3 billion on its own. Alarmingly, **LUMA has been further unsuccessful in achieving the obligation of \$385 million in projects incurred under Hurricane Fiona’s emergency work** withdrawn from its operation account.

**Reliability metrics remain flat or falling**; island-wide blackouts on June 12 and December 31 of 2024 and again on April 16 of this year, underscored how little progress has been made to clear trees or harden lines. Meanwhile, **PREPA has been forced to pump more than \$500 million of its own federal reimbursements into LUMA’s accounts** just to keep the lights on. In short, the promises of worldclass expertise and financial discipline have not merely gone unmet—they have boomeranged into **new crises of liquidity, transparency, and public confidence**. The people of Puerto Rico, and the Government that represent them, are fed up.

**Most recently - while outages mount and billions in federal dollars remain untapped - LUMA asked the Energy Bureau for a provisional base-rate hike that would add roughly \$30.04 to the average 400-kWh residential bill every month, a 32.75 % jump even before the formal case is heard. In its own Executive Summary, LUMA concedes the increase would bankroll five “major investments”: \$800 million for distribution hardening, \$300 million for substation upgrades, \$250 million for transmission repairs, \$240 million for a one-time vegetation reset, and \$220 million for a preventive-maintenance program. Four out of these five categories are precisely the kind of permanent-work and § 406/428 hazard-mitigation projects FEMA has already approved and funded across Puerto Rico’s T&D system. Put simply, LUMA wants consumers to pre-pay for capital work the federal government stands ready to reimburse, while also footing the bill for everyday maintenance that FEMA will never cover. P3A rejects that premise outright: when LUMA’s actual revenues fall short of its optimistic forecasts, the remedy is internal cost discipline—trimming seconded-employee expenses, attacking technical and non-technical losses—not conscripting Puerto Rican families to subsidize managerial inefficiency through higher rates.<sup>35</sup>**

The 81-page letter then goes on to detail numerous problems with LUMA, including with respect to federal funding. This letter specifically references LUMA’s provisional rate request and could impact LUMA’s position in this proceeding going forward.

*Second*, there have also been material recent developments related to Genera. After a series of incidents with Genera’s parent company, New Fortress Energy—which included the company temporarily redirecting its natural gas supply tanker away from San Juan during contract negotiations—it has been reported that the P3 Authority and the Commonwealth government are not supportive of a proposed 15-year, \$20 billion natural gas supply agreement with New Fortress Energy.<sup>36</sup> The FOMB is also reportedly investigating the negotiations surrounding this proposed

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<sup>35</sup> Appendix B at pp.1-3 (emphases added).

<sup>36</sup> See *3PPO in Talks with New LNG Suppliers, Raises Potential for New Long-Term Gas Supply RFP; Oversight Board Confirms Government Not Willing to Defend Terms of Proposed NFE Contract*, Octus (July 23, 2025), attached hereto as Appendix C.

contract, including because of potential limitations on market competition.<sup>37</sup> And just yesterday, the Energy Bureau opened an investigation into the inability of certain Genera-managed generation units to operate on dual fuels, as Genera had previously represented.<sup>38</sup> These developments could impact Genera and are relevant to this proceeding.

**Finally**, the Bondholders note that the Institute of Competitiveness and Economic Sustainability (“ICSE”) earlier today filed a *Motion on the Need of Affordability Evidence & Analysis in Approving Provisional and Permanent Rates*.<sup>39</sup> The Bondholders disagree substantively with the ICSE Motion and respectfully request an opportunity to respond in advance of the Energy Bureau’s ruling on a provisional rate, unless the Energy Bureau intends to disregard the ICSE Motion in rendering its provisional rate order—which would be appropriate given that the schedule did not contemplate ICSE initiating a dispute about affordability in the extremely limited time remaining in July.<sup>40</sup>

Even before making a substantive response, the Bondholders note that the ICSE Motion contains material misstatements with respect to the Title III case. For instance, ICSE states, “The [Title III] Court has not approved a Plan of Debt Adjustment (‘PAD’) because there are serious

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<sup>37</sup> *See id.*

<sup>38</sup> *See Commencement of Investigative Procedure*, Case No. NEPR-IN-2025-0004, at p.1 (July 24, 2025) (“The Energy Bureau notes that it has been represented throughout the record that certain units possess dual-fuel capability. However, it now appears that, although the units are technically capable of operating on both natural gas and diesel, the necessary infrastructure or equipment to enable such dual-fuel operation is not currently in place. A representation or portrayal that the units are dual-fuel capable, while at the same time acknowledging the absence of the infrastructure required to utilize that capability, is inherently counterintuitive.”).

<sup>39</sup> NEPR-AP-2023-0003 (July 25, 2025) (the “ICSE Motion”).

<sup>40</sup> *See generally Hearing Examiner’s Order on Discovery, Riders Relating to Provisional Rates, Pension Issues, Permanent-Rate Effective Date, Inflation Rate, and Provisional-Rate Billing Determinants*, Case No. NEPR-AP-2023-0003 (July 14, 2025).

doubts casted [*sic*] by the expert witnesses of the Oversight Board's [*sic*].”<sup>41</sup> That is incorrect. Before the Title III Court issued any opinion regarding confirmation of the prior (now superseded) proposed plan of adjustment, the United States Court of Appeals for the First Circuit issued a ruling reversing the Title III Court's prior rulings, and finding that the Bondholders hold a perfected, secured, and unavoidable lien on PREPA's past, current, and future Net Revenues.<sup>42</sup> The First Circuit's ruling effectively cut off the Title III Court's consideration of the prior proposed plan of adjustment, which was premised on the reversed rulings. That is why the prior proposed plan was “not approved,” not because of “serious doubts” about affordability.

In addition, ICSE misstates that the FOMB's “affordability parameters [] have been in place for years in the Swain Court [*sic*].”<sup>43</sup> ICSE likewise quotes the FOMB's litigation experts as if their testimony had been adopted by the Title III Court.<sup>44</sup> Neither is correct. The confirmation proceedings in the Title III Court were hotly contested and, as discussed above, were not resolved in either side's favor because of the intervening decision by the First Circuit (in the Bondholders' favor). For that reason, the “affordability parameters” reflected in the prior proposed plan of adjustment were not adopted by Judge Swain, nor did Judge Swain make findings regarding the credibility or persuasiveness of the FOMB's litigation experts (let alone adopt their testimony verbatim, as ICSE suggests).

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<sup>41</sup> ICSE Motion at p.4.

<sup>42</sup> See generally *In re Fin. Oversight & Mgmt. Bd. for P.R.*, 121 F.4<sup>th</sup> 280 (1<sup>st</sup> Cir. 2024).

<sup>43</sup> ICSE Motion at p.8.

<sup>44</sup> See *id.* at pp.3-7.



The Energy Bureau should not consider the ICSE Motion in rendering its decision on provisional rates. If it does, however, the Energy Bureau should strike ICSE's false statements and grant the Bondholders an opportunity to respond substantively.

**WHEREFORE**, for the reasons stated above and in the Bondholders' Preliminary Response, the Bondholders respectfully request that the Energy Bureau deny the current provisional rate request.

RESPECTFULLY SUBMITTED,

THIS 25th DAY OF JULY 2025

**CERTIFICATE OF SERVICE:** We hereby certify that the foregoing petition was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System, and courtesy copies were sent via electronic means 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; gcastrodad@sbgblaw.com; jennalvarez@sbgblaw.com; jfr@sbgblaw.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@guidehouse.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@sbgblaw.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.brady@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; mestrada@gibsondunn.com; LShelfer@gibsondunn.com; jnieves@cstlawpr.com; arrivera@nuenergypr.com; apc@mcvpr.com; shempling@scotthemplinglaw.com; rsmithla@aol.com; guy@maxetaenergy.com; jorge@maxetaenergy.com; rafael@maxetaenergy.com; dawn.bisdorf@gmail.com; msdady@gmail.com; mcranston29@gmail.com; ahopkins@synapse-energy.com; clane@synapse-energy.com; kbailey@acciongroup.com; hjudd@acciongroup.com; zachary.ming@ethree.com; PREBconsultants@acciongroup.com; carl.pechman@keylogic.com; bernard.neenan@keylogic.com; tara.hamilton@ethree.com; aryeh.goldparker@ethree.com; roger@maxetaenergy.com; Shadi@acciongroup.com.

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# **Appendix A**



**COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ENERGY BUREAU**

**CASE NO.:** NEPR-AP-2023-0003

**IN RE:** PUERTO RICO ELECTRIC  
POWER AUTHORITY RATE  
REVIEW

**SUBJECT:** PREPA Bondholders'  
Supplemental Response to Provisional Rate  
Request

**RESUMEN DE: RESPUESTA SUPLEMENTARIA DE LOS TENEDORES DE BONOS  
DE PREPA A LA SOLICITUD DE TARIFA PROVISIONAL  
AL NEGOCIADO DE ENERGÍA DE PUERTO RICO:**

Los peticionarios—National Public Finance Guarantee Corporation, GoldenTree Asset Management LP, Syncora Guarantee, Inc., Assured Guaranty Inc. y el Grupo Ad Hoc de Bonistas de PREPA (colectivamente, los “Bonistas”)—presentan, su Respuesta Suplementaria a la solicitud de tarifa provisional sometida por LUMA<sup>45</sup>. La respuesta suplementa la respuesta presentada el 11 de julio<sup>46</sup> por los Bonistas, según lo ordenado por el Examinador en su Orden de 14 de julio de 2025.

La Respuesta Suplementaria establece que el 17 de julio de 2025, National presentó once (11) preguntas de descubrimiento a LUMA y Genera sobre su solicitud de tarifa provisional, enfocándose en **cientos de millones de dólares** que, según una revisión preliminar, parecen innecesarios. Esto incluye montos ya cubiertos por fondos federales, rechazados previamente por el Negociado de Energía o insuficientemente justificados. Los Bonistas argumentan que LUMA y Genera, como proponentes de la tarifa provisional, tienen la carga de justificar plenamente su solicitud, pero no han cumplido con esta responsabilidad.

Además, sostienen que, en lugar de proporcionar respuestas sustanciales, LUMA y Genera ofrecieron respuestas vagas, evitaron las preguntas específicas y, en su mayoría, no proporcionaron documentos de respaldo. Un ejemplo notable es la presentación de una tabla "corregida" por

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<sup>45</sup> La solicitud de tarifa provisional fue presentada por LUMA en representación de sí misma, de Genera y PREPA.

<sup>46</sup> *PREPA Bondholders' Preliminary Response to Provisional Rate Request* (11 de julio de 2025). Ninguna parte objetó ni respondió a la Respuesta Preliminar de los Bonistas, por lo que sus argumentos no han sido impugnados. Por eficiencia, los Bonistas no repiten esos argumentos y los incorporan por referencia.

LUMA que incrementa su solicitud en \$27 millones **adicionales**. Los Bonistas sostienen que estas respuestas confirman sus preocupaciones de que los operadores privados buscan imponer gastos innecesarios y no justificados a los consumidores, mientras excluyen cualquier monto para el servicio de la deuda, lo que perpetúa la incapacidad de PREPA para acceder a los mercados de capital y financiar mejoras de infraestructura.

Señalan que hasta PREPA objetó la solicitud de tarifa provisional, señalando que LUMA ha pasado por alto más de \$10 mil millones en fondos federales disponibles para mejoras en el sistema de transmisión y distribución. PREPA, también, destacó que aproximadamente **\$570 millones** en adelantos de capital de FEMA permanecen **sin utilizar** en la cuenta de capital financiada por fondos federales de LUMA. PREPA propuso que la tarifa provisional no incluya montos cubiertos por fondos federales y que LUMA primero aproveche los fondos disponibles. En resumen, PREPA argumenta que la tarifa propuesta trasladaría las consecuencias financieras de la mala gestión de LUMA a los consumidores.

En su respuesta, los Bonistas proveen en su moción ejemplos no exhaustivos de elementos significativos e injustificados de la solicitud de tarifa provisional presentada por LUMA.

#### **I. Cargo de más de \$157 millones por la porción de costos que está financiada con fondos federales.**

La Sección I aborda el cargo de más de \$157 millones por el "Federal Cost Share Match" incluido en la solicitud de tarifa provisional de LUMA y Genera.<sup>47</sup> Los Bonistas argumentan que este monto es innecesario porque, según el Plan Fiscal 2025 certificado por la Junta de Supervisión y Administración Financiera (FOMB, por sus siglas en inglés), el 10% de la participación de costos federales ya está cubierto por fondos CDBG-DR. El Plan Fiscal establece explícitamente que estos fondos están disponibles para cubrir la participación de costos *sin incurrir en gastos para PREPA o sus consumidores*.<sup>48</sup>

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<sup>47</sup> Véase Respuesta de LUMA a ROI-LUMA-AP-2023-0003-20250708-PREB-002, anejada a *LUMA's Motion in Compliance with July 8<sup>th</sup> Order and Bench Orders entered during July 14<sup>th</sup> Virtual Conference*, Caso Núm. NEPR-AP2023-003 (15 de julio de 2025).

<sup>48</sup> El Plan Fiscal 2025 esta accesible al público a través de: <https://drive.google.com/file/d/1WksRhtfmoLvaZFb-5pUNkFXGEiT3t6vp/view?usp=sharing>. Los Bonistas hacen referencias a las páginas 98, 61, 64, 105 del Plan Fiscal.

Los Bonistas explican que existe una contradicción con el Plan Fiscal 2025, toda vez éste indica que \$500 millones del programa CDBG-DR ER1 están disponibles para cubrir la participación de costos federales. Esto contradice la solicitud de LUMA y Genera de cobrar este monto a los consumidores. específicamente, el Plan Fiscal afirma que la participación de costos será cubierta por estos fondos hasta el año fiscal 2027. *Id.* a la pág, 105.

Al notar la contradicción entre el Plan Fiscal 2025 y la solicitud de tarifa provisional de los operadores privados, National presentó preguntas de descubrimiento a LUMA y Genera solicitando una explicación específica y detallada de por qué pedir más de \$157 millones a los abonados no constituye una doble recuperación indebida de fondos ya cubiertos por fondos federales. Las respuestas recibidas no ofrecieron tal explicación, y los Bonistas sostienen que esa cantidad—la cual, según el Plan Fiscal 2025 certificado, ya "ha sido provista" mediante fondos federales—no debe incluirse en la tarifa provisional. Los Bonistas argumentan que las respuestas provistas por LUMA son insuficientes, toda vez que LUMA respondió que "no está al tanto" de que estos fondos estén disponibles, pero no explicó qué acciones tomó para verificar esta información ni qué hará para obtenerlos. Tampoco negó que los fondos estén disponibles, simplemente afirmó desconocerlos.<sup>49</sup> LUMA justificó el cargo basándose en una orden del Negociado de Energía de febrero de 2023<sup>50</sup>, pero esta justificación es anacrónica, ya que el Plan Fiscal fue certificado en febrero de 2025, dos años después.

Los Bonistas señalan que Genera admitió que "en teoría [la participación de costos] debería estar cubierta por PR-HUD," pero alegó que el Departamento de Vivienda de Puerto Rico no desembolsará los fondos hasta que los proyectos alcancen el 75% de construcción. Sin embargo, Genera no proporcionó documentación que respalde esta afirmación que contradice el Plan Fiscal, ni explicó por qué el Departamento de Vivienda impuso esta condición.<sup>51</sup>

Aunque Genera alega que hay un requisito del Departamento de la Vivienda para el desembolso de fondos federales, no lo ha probado ni explicado adecuadamente. Incluso, los Bonistas señalan que aun si existiera, solo afectaría el momento del pago, no la disponibilidad de fondos. Por tanto, los Bonistas entienden que no se justifica que los operadores privados intenten cobrar \$157 millones adicionales a los abonados por una cantidad ya cubierta por fondos federales.

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<sup>49</sup> Véase LUMA Response NPFGC-of-LUMA-PROV-16.

<sup>50</sup> Véase *id.*

<sup>51</sup> Véase Genera Response ROI-NPFGC-of-GENERA-PROV-17.

## **II. Cargo de \$120 millones por una cuenta de reserva por interrupciones que está prevista para financiarse con \$30 millones.**

La Sección II aborda el cargo de \$120 millones incluido en la solicitud de tarifa provisional de LUMA para un "Outage Reserve Account," que contractualmente solo debe ser financiado con \$30 millones. Esto representa un exceso de \$90 millones.<sup>52</sup>

LUMA solicita \$120 millones para el fondo de reserva, pero el contrato establece que este fondo solo debe ser financiado con \$30 millones. Los Bonistas cuestionan por qué se necesita este monto adicional. Los Bonistas acentúan que LUMA no explicó por qué se justifica el exceso de \$90 millones. En su respuesta, se enfocó en la importancia del fondo de reserva y en la necesidad de más capital de trabajo, pero no abordó directamente la pregunta sobre el monto adicional.<sup>53</sup>

Los Bonistas argumentan la falta de necesidad demostrada por LUMA, al ésta admitir que en el pasado pudo manejar emergencias desviando fondos de su cuenta operativa, lo que demuestra que no hay necesidad urgente de este exceso de financiamiento. *Id.*

## **III. Cargo de \$22 millones que ya fue rechazado por el Negociado de Energía.**

La Sección III analiza el cargo de \$22 millones incluido en la solicitud de tarifa provisional de Genera, el cual ya fue rechazado previamente por el Negociado de Energía.<sup>54</sup> Los Bonistas señalan que el Negociado de Energía desautorizó este cargo en el presupuesto propuesto por Genera, pero Genera lo incluyó nuevamente en la solicitud de tarifa provisional. Genera no proporcionó detalles específicos ni documentos que justifiquen la necesidad de este monto. Sus respuestas se limitaron a afirmaciones generales, como que el dinero es "esencial para cumplir con

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<sup>52</sup> Véase Respuesta de LUMA a ROI-LUMA-AP-2023-0003-20250708-PREB-002, anejada al *LUMA's Motion in Compliance with July 8th Order and Bench Orders entered during July 14th Virtual Conference* (15 de julio de 2025).

<sup>53</sup> Véase Respuesta de LUMA a NPFGC-of-LUMA-PROV-21.

<sup>54</sup> Véase *Supplemental Direct Testimony of Genera CFO*, NEPR-AP-2023-0003, a la pág. p.5 (15 de julio de 2025).

sus obligaciones" y que su ausencia causaría "subfinanciamiento" en categorías operativas clave.<sup>55</sup> Genera citó un archivo previo en otro caso como respaldo, pero este solo incluye una breve solicitud de reubicación presupuestaria y una hoja de cálculo sin detalles específicos. *Id.*

En definitiva, señalan los Bonistas que Genera no explicó por qué los \$22 millones son necesarios ni cómo impactarían directamente sus operaciones, más allá de afirmaciones vagas sobre "disrupciones operativas."

#### **IV. Cargo de \$14 millones adicional para una cuenta de reserva que ya fue financiada con \$11 millones.**

La Sección IV aborda el cargo de \$25 millones solicitado por Genera para el "Generation Maintenance Reserve" (GMR), que excede el monto aprobado de \$11 millones en el presupuesto FY2026.<sup>56</sup>

Los Bonistas señalan que hay un exceso de financiamiento. Genera solicita \$25 millones para el GMR, pero el presupuesto aprobado para FY2026 ya asigna \$11 millones. Genera no explicó por qué los \$11 millones aprobados son insuficientes ni justificó la necesidad de la cantidad adicional. Su respuesta se limitó a generalidades, mencionando costos asociados con contratos de soporte de interrupciones, mano de obra especializada y servicios de emergencia, sin detalles específicos.<sup>57</sup> Los Bonistas argumentan que Genera no distinguió claramente el monto adicional del presupuesto ya aprobado de \$11 millones ni de otras partes de su solicitud de tarifa provisional.

Por lo tanto, toda vez Genera no ha demostrado la necesidad de incluir el exceso en la tarifa provisional, los Bonistas sostienen que este monto no debe ser aprobado.

#### **V. \$13 millones por el recargo del 2% de LUMA en adición del recargo por inflación.**

La Sección V analiza el cargo de \$13 millones solicitado por LUMA como un "2% adder" denominado "Reserve for Excess Expenditures," que se suma al ajuste por inflación ya aplicado

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<sup>55</sup> Véase Respuesta de Genera ROI-NPFGC-of-GENERA-PROV-20.

<sup>56</sup> Véase *Supplemental Direct Testimony of Genera CFO*, NEPR-AP-2023-0003, a la pág. 6 (15 de julio de 2025).

<sup>57</sup> Véase Respuesta de Genera ROI-NPFGC-of-GENERA-PROV-23.

en su presupuesto.<sup>58</sup> Los Bonistas señalan que hay una duplicación de ajustes. En específico, LUMA solicita este cargo adicional del 2% (\$13 millones) además del ajuste por inflación ya incluido en su presupuesto, lo que genera una duplicación injustificada.

La respuesta acentúa que LUMA no explicó por qué este cargo es apropiado ni proporcionó documentos de respaldo.<sup>59</sup> Su única justificación fue citar su acuerdo operativo (OMA), pero este no limita la autoridad del Negociado de Energía para evaluar la solicitud. *Id.*

En adición, argumentan los Bonistas incluso si el acuerdo de operación tuviera la fuerza vinculante que LUMA aparenta atribuirle éste permite un adder de "hasta un máximo de 2%," lo que significa que el Negociado de Energía puede aprobar un monto menor o incluso 0%, según lo considere adecuado.

#### **IV. Desarrollos Recientes de los Operadores Privados**

La Sección VI aborda desarrollos recientes relacionados con los operadores privados LUMA y Genera que afectan su posición en el proceso de solicitud de tarifa provisional.

Los Bonistas señalan que el 22 de julio de 2025, la Autoridad de Alianzas Público-Privadas (“P3 Authority”) envió una carta a LUMA detallando múltiples incumplimientos bajo su acuerdo operativo la cual se aneja a la respuesta como Appendix B. En la carta, el gobierno critica duramente el desempeño de LUMA, señalando apagones continuos, costos crecientes y promesas incumplidas, a pesar de que hay miles de millones de dólares federales sin utilizar. La carta alega que LUMA ha fallado sistemáticamente en cumplir con sus obligaciones contractuales, incluyendo la gestión de vegetación, auditorías, costos de empleados destacados y atrasos en los reembolsos que afectan los fondos destinados a la reconstrucción de la red eléctrica.

El gobierno también denuncia que, tras casi cinco años y \$3 mil millones en presupuestos operacionales (incluyendo \$500 millones en tarifas de servicio), LUMA solo ha obtenido \$345 millones en reembolsos federales, comparado con \$1,300 millones que PREPA logró por su cuenta.

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<sup>58</sup>*Véase* ROI-LUMA-AP-2023-0003-20250711-PREB-004, anejado a *LUMA’s Motion in Compliance with July 8th Order and Bench Orders entered during July 14th Virtual Conference* (15 de julio de 2025).

<sup>59</sup> *Véase* LUMA Response NPFGC-of-LUMA-PROV-18.

Además, LUMA no ha podido justificar gastos por \$385 millones relacionados con trabajos de emergencia por el huracán Fiona.

La carta resalta que los apagones continúan y que la fiabilidad del sistema no ha mejorado, mientras LUMA solicita un aumento provisional de tarifa base que implicaría un alza mensual de \$30.04 en la factura promedio residencial (32.75%). Sin embargo, la mayoría de las inversiones que LUMA propone cubrir con ese aumento ya están aprobadas y financiadas por FEMA.

El P3 Authority rechaza que los consumidores deban pagar por trabajos que el gobierno federal ya reembolsará o por mantenimiento que FEMA nunca cubriría, y afirma que LUMA debe ajustar sus costos internos. Los Bonistas sostienen que esta carta de 81 páginas podría influir en la posición de LUMA en este proceso tarifario.

Los Bonistas añaden que también han surgido desarrollos recientes importantes relacionados con Genera. Tras varios incidentes con su empresa matriz, New Fortress Energy —incluyendo la redirección temporal de un buque de gas natural durante negociaciones contractuales— se ha informado que la P3 Authority y el gobierno de Puerto Rico no apoyan un acuerdo propuesto de suministro de gas natural por 15 años y \$20 mil millones con dicha empresa.<sup>60</sup> Además, la Junta de Supervisión Fiscal está investigando estas negociaciones por posibles restricciones a la competencia en el mercado. Estos hechos podrían afectar a Genera y son relevantes para este proceso tarifario.

Por último, los Bonistas objetan la moción presentada por el Instituto para la Competitividad y la Sostenibilidad Económica (ICSE), que solicita evidencia sobre asequibilidad para aprobar tarifas provisionales y permanentes. Solicitan al Negociado de Energía que no considere dicha moción, ya que no fue contemplada en el calendario y fue presentada a último momento.

Además, los Bonistas denuncian que la moción de ICSE contiene afirmaciones falsas sobre el caso de Título III. Por ejemplo, ICSE afirma que el plan de ajuste no fue aprobado por dudas sobre asequibilidad, cuando en realidad fue descartado tras una decisión del Primer Circuito que

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<sup>60</sup> Véase *3PPO in Talks with New LNG Suppliers, Raises Potential for New Long-Term Gas Supply RFP; Oversight Board Confirms Government Not Willing to Defend Terms of Proposed NFE Contract*, Octus (23 de julio de 2025), anejado como Appendix C.

reconoció a los Bonistas un derecho prendario sobre los ingresos de la AEE. También, rechazan que los parámetros de asequibilidad de la Junta hayan sido adoptados por el tribunal o que el testimonio de sus peritos haya sido avalado, como alega ICSE.

En caso de que el Negociado considere la moción, los Bonistas solicitan eliminar las declaraciones falsas y que se les permita responder formalmente.

**POR TODO LO CUAL**, los Bonistas solicitan que se deniegue la solicitud actual de tarifa provisional presentada por los operadores privados (LUMA, Genera y/o PREPA).



# APPENDIX B



# PUBLIC-PRIVATE PARTNERSHIPS

AUTHORITY

GOVERNMENT OF PUERTO RICO

Eng. Josué A. Colón Ortiz | Executive Director

July 22, 2025

## BY ELECTRONIC MAIL

[juan.saca@lumapr.com](mailto:juan.saca@lumapr.com)

### Mr. Juan Saca

President & Chief Executive Officer  
LUMA Energy, LLC  
PO Box 363508  
San Juan, PR 00936-3508

Dear Mr. Saca,

### Re.: Notice of Disputes to LUMA Energy, LLC and LUMA Energy ServCo, LLC, under Article 15 of the T&D OMA

Reference is made to the *Puerto Rico Transmission and Distribution Operating and Maintenance Agreement* ("T&D OMA"), executed on June 22, 2020, between the Puerto Rico Electric Power Authority ("PREPA") as Owner; the Puerto Rico Public-Private Partnerships Authority ("P3A"), as Administrator; and LUMA Energy, LLC and LUMA Energy ServCo, LLC, (jointly, "LUMA") as Operator. Capitalized terms used but not defined herein have the meanings set forth in the T&D OMA. Pursuant to Sections 15.1, 15.2(a) and 15.3 of the OMA, P3A hereby serves this Notice of Disputes on LUMA.

Puerto Rico's electric customers have endured nearly four years of rolling outages, ballooning costs, and broken promises - even as billions in federal reconstruction dollars sit idle. Despite repeated written notices and good faith attempts to secure voluntary compliance, LUMA continues to flout its most basic obligations under the T&D OMA. The ten sections that follow chronicle a pattern of chronic non-performance - from vegetation management failures that have plunged the Island into darkness, to stone-walled audits, seconded-employee cost overruns, and a reimbursement backlog starving the grid of the very funds meant to rebuild it.

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When the Government launched its 2020 procurement, LUMA cast itself as the transformative operator uniquely qualified to greatly improve Puerto Rico's electric system. Its proposal boasted "unparalleled, hands-on experience" with FEMA-funded megaprojects, a disaster-recovery *résumé* spanning 300 jurisdictions, and a front-end transition plan that would slash costs, curb theft, and unleash a flood of federal dollars - all without raising rates. Over an eleven-month transition, PREPA opened every door: asset tours, data rooms, and unrestricted systems access - all bankrolled by millions in customer funds to ensure LUMA knew exactly what it was taking on.

Fast-forward five years and close to \$3 billion in operational budgets, including \$500 million in Service Fees to LUMA, those representations and assurances were wholly unfounded. LUMA has only received \$345 million in federal reimbursements out of approximately \$10 billion federally assigned funds for T&D projects for permanent works under the Hurricane María disaster, whereas PREPA has secured about \$1.3 billion on its own. Alarmingly, LUMA has been further unsuccessful in achieving the obligation of \$385 million in projects incurred under Hurricane Fiona's emergency work withdrawn from its operation account.

Reliability metrics remain flat or falling; island-wide blackouts on June 12 and December 31 of 2024 and again on April 16 of this year, underscored how little progress has been made to clear trees or harden lines. Meanwhile, PREPA has been forced to pump more than \$500 million of its own federal reimbursements into LUMA's accounts just to keep the lights on. In short, the promises of world-class expertise and financial discipline have not merely gone unmet—they have boomeranged into new crises of liquidity, transparency, and public confidence. The people of Puerto Rico, and the Government that represent them, are fed up.

Most recently - while outages mount and billions in federal dollars remain untapped - LUMA asked the Energy Bureau for a provisional base-rate hike that would add roughly \$30.04 to the average 400-kWh residential bill every month, a 32.75 % jump even before the formal case is heard. In its own Executive Summary, LUMA concedes the increase would bankroll five "major investments": \$800 million for distribution hardening, \$300 million for substation upgrades, \$250 million for transmission repairs, \$240 million for a one-time vegetation reset, and \$220 million for a preventive-maintenance program. Four out of these five categories are precisely the kind of permanent-work and § 406/428 hazard-mitigation projects FEMA has already approved and funded across Puerto Rico's T&D system. Put simply, LUMA wants consumers to pre-pay for capital work the federal government stands ready to reimburse, while also

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footing the bill for everyday maintenance that FEMA will never cover. P3A rejects that premise outright: when LUMA's actual revenues fall short of its optimistic forecasts, the remedy is internal cost discipline—trimming seconded-employee expenses, attacking technical and non-technical losses—not conscripting Puerto Rican families to subsidize managerial inefficiency through higher rates.

In light of the foregoing, P3A hereby enumerates a non-exhaustive sample of each instance in which LUMA has exhibited a flagrant deficiency in transparency and accountability, deliberately distorted material facts, and demonstrably failed to comply with its contractual obligations since assuming operation of the T&D System. Such conduct has compelled P3A, in its capacity as Administrator, to issue the following Notice of Disputes under Sections 15.2(a) and 15.3(b) of the T&D OMA. For each of the ten (10) disputes identified, we set forth below a detailed exposition of its nature, together with the corresponding formal demands served upon LUMA. Therefore, P3A, as the Administrator of the T&D OMA, demands the immediate commencement of the Dispute Resolution Procedures concerning each dispute. Should LUMA fail to remedy these violations within the contractually prescribed windows, PREPA and P3A will pursue every remedy the T&D OMA allows - including, if necessary, termination of the agreement - to protect public funds, restore reliable electric service, and hold LUMA fully accountable.

#### **I. Notice of Technical Dispute: Federal Funding:**

P3A, in its role as Administrator of the T&D OMA, notifies this dispute due to LUMA's persistent failures to comply with its federal funding obligations. Despite repeated warnings and formal letters (included herein), LUMA has continued to exhibit systemic deficiencies in cash flow reporting, reconciliation of federal expenditures, and timely submission of Requests for Reimbursements.

##### **1. March 7, 2025- P3A (J. Colón Ortiz- Exec. Dir.) Letter to LUMA (J. Saca - CEO) – Unauthorized Use of Seconded Employees Under the Operation and Maintenance Agreement**

- Non-compliance by LUMA:
  - LUMA's use of seconded employees violated federal procurement rules under 2 C.F.R. Part 200. Specifically, LUMA engaged in self-performed work with seconded employees without adhering to federal procurement standards applicable to state entities.

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- FEMA classified LUMA's secondment arrangement with Quanta and its affiliates as a contract requiring full and open competition, which LUMA failed to conduct.
- LUMA failed to include mandatory federal contract provisions, such as those required by 2 C.F.R. § 200.327 and Appendix to Part 200, in its Secondment Agreements.
- LUMA created organizational conflicts of interest by employing secondees from Quanta while Quanta was a major subcontractor in federally funded projects.
- LUMA violated its own procurement standards as established under the T&D OMA.
- The continued use of seconded employees directly violates P3A's obligations under Section 5.9 of the T&D OMA, which mandates compliance with applicable laws and maximization of project eligibility for federal funds.
- Request for Action and Information (including due date):
  - P3A directed LUMA to immediately cease the use of seconded employees in all federally funded projects, effective upon receipt of the letter. LUMA is unauthorized to engage seconded employees for any work under the T&D OMA.
  - Within ten (10) business days, LUMA must:
- Provide a written plan detailing measures to ensure full compliance with FEMA's procurement requirements and specific steps to eliminate seconded employees from all projects.
- Submit a comprehensive accounting of any ongoing or completed projects that involved seconded employees, including contract values, funding sources, and scope of work performed.
- Demonstrate its plan to mitigate future violations and ensure all contracting practices align with federal and Commonwealth regulations.

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2. December 10, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (J. Saca-CEO)– Re.: Compliance with Section 7.5 of the T&D OMA: Federally Funded Capital Improvements

- The letter was a response to LUMA's December 6, 2024-Letter regarding compliance with Section 7.5 of the T&D OMA concerning Federally Funded Capital Improvements.
- PREPA noted LUMA's failure to identify its obligations under Section 7.5(b) of the T&D OMA as referenced in a previous December 4, 2024, letter from PREPA. This failure underscored a persistent and troubling pattern of non-compliance and misunderstanding of LUMA's contractual obligations under the T&D OMA.
- PREPA stated that LUMA's arguments were "either disingenuous or denote a surprising lack of understanding of the RFR procedures [and WCA]". PREPA asserted that these deficiencies hindered PREPA's ability to secure timely reimbursements and jeopardized compliance with federal funding requirements essential to Puerto Rico's recovery.
- Specifically, there was a lack of a detailed schedule of Federally Funded Capital Improvements and a timeline of planned improvements for the next 4.5 months, preventing PREPA from ensuring adequate funding.
- LUMA's actions in neglecting its responsibilities violated the terms of the T&D OMA and placed critical projects and funding at risk. LUMA exhibited systemic noncompliance by failing to adhere to guidelines under Chapter 7 of the Central Office for Recovery, Reconstruction, and Resiliency (COR3) Payment and Cash Management Policy.
- Submissions by LUMA for COR3 compliance contained significant deficiencies, including insufficient descriptions, lack of supporting

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documentation, and issues requiring Requests for Information (RFIs). PREPA indicated that LUMA had only withdrawn \$564 million from the Federally Funded Account to replenish its operating account but secured only \$235 million in reimbursements, forcing PREPA to transfer \$496 million of its funds to cover the gap caused by LUMA's failures.

- PREPA demanded immediate corrective action from LUMA, including:
  - Submission of accurate and complete reconciliations for all outstanding Work Cost Accounts (WCAs) with supporting documentation as per COR3 guidelines.
  - Delivery of the detailed schedule of Federally Funded Capital Improvements required under Section 7.5(b) of the T&D OMA.
  - Submission of a detailed listing of all Federally Funded Expenditures incurred and reported to the Puerto Rico Energy Bureau (PREB), including reconciliation to approved Capital Budgets and corresponding RFRs.
  - Resolution of deficiencies in RFR submissions to ensure future requests comply with COR3 standards.
- PREPA stated that any deficiencies in LUMA's performance that threaten PREPA's compliance with federal requirements would continue to be addressed forcefully and appropriately.

3. December 4, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (J. Saca-CEO)– Re.: Compliance with Section 7.5 of the T&D OMA: Federally Funded Capital Improvements Schedule and Reconciliation Deficiencies

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- PREPA asserted that LUMA failed to comply with its obligation under Section 7.5(b) of the T&D OMA. This obligation required LUMA to provide PREPA with a detailed schedule of Federally Funded Capital Improvements. This omission by LUMA included a failure to provide a timeline of planned improvements for the next four and a half (4.5) months, which significantly hindered PREPA's ability to ensure sufficient funding and jeopardized critical projects due to non-compliance with Federal Funding Requirements.
- LUMA received \$839 million in funding but only reconciled \$146 million, representing a mere 17% of the funds. This severe insufficient reconciliation undermined LUMA's capacity to request advances and jeopardized PREPA's access to federal funds, with LUMA's delays and inefficiencies adversely impacting PREPA's participation in the program.
- PREPA demanded immediate corrective action from LUMA. The specific requests for documents and information were:
  - Submission to PREPA of a comprehensive schedule of Federally Funded Capital Improvements as required by Section 7.5(b) of the T&D OMA.
  - Delivery of a detailed analysis of expenses incurred for the projects outlined in the aforementioned schedule.
  - Reconciliation of the detailed analysis of expenses with the Federally Funded Expenditures reported to the Puerto Rico Energy Bureau (PREB) under the quarterly reporting requirements in case No. NEPR-MI-2021-00043.
  - Identification of all reimbursed expenses along with their corresponding Request for Reimbursement ("RFR") numbers.

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- Linking unreimbursed expenses to the Project Worksheet ("PW") obligations under which LUMA intended to request reimbursement.

4. December 4, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to FOMB (R. Mujica-Exec. Dir.) & COR3 (M. Laboy Rivera-Exec. Dir.)– Re.: Financial and Operational Concerns Regarding FEMA Cost-Share Requirement and Project Reconciliation

- PREPA expressed concern regarding the allocation of approximately \$1.5 billion for the acquisition of generators and other equipment to reconstruct Puerto Rico's transmission and distribution system. PREPA stated it was required to secure a 10% cost-share (\$150 million) to fulfill Federal Emergency Management Agency ("FEMA") requirements but currently lacked the necessary funds to meet this obligation.
- PREPA communicated that the \$1.5 billion allocation would not immediately impact its cash flow unless LUMA and Genera completed the necessary reconciliation processes and executed the associated projects.
- Regarding noncompliance, LUMA (along with Genera) had received \$858 million in advanced funding through the WCA Program but had only reconciled \$146 million, representing a mere 17% of the funds. This low reconciliation rate severely limited their ability to request additional advances.
- PREPA asserted that this situation placed it at significant risk as FEMA evaluated the recipient, and the deficiencies and inefficiencies by LUMA and Genera could jeopardize PREPA's continued participation in the program.
- PREPA requested that LUMA and Genera fulfill their responsibilities promptly and efficiently regarding COR3's continued oversight to ensure the effective utilization of the allocated \$1.5 billion. The letter

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did not specify a precise due date for the submission of any requested information, instead calling for prompt and efficient action.

5. September 24, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to FOMB (R. Mujica- Exec. Dir.)-Re: FOMB's Notice of Violation on PREPA's Proposed 2024 Fiscal Plan Updated Response

- PREPA highlighted to the FOMB that due to LUMA's non-compliance in receiving its required inputs after the response deadline and integrating them into the revised proposed PREPA Fiscal Plan.
- PREPA emphasized each instance of non-compliance by LUMA to provide the required input:
  - Delayed Submission of Required Inputs: PREPA received the required inputs from LUMA Energy, LLC, that were outlined in the FOMB's Notice of Violation (NOV) after the response deadline. This directly indicates a delay on LUMA's part in providing essential information for PREPA's updated fiscal plan.
  - Challenges in Developing a Unified CapEx Roadmap: PREPA, LUMA, and Genera were tasked with developing a comprehensive capital expenditures roadmap. However, after discussions, all three parties, including LUMA, agreed that it is "infeasible to jointly develop a unified, holistic plan". The letter attributes this difficulty to the "discrete interests of each party" and their specific requirements under their respective O&M agreements, suggesting a lack of cohesive planning despite the recognized need. While not solely LUMA's non-compliance, it points to a collective failure to achieve a unified plan, in which LUMA is a participant.
  - Receipt of O&M Expense Projections via the FOMB: PREPA received information on LUMA's O&M expense projections

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from the FOMB on Thursday, September 19th, 2024. This phrasing suggests an indirect channel for receiving LUMA's projections, rather than directly from LUMA, potentially indicating a prior delay or issue with direct submission.

- PREPA also noted that it received additional information from LUMA on September 17th, 2024, regarding load and customer forecasts, which will be incorporated into the revised fiscal plan.

6. Aug. 28, 2024-PREPA (F. Berríos Portela-Chairman of PREPA's Governing Board) Letter to LUMA (J. Saca-CEO)– Re.: Federally funded works cash flow

- During meetings of the Committee on Assets Under OMA of the PREPA Governing Board (the "Committee"), LUMA was requested to include detailed information in its reports regarding the cash flow of federally funded projects, specifically focusing on expenditures and the number of reimbursements received. This request was deemed crucial given the current fiscal constraints and PREPA's cash flow limitations.
- LUMA did not submit the requested information on July 22, 2024, despite a prior indication that failure to provide the data would result in limiting delegated authorities and management access for federally funded works. LUMA again did not provide the requested updated cash flow information for federally funded projects during the Committee meeting on August 26, 2024.
- A report provided on July 23, 2024, indicated expenditures of \$748.8 million from May 2023 to May 2024 for federally funded projects. RFRs submitted for FY2024 totaled \$230.6 million, but only \$140 million was reimbursed. This indicated that a significant amount of funds had yet to be reimbursed by federal agencies, and LUMA had yet to request such reimbursements.

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- PREPA's cash flow was under significant pressure, and a July 23, 2024-Report noted that PREPA had transferred at least \$540.8 million from available cash to replenish service accounts. LUMA was requested to provide the information and include an action plan to address and reconcile the existing cash flow gap between expenditures, submitted RFRs, and reimbursements no later than August 30, 2024. It was emphasized that should LUMA not provide this information, the PREPA Governing Board might need to review and potentially limit access to manage these federally funded projects to address the cash flow concerns.
- LUMA was urged to diligently and timely request federal reimbursements to stop or significantly reduce the drainage of state funds and to replenish accounts for the benefit of LUMA's clients.

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7. August 21, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (J. Saca-CEO)– Re.: Urgent Notice Regarding Timely and Accurate Cash Flow Data from LUMA

- Under the T&D OMA, LUMA is responsible for generating sufficient revenues from both collections for power services and obtaining federal reimbursements for the federally funded T&D projects it oversees.
- Since the Commencement Date, LUMA has failed to adequately perform these responsibilities, leading to unnecessary and unreasonable expenses that contributed to PREPA's depleted liquidity. LUMA's "blanket denial" in its August 16, 2024-Letter did not address these specific concerns.
- According to information provided by Mr. Nelson Morales, PREPA's Chief Financial Officer, LUMA had begun providing daily bank balances and cash flow information, as recommended in PREPA's July 29<sup>th</sup>-Letter. This change was noted to have reduced errors and

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improved PREPA's ability to submit timely reports to stakeholders. PREPA remained vigilant and reserved its rights to further comment and demand accurate and timely reporting of financial information under Section 3.8 of the T&D OMA. Following the recommendations in the July 29<sup>th</sup>-Letter, LUMA had "noticeably improved its reporting behavior," making PREPA's work more efficient.

- PREPA expected LUMA to continue to deliver daily cash reports to various stakeholders.

8. July 29th, 2024- PREPA (N. Morales- CFO) Letter to LUMA (K. Hasan-CFO)– Urgent Notice Regarding Timely and Accurate Cash Flow Data from LUMA

- This letter highlighted PREPA's ongoing challenges in collecting timely and accurate cash flow information from LUMA, stating that LUMA's actions regarding federal funds management and customer collections were depleting PREPA's liquidity.
- Historically, PREPA received daily bank balance and cash flow files from LUMA, which were essential for monitoring liquidity and reporting. However, these files often contained errors and delays, complicating PREPA's ability to submit timely reports to stakeholders. PREPA had repeatedly prompted LUMA for corrections, but the cash flow files frequently remained unrevised by LUMA or were held up.
- This noncompliance meant PREPA was unable to publish accurate cash flow files and lacked adequate visibility into its liquidity, a practice deemed "wholly negligent" and "unacceptable" in a bankruptcy context. PREPA asserted that LUMA had failed to acknowledge and correct the problem and had not demonstrated commitment to improving the flow and accuracy of financial information.

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- LUMA's failure to provide the required information constituted a violation of Section VI of Annex I (Scope of Services) of the Transmission and Distribution Operating and Maintenance Agreement (T&D OMA), which mandates the operator (LUMA) to provide all financial activities and assist in the preparation of reports. PREPA stated it was imperative that LUMA immediately begin to provide PREPA with the relevant financial information in a timely and accurate way.
- PREPA requested immediate attention to this matter and prompt confirmation of LUMA's corrective actions. No specific calendar due date was given, but the urgency for immediate action was emphasized. The letter was copied to a comprehensive list of stakeholders, including key officials from FOMB, PREPA, P3A, Genera, AAFAF, PREB, and PROMESA.

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9. June 27, 2024-PREPA (J. Colón Ortiz-Exec. Dir.) Letter to FOMB (R. Mujica-Exec. Dir.)-Re: PREPA's proposed alternatives to cover the difference between PREPA's FY24 certified budgets and PREPA's FY25 proposed budgets

- PREPA emphasized that LUMA expends "exorbitant amounts of money" without a demonstrated need or benefit, specifically related to its Seconded Employees Program (where salaries/wages exceed local employee compensation and over 20% of the allocation is used for miscellaneous expenses like plane tickets and hotel stays for employees and spouses) and publicity/marketing. PREPA notes that these lavish expenses are unjustified.
- LUMA has shown resistance to disclose information regarding its Seconded Employees Program.
- LUMA's mismanagement has caused a severe liquidity shortfall for PREPA, characterized by a backlog of over \$550 million in delayed reimbursements and working capital advances for federally funded projects.

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- LUMA expended over \$950 million in federally funded CapEx but only obtained \$451 million in FEMA reimbursements and Working Capital Advances through Q3 2024, leading to a negative liquidity impact of over \$550 million on PREPA.
- LUMA has not been required to correct its "glaring inefficiencies" in obtaining federal funds.
- PREPA deemed LUMA's unjustified overspending and inability to generate sufficient revenues from collection efforts or to oversee federally funded projects as "unjustifiable".
- Despite repeated warnings and invitations from PREPA to discuss LUMA's modus operandi, LUMA has taken no action to address these issues.
- PREPA described LUMA's operations as "drastically less economic and human resources" compared to PREPA.
- PREPA emphasized that LUMA has failed to secure reimbursements for Emergency Measures (Category B), Permanent Work (Category F), and Management Cost (Category Z) at a rate comparable to PREPA. PREPA highlights that LUMA's failure to generate sufficient revenues and obtain reimbursements has hindered its capacity to perform necessary repairs and maintenance of the T&D systems.
- PREPA reiterated that LUMA attempted to transfer the burden of its inefficiencies to rate-payers by demanding budget increases.
- PREPA requested the FOMB to investigate LUMA's Seconded Employees Program to ascertain its necessity and the reasonableness of the associated salaries, wages, and benefits.
- PREPA proposed that the \$36.4 million variance between the certified FY24 and proposed FY25 budgets for HoldCo and HydroCo be reduced by the amounts authorized for LUMA's Seconded Employees Program and its marketing and publicity programs.

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- PREPA moved the FOMB to revise and redistribute P3A's Budget Allocation efficiently and fairly to fully cover PREPA's budgetary needs for FY25 without requiring rate increases.
- PREPA asserted that \$40.1 million of interest income from PREPA's accounts, which is currently contributing to PREPA's liquidity shortfall due to LUMA's reimbursement backlog, should be attributed directly to PREPA's operating entity budgets.
- PREPA advised the FOMB to reject LUMA's request for a budget increase given LUMA's demonstrated inefficiencies.

10. June 5, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (J. Saca-CEO)– Re.: Follow up on PREPA's March 15, 2024, Letter denouncing LUMA's Inability to generate sufficient revenues and obtain federal reimbursements and inviting LUMA to discuss specific measures to improve revenues and federal reimbursement rate

- PREPA reiterated its position from the March 15, 2024-Letter to Mr. Cory Schneider, LUMA's Chief Financial Officer, stating that LUMA's failure to generate sufficient revenues and secure reimbursements from federally funded projects hindered PREPA's ability to fund its Service Accounts.
- PREPA asserted that LUMA had displayed a lack of understanding of its obligations and the T&D OMA business model by refusing to acknowledge its responsibility. LUMA also appeared to incorrectly present unvalidated working capital advances and unapproved RFRs as revenue sources.
- LUMA failed to obtain any reimbursement dollars under applicable disaster declarations in Categories B, F, and Z. PREPA denounced that LUMA often failed to pursue reimbursements diligently. Many RFRs submitted by LUMA were returned by FEMA and/or COR3 due to significant deficiencies. For instance, even eighteen months after Hurricane Fiona, LUMA had not secured a single obligation for

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over \$465 million in incurred eligible expenses, which PREPA viewed as either an inability or disregard of duty by LUMA.

- LUMA failed to respond to PREPA's March 15, 2024-Letter and refused to take any action to correct its inefficiencies regarding revenue generation and federal reimbursements. Between LUMA's Interim Period Service Commencement Date and May 2024, LUMA had expended over \$950 million of federally funded Capital Expenditures ("CapEx") but only obtained \$381 million in FEMA reimbursements and WCAs (\$69 million in FEMA reimbursements and \$312 million in WCAs). This resulted in a net negative liquidity impact on PREPA of over \$550 million through Q3 2024.
- To compensate for LUMA's inefficiency, PREPA was forced to transfer over \$430 million from its restricted federal funds account to LUMA. Due to LUMA's inaction, PREPA's liquidity had been significantly impacted, leading to an anticipated cash shortfall for the June 2024 Service Account Funding Cycle, which was due on July 15, 2024.
- To resolve this problem, PREPA demanded that LUMA take immediate action to:
  - Resolve federal reimbursement delays with COR3 to address the backlog of over \$550 million in reimbursements.
  - Correct any incomplete RFRs.
  - Submit all accumulated and delayed RFRs and reduce delays in incurring eligible expenses, submitting RFRs, and securing reimbursements.
  - Transfer all overfunding from its T&D Federally Funded Capital Account.

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- PREPA invited LUMA to urgently schedule a meeting to discuss specific measures to achieve the obligation of funds and improve its reimbursement rate. No specific due date for this meeting or the requested immediate actions was provided within this letter, beyond emphasis on urgency.

11. June 5, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to P3A (F. Fontanés Gómez)– Re.: PREPA's Urgent Demand for LUMA to take immediate corrective action regarding its reiterated failure to generate sufficient revenues from collections efforts, inefficient federal reimbursement rate, and delays in transferring overfunding from the Capital Account

- PREPA asserted that LUMA had failed to generate sufficient revenues and secure reimbursements from federally funded projects, which hindered PREPA's ability to fund its Service Accounts. Between LUMA's Interim Period Service Commencement Date and May 2024, LUMA had expended over \$950 million of federally funded CapEx but had only obtained \$381 million in FEMA reimbursements and (WCAs. This resulted in a net negative liquidity impact on PREPA of over \$550 million through Q3 2024.
- PREPA stated that LUMA has not corrected its "glaring inefficiencies," and PREPA was forced to transfer over \$430 million from its restricted federal funds account to compensate for LUMA's inefficiency. PREPA highlighted that LUMA's unjustified overspending and inability to generate sufficient revenues from federal T&D projects were "unsustainable". Despite PREPA's repeated warnings and invitations to discuss solutions, LUMA took no action to address these issues.
- PREPA had previously warned P3A and LUMA about potential cash shortfalls since August 2023. On August 16, 2023, during a meeting, it was noted that PREPA had obtained approximately \$300 million in FEMA reimbursements, but LUMA had only obtained \$46 million.

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By August 2023, PREPA had already transferred approximately \$376 million to LUMA's operating accounts. PREPA further informed that on August 17, 2023, it sent an email to Mr. Juan Saca, LUMA's President and CEO, denouncing that over \$700 million in federal reimbursements had not been obtained.

- PREPA also noted that LUMA had failed to respond to PREPA's March 15, 2024-Letter, which reiterated concerns and denounced LUMA's inability to generate sufficient revenues and secure reimbursements, and that LUMA refused to take any action to correct its inefficiencies.
- PREPA stated that LUMA's apparent lack of understanding of its obligations and the T&D OMA business model, its incorrect presentation of unvalidated working capital advances and unapproved RFRs as revenue sources.
- In many instances, LUMA failed to obtain any reimbursement dollars under applicable disaster declarations (Categories B, F, and Z) and often failed to pursue reimbursements diligently. Many RFRs submitted by LUMA were returned by FEMA and/or COR3 due to significant deficiencies. For example, eighteen months after Hurricane Fiona, LUMA had not secured a single obligation for over \$465 million in incurred eligible expenses.
- As a direct consequence of LUMA's inabilities, PREPA confirmed it would face an anticipated and projected cash shortfall for the June 2024 Service Account Funding Cycle, due on July 15, 2024.
- PREPA demanded LUMA take immediate action to:
  - Resolve federal reimbursement delays with COR3 to address the backlog of over \$550 million in reimbursements.
  - Correct any incomplete RFRs.

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- Submit all accumulated and delayed RFRs and reduce delays in incurring eligible expenses, submitting RFRs, and securing reimbursements.
- Transfer all overfunding from its T&D Federally Funded Capital Account into the Operating Account.
- PREPA requested that P3A, as Administrator of the T&D OMA, take immediate and decisive action against LUMA on or before five (5) days from the letter's date (implying June 10, 2024) to avoid underfunding the June 2024 Service Account.
- PREPA indicated that if LUMA did not take effective remedial action, PREPA would have no choice but to exercise the mechanisms in Section 15.2(a) of the T&D OMA.

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12. March 15, 2024- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (C. Schneider-CFO)-Re.: Response to LUMA Letter regarding Misrepresentations

- This letter served as PREPA's response to LUMA's March 5, 2024- Letter (Transmittal # LUMA-PREP-T-00703)<sup>1</sup>. PREPA's addressed what it considered to be LUMA's misrepresentations and to set the record straight regarding LUMA's alleged inability to generate sufficient revenues from collection efforts or obtain reimbursements from federally funded projects.
- PREPA highlighted significant noncompliance and inefficiencies on LUMA's part:
  - LUMA failed to generate sufficient revenues from power service collections and to secure reimbursements from federally funded T&D projects.
  - LUMA's actions thwarted PREPA's ability to fully fund its Service Accounts.

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- LUMA refused to acknowledge its responsibility demonstrating a lack of understanding of its obligations under the T&D OMA business model.
- LUMA misrepresented unvalidated working capital advances and unapproved RFRs as revenue sources to fund Service Accounts, which PREPA labeled as "deceptive in nature".
- In many instances, LUMA failed to secure a single reimbursement dollar under applicable disaster declarations (Categories B, F, and Z). For instance, for Hurricane Fiona (Public Assistance 4671), PREPA received \$68,764,676.91, while LUMA received \$0. For Hurricane Fiona, PREPA received \$152,283.41, with LUMA again receiving \$0.
- Eighteen months after Hurricane Fiona, LUMA had not achieved a single obligation.
- Many RFRs submitted by LUMA were returned by FEMA and/or COR3 due to significant deficiencies.
- PREPA characterized LUMA's complaints about Service Account replenishments as "petulant letters" and their lack of a concrete plan to correct deficiencies as a "waste of time" and a "misuse of ratepayers' funds".
- PREPA contended that LUMA's overall reimbursement rate was "drastically less economic" than PREPA's.

P3A hereby demands that LUMA (i) immediately halt the use of seconded employees on any federally funded work, (ii) produce within ten (10) days a detailed cost-justification and head-count plan that reduces Seconded-Employee spending by at least \$36.4 million for FY 2026 deliver, (iii) produce within ten (10) days a written compliance plan that (a) reconciles every outstanding Work-in-Capital Advance, (b) produces an accurate schedule of Federally Funded Capital Improvements required by § 7.5(b) of the T&D OMA and (c) cures all deficiencies in pending Requests for Reimbursement, and (iv) reimburse PREPA for any federal-

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funds gap PREPA has back-filled since June 2024. Pursuant to §§ 15.2(a) and 15.3(b), P3A hereby commence the Article 15 dispute-resolution procedure for this matter.

## **II. Notice of Technical Dispute: Service Account Funding-Compensation & Budgets**

P3A, as Administrator of the T&D OMA, issues this Notice of Technical Dispute due to LUMA's persistent and material breaches of its contractual obligations, which have culminated in a liquidity crisis for PREPA and a direct threat to the continuity of public electric service. Despite being responsible, under the T&D OMA, for securing sufficient revenues and timely reimbursements for federally funded projects, LUMA has failed to do so.

### **1. February 13, 2025: P3A Letter (J. Colón Ortiz-Exec. Dir.) to LUMA (J. Saca-CEO)- Re: URGENT ACTION REQUIRED- Fuel Account Funding**

- On February 11, 2025, P3A received an alarming communication from Genera informing PREPA that LUMA had refused to transfer \$4.5 million in PREPA-authorized funds to Genera's Fuel Account to fund December 2024-fuel purchases, despite formal approval on February 11, 2025.
- Consequently, P3A issued an urgent notice to address a critical issue and demand LUMA, emphasizing LUMA serious non-compliance with the T&D OMA as LUMA's inaction is a direct violation of the agreement.
- This inaction jeopardized continuity of power generation, risking: (i) shutdown of generation assets; (ii) breach of fuel supply contracts; (iii) damage to credit lines and suspension of future deliveries; and (iv) severe impact on Puerto Rico's electrical grid.
- This crisis was created due to LUMA's mismanagement of federal funds, specifically its misuse of operational funds for capital expenditures and failure to secure timely federal reimbursements.

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- P3A warned LUMA against further aggravating the situation it has created by withholding funds.
  - P3A concluded that LUMA's conduct has created a critical and avoidable emergency and demanded immediate compliance.
2. December 2, 2024<sup>1</sup>-PREPA (J. Colón Ortiz-Exec. Dir.) to the Incoming Transition Committee Re: Request for Additional Information on the Breakdown of Transfers from the Reimbursement Account to LUMA Energy, LLC and Genera PR, LLC
- This letter provided a table detailing the distribution of \$496.1 million transferred from the Federal Reimbursement Account to LUMA and Genera, with transfer dates ranging from December 2022 to July 2024.
  - Of the total \$496.1 million transferred, \$433.1 million was transferred to LUMA and \$63.1 million to Genera. The specific transfers listed in the table total \$496,070,448, of which \$433,012,073 were allocated to LUMA and \$63,058,375 to Genera.
3. November 27, 2024: PREPA Letter (J. Colón Ortiz-Exec. Dir.) to LUMA (J. Saca-President & CEO) Re: PREPA's Response to LUMA's November 25, 2024, Notice of PREPA Non-Compliance with Service Accounts Funding – October 2024 (Transmittal # LUMA-PREP-T-00833)
- PREPA confirmed that it had authorized a transfer of \$189,783,000 to replenish LUMA's Service Accounts and \$15,121,000 to replenish Genera's Service Accounts.
  - PREPA emphasized that it is facing a predictable cash shortfall, which impacts its ability to fund LUMA and Genera's Service Accounts. This shortfall is due to reasons outlined in PREPA's

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<sup>1</sup> The original letter is in Spanish.

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various letters to LUMA on this matter. Specifically, it stated that its severe liquidity shortfall is driven solely by LUMA's backlog of delayed reimbursements for WCAs and reconciliation for federally funded projects.

- LUMA has received to date \$858M in funding, including working capital advance, but has only reconciled \$146M, representing a mere 17%. Consequently, limiting LUMA's ability to request advances, compromising the WCA Program.
- More than 24 months after Hurricane Fiona, LUMA has obtained no obligation of PWs for RFRs or WCAs, despite potential out of pocket expenses of over \$300M.
- PREPA noted LUMA has taken no action to correct its inefficiencies.
- PREPA has been forced to transfer over \$496M from its restricted federal funds account to compensate for LUMA's failure to fulfill its obligations.
- PREPA stated that due to LUMA's overspending, along with its inability to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements from the federally funded T&D projects, is simply unsustainable.

4. November 1, 2024- PREPA Letter (J. Colón Ortiz-Exec. Dir.) to AAFAF (O. Marrero Díaz-Exec. Dir.) Re: Confidential Communication to the Energy Bureau of PR regarding PREPA's Liquidity Challenges

- This letter refers to a Resolution and Order issued on October 30, 2024, by PREB, in the case NEPR-MI-2020-0001, to assign a Hearing Examiner to address PREPA's liquidity issues. The letter was sent because, in this Resolution, PREB referenced confidential

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communication regarding the problem, and PREPA filed a motion before PREB requesting access to it.

- PREPA also requested AAFAF consent to be granted access to confidential communication.
- The letter had six (6) attached letters as follows:
  - October 4, 2024<sup>2</sup>-PREPA Letter (J. Colón Ortiz-Exec. Dir.) to the President of PREPA's Governing Board (NAME) Re: Letter received from AAFAF- PREPA attributed its liquidity crisis to LUMA's persistent failure to comply with its obligations under the T&D OMA to secure sufficient reimbursements for federally funded projects. Between 2021 and June 2024, LUMA incurred \$1.2 billion CapEx eligible for reimbursement; however, it secured only \$588 million in reimbursements, consisting of \$167,846,002.42 in RFRs and \$420,850,002.60 WCAs. This resulted in a \$600 million shortfall that has significantly impacted PREPA's liquidity position.
  - October 3, 2024: PREPA (J. Colón Ortiz-Exec. Dir.) to Genera (B. McElmurray-CEO)-Re: CDBG-DR Cost Share Request for Generation Assets Reconstruction Projects- PREPA acknowledged Genera's request to be designated as agent for the purpose of accessing CDBG-DR funds. PREPA agreed but emphasized the designation is for specific legacy generation projects and reiterated that Genera remains bound by PREPA's oversight and applicable federal and Puerto Rico law requirements.
  - September 24, 2024: PREPA (J. Colón Ortiz-Exec. Dir.) to FOMB (R. Mujica-Exec. Dir.)-Re: FOMB's Notice of Violation on PREPA's Proposed 2024 Fiscal Plan Updated Response- PREPA responding to FOMB's *Notice of Violation* regarding

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<sup>2</sup> The original letter was in Spanish.

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the proposed 2024 PREPA Fiscal Plan. PREPA emphasized that delays in completing the fiscal plan revisions are due to LUMA's failure to provide customer count data necessary for accurate forecasts and submit consolidated budget materials as part of the required roadmap for federal fund planning.

- o September 16, 2024: PREPA (J. Colón Ortiz-Exec. Dir.) to FOMB (R. Mujica, Exec. Dir.) Re: FOMB's Notice of Violation on PREPA's Proposed 2024 Fiscal Plan- PREPA detailed obstacles and dependencies related to LUMA (and Genera) that impact the fiscal planning process and PREPA's overall financial health. Specifically:

- FOMB found information submitted by LUMA to be incomplete.
- As of the date of this letter LUMA had not provided PREPA with the required information regarding Energy Efficiency, internally. PREPA noted that there was a lack of coordination and information fragmentation of information regarding federal funds.
- PREPA found it unfeasible to jointly develop a unified, holistic plan for the capital expenditure roadmap with LUMA and Genera under the PREB process, because of issues in collaboration or alignment necessary for this critical planning function.
- PREPA noted that FOMB approved the *Outage Event Reserve Account*, however, LUMA "failed to act one way or another" on including this account in its annual budget submissions despite repeated invitations.

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- PREPA suggested that the PREB and the FOMB should call out LUMA when it fails to act.
- PREPA also noted that any rate increase should only be considered after confirming that extravagant or exaggerated expenses have not been incurred by the private operators, including LUMA. Therefore, it called out for full transparency regarding the true needs of the electrical system and the cost-effectiveness of expenses incurred by LUMA and Genera.
- September 16, 2024: PREPA (J. Colón Ortiz-Exec. Dir) to PREPA's Finance Director (N. Morales)-Re: Transfers to Service Accounts Supplemental Information- PREPA was experiencing financial constraints due to the slow-paced reimbursement of federally funded projects to replenish LUMA and Genera's service accounts. PREPA confirmed its responsibility to cover the 10% cost share on federally funded projects carried out by LUMA and Genera.
- 5. October 30, 2024- PREPA Letter (J. Colón Ortiz-Exec. Dir.) to LUMA (J. Saca-CEO)-Re: PREPA's Response to LUMA's October 22<sup>nd</sup>, 2024, Notice of PREPA Non-Compliance with Service Account Funding- September 2024 (Transmittal # LUMA-PREP-T-00817)
  - PREPA acknowledged receipt of LUMA's letter from October 8th and October 22nd, 2024.
  - PREPA confirmed authorization of a transfer of \$176,956,000 to replenish LUMA's Service Accounts and \$76,884,000 to replenish Genera's Service Accounts.
  - Funding for returns to Accounts Receivable for Reserve details will not be provided until a required report is submitted and approved by P3A.

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- PREPA attributed its predictable cash shortfall and inability to fully fund accounts, including reserve accounts, partly to factors including LUMA's backlog of over \$550M in delayed reimbursements and WCAs for federally funded projects.
- PREPA emphasized a net negative liquidity impact of over \$550M through Q3 2024, stemming from LUMA expensing over \$950M in federally funded CapEx but only securing \$451M in FEMA reimbursements and WCAs, during the specified period.
- PREPA noted its limited progress on Hurricane Fiona federal funds, with FEMA denying \$267.6M in costs and only one (1) obligation of PWs for \$800,000.00 for RFPs/WCAs over two (2) years post-landfall.
- PREPA stated that despite multiple requests, LUMA has taken no action to correct its inefficiencies, forcing PREPA to transfer over \$445.4M from restricted federal funds to compensate.
- PREPA characterized LUMA's unbridled overspending, along with its inability to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements, is simply unsustainable.
- PREPA requested LUMA make necessary adjustments to comply with its obligations under the T&D OMA.

6. August 21, 2024- PREPA letter (J. Colón Ortiz-Exec. Dir.) to LUMA (J. Saca-CEO)-Re: PREPA's Response to LUMA's August 16<sup>th</sup> Letters re: Service Account Funding (LUMA-PREP-T-00788) (LUMA-PREP-T-00784)

- PREPA categorized LUMA's August 16th, 2024-Letters as containing "misconstructions about the Parties obligations under the T&D OMA and Applicable Law regarding PREPA's liquidity," making misleading claims, and refusing to acknowledge its

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responsibility regarding a liquidity issue. Therefore, PREPA stated it was left with no other choice but to reassert its position to set the record straight.

- PREPA stated it “categorically rejects LUMA's statement that 'PREPA is solely responsible for its own ... liquidity position”.
- Under the T&D OMA, LUMA is responsible for generating sufficient revenues from power service collections and obtaining federal reimbursements for federally funded T&D projects.
- PREPA stated that since the Commencement Date, LUMA has failed to meet both revenue generation/collection and reimbursement obligations, leading to LUMA's poor financial position. PREPA referred to LUMA's model as unsustainable.
- PREPA attributed its cash shortfall and inability to fully fund Service Accounts partly to LUMA's actions.
- PREPA reiterated its severity of shortfalls driven by LUMA's backlog of over \$550M in delayed reimbursements and WCAs for federally funded projects.
- PREPA claimed that LUMA had expensed over \$950M in federally funded CapEx from Commencement Date through June 2024 but only obtained \$451M in FEMA reimbursements and WCAs during this period. This resulted in a net negative liquidity impact on PREPA of over \$550M through Q3 2024.
- PREPA noted its limited progress on Hurricane Fiona federal funds, stating FEMA denied \$267.6M in costs and only obligated one \$800,000.00 PWs for RFPs/WCAs over two years post-landfall. PREPA, with drastically fewer economic and human resources, obtained \$1.2B in reimbursements, out of which it was forced to transfer over \$445.4M to compensate for LUMA's incompetence.

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- PREPA characterized LUMA's unbridled overspending, along with its inability to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements, is simply unsustainable.
- PREPA requested LUMA to make necessary adjustments to comply with its T&D OMA obligations and emphasized that LUMA must improve its reimbursement rate.

7. August 16, 2024-PREPA Letter (J. Colón Ortiz-Exec. Dir.) to FOMB (R. Mujica-Exec. Dir.) & AAFFAF (O. Marrero-Exec. Dir.)-Re: PREPA's Anticipated Inability to Replenish LUMA's Service Account for the August 2024 Service Account Funding Cycle

- Referencing the T&D OMA, PREPA acknowledged receiving LUMA's request from August 8th, 2024, for a transfer of \$824.920M to its Service Accounts.
- PREPA stated it had authorized a transfer of only \$262.486M to replenish LUMA's Service Accounts.
- PREPA stated that, according to its numerous letters, for over a year, it had consistently warned LUMA about an expected liquidity shortfall driven solely by LUMA's backlog of over \$550M in delayed reimbursements and WCAs related to federally funded projects.
- The letter claimed that from the T&D OMA Commencement Date through June 2024, LUMA had expended over \$950M in federally funded CapEx but only secured \$451M in FEMA reimbursements and WCAs during that specific period.
- PREPA asserted that this led to a net negative liquidity impact on PREPA exceeding \$550M through Q3 2024. PREPA also mentioned it had obtained a total of \$1.2B in reimbursements during that time.

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- The letter further noted that despite potential out-of-pocket expenses surpassing \$300M in the two years following Hurricane Fiona's landfall, LUMA had secured no obligation of PWs for RFPs or WCAs related to that event. PREPA highlighted that FEMA had denied \$267.6 million in costs submitted by FEMA to date.
- LUMA's "unjustified overspending, along with its inability to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements from the federally funded T&D projects it oversees, has reached its tipping point; PREPA no longer has sufficient funds to replenish LUMA's Service Accounts".
- PREPA proposed an urgent meeting involving representatives from the FOMB, AAFAF, P3A, and LUMA to discuss these matters and identify ways to maintain sufficient liquidity.

8. August 9, 2024- PREPA (J. Colón Ortiz-Exec. Dir) Letter to LUMA (J. Saca-CEO- and J. Laird-VP, Customer Exp.)-Re: LUMA CC&B Write-Off Process Initiative Notification

- This letter was in response to LUMA's August 5<sup>th</sup>, 2024-Letter.
- LUMA requested PREPA's confirmation for a write-off of over \$300 million in public assets.
- PREPA did not accept LUMA's proposed five-day timelines to evaluate and confirm the write-off, especially one exceeding \$300 million.
- PREPA explicitly stated that it did not confirm or authorize the requested write-off of \$366,013,251.73 as of the letter date, stating that LUMA has not shared its write-off policy.

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- Under the T&D OMA, LUMA is responsible for all billing and collection services for the T&D System, including accumulated debt.
- PREPA noted that LUMA's letter does not clearly outline its responsibility for debt recovery.
- PREPA stated it was not aware of LUMA's efforts to collect on 148,900 service agreements with balances that are deemed to be non-collectible.
- PREPA stated that the lack of information in LUMA's letter hinders an informed analysis of the proposed write-off and policy.
- PREPA required LUMA to provide detailed proof of its efforts to collect before any write-off is considered.
- PREPA viewed writing off over \$300 million in public assets with no collection efforts or transparency as "profoundly detrimental to the public interest" and would not allow it.
- Appendix A to the letter details the non-electric and electric service agreements proposed for a write-off, totaling over \$366 million.

9. July 15, 2024- PREPA Letter (J. Colón Ortiz-Exec. Dir.) to LUMA (C. Schneider-CFO)-Re: PREPA's Response to LUMA's July 9<sup>th</sup>, 2024 Letter requesting Service Account Funding for the June 2024 Service Account Funding Cycle (Transmittal # LUMA-PREP-T-00771)

- Pursuant to the T&D OMA, PREPA confirmed it had authorized a transfer of \$205.697M to replenish LUMA's Service Accounts and \$169.271M to replenish Genera's Service Accounts. A certification attached as Annex A confirmed these specific transfer amounts made on July 15th, 2024.

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- Details for funding LUMA Purchase Power Account and General Reserve Accounts would not be provided until a required report was submitted and approved by P3A. Other LUMA Service Accounts were scheduled to receive two-thirds funding, in compliance with Section 14.3(f) of the T&D OMA.
- PREPA referenced a previous letter of June 3, 2024, where it had warned LUMA it would be unable to fund the LUMA Service Accounts for the June 2024 cycle.
- Despite that warning and a significant effort, PREPA reported it had been able to cover the June 2024 Service Account funding. However, PREPA cautioned that, following the June transfer and as previously warned, it would face a predictable cash shortfall and would be unable to fund LUMA and General Service Accounts for the July 2024 Service Account Funding cycle, which was due in August 2024.
- PREPA attributed the anticipated July 2024 liquidity shortfall to reasons outlined in previous letters, specifically reiterating the severe shortfall driven solely by LUMA's backlog of over \$550M in delayed reimbursements and WCAs related to federally funded projects.
- The letter claimed that from the Interim Period Service Commencement Date through June 2024, LUMA had expensed more than \$950M in federally funded CapEx but only secured \$451M in FEMA reimbursements and WCAs during that specific period.
- PREPA asserted that this resulted in a net negative impact on PREPA's liquidity, exceeding \$550M through Q3 2024. PREPA also noted it had obtained a total of \$1.2B in reimbursements during that same time.

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- Regarding Hurricane Fiona, PREPA pointed out that despite 18 months after landfall, LUMA had obtained no obligation of PWs for RFRs or WCAs related to that event.
- PREPA also highlighted that FEMA had issued Ineligibility Determination Memos denying Fiona's costs totaling \$267.6M as submitted by FEMA to date.
- PREPA contended that despite its multiple requests, LUMA had taken no action to correct its inefficiencies.
- Instead, PREPA reported it had been forced to transfer over \$484.4 million from its restricted federal funds account to compensate for LUMA's failure.
- LUMA's unjustified overspending and inability to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements from federally funded projects it oversees as "simply unsustainable".
- To address the situation, PREPA urged LUMA again to make the necessary adjustments to comply with its obligations under the T&D OMA.

10. June 27, 2024-PREPA Letter (J. Colón Ortiz-Exec. Dir) to FOMB (R. Mujica-Exec. Dir.)-Re: PREPA's proposed alternatives to cover the difference between PREPA's FY24 certified budgets and PREPA's FY25 proposed budgets

- PREPA submitted proposed budgets for fiscal year 2025 (FY2025) for HoldCo (\$62.634M) and HydroCo (\$26.175M). Also, it stated no rate increase would be necessary to fund these proposed budgets, as all necessary expenses can be covered through an efficient and fair redistribution of the budget allocation made by P3A.

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- PREPA highlighted a \$36.4M variance between the FY24 certified budgets and the FY25 proposed budgets for HoldCo and HydroCo.
- PREPA identified areas of exorbitant spending by LUMA, particularly criticizing its "Seconded Employees Program", seconded from the companies that comprise LUMA: the Canada firm ATCO and the U.S. based companies Quanta Services, Inc. and IEM, which cost over \$200M and involved unnecessary expenses funded by rate-payers.
- PREPA suggested the \$36.4M variance could be covered by reducing authorized amounts for LUMA's Seconded Employees Program and its marketing/publicity programs.
- PREPA requested the FOMB to investigate LUMA's Seconded Employees Program.
- PREPA argued the budget allocation should be redistributed due to LUMA's mismanagement and a significant backlog of over \$550M in delayed reimbursements and WCAs.
- PREPA stated LUMA's failure to generate sufficient revenues and obtain reimbursements for federally funded T&D projects had a significant negative impact on PREPA's liquidity, resulting in PREPA being forced to transfer over \$445.4M from its restricted federal funds account to compensate for LUMA's inefficiencies.
- PREPA requested the FOMB to revise and redistribute the P3A's Budget Allocation to fully cover PREPA's FY25 budgetary needs without rate increases.
- PREPA emphasized its critical role and the importance of budget allocations reflecting true operational needs to ensure the stability of Puerto Rico's electric infrastructure.

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11. June 3, 2024- PREPA (N. Morales- CFO) Letter to LUMA (C. Schneider-CFO)-Re: Projected Shortfalls for Service Account Funding for June 2024, due on July 15, 2024, under T&D OMA

- This letter was a follow-up to PREPA's May 13, 2024-Letter, which expressed urgent concerns regarding the deterioration of PREPA's liquidity and related service account funding risk. PREPA had not received a response to the May 13 Letter.
- This letter confirmed and expanded upon the anticipated and projected cash shortfall for the June 2024 Service Account Funding cycle, which was primarily driven by LUMA-controlled events.
- Based on available information, PREPA projected that it would be unable to complete two-thirds of funding for LUMA, in compliance with the T&D OMA. This inability was based on recent funding requests from LUMA and Genera for their respective Service Accounts. PREPA anticipated a predictable cash shortfall and stated it would be unable to fully fund LUMA and Genera Service Accounts due on July 15, 2024.
- The anticipated and previously informed liquidity shortfall was due to various reasons outlined in PREPA's letters, including upcoming financial obligations in June and July, such as insurance premiums and PREB fees. PREPA anticipated an insurance premium payment of approximately \$65 million due at the end of July 2024 and stated it was disbursing \$10 million related to PREB fees at the end of June 2024.
- PREPA urged LUMA to immediately resolve its federal reimbursement delays, including addressing a backlog of over \$550 million in reimbursements financed through PREPA's cash, correcting any incomplete or insufficient RFRs, submitting all accumulated and delayed RFRs, and reducing delays between

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incurring eligible expenses and submitting compliant RFRs and securing federal funds.

- PREPA referenced its May 13-Letter, which highlighted LUMA's T&D Federally Funded Capital Account. PREPA was reportedly pleased to see that on May 29, LUMA had returned \$33.9 million in overstated amounts from its Federally Funded Capital Account to the T&D Operations Account, as had been requested by PREPA and P3A. Therefore, it stated LUMA must continue this practice on a timely and recurrent basis, consistent with prudent and responsible management of public funds.
- PREPA asserted that LUMA's failure to urgently implement the necessary measures and secure sufficient federal funds reimbursements would jeopardize PREPA's ability to fund LUMA and Genera's Service Accounts for June 2024 and July 2024.
- LUMA is contractually responsible for customer billing and revenues, collections, and management of federal funds for T&D reconstruction efforts, all of which have a direct and material impact on PREPA's liquidity and ability to fund the Service Accounts.
- PREPA proposed an urgent meeting with P3A, LUMA, and PREPA to discuss these matters and other suggestions to regain and maintain sufficient liquidity for the benefit of all stakeholders.

12. May 13, 2024-PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (C. Schneider-CFO) Re: Response to LUMA Letters Regarding Service Account Funding dated March 19, 2024, and April 16, 2024

- PREPA stated it had funded the pertinent Service Accounts in an amount that was two-thirds (2/3) of the requisite funding LUMA had notified us, explaining this was due to PREPA's insufficient liquidity to fund the full amount and that this funding level was compliant with the T&D OMA.

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- PREPA noted that neither of LUMA's letters mentioned the overfunding of the Capital Account (Federally Funded), (Section 7.5(b) of the T&D OMA) from which PREPA believed funds should be transferred to the Operating Account.
- PREPA stated the Outage Event Reserve Account was not funded because there was no revenue source to replenish it or an approved budgetary income source, a fact LUMA had acknowledged in writing.
- PREPA stated the GenCo Reserve Account was not budgeted or contemplated for funding from PREPA's existing rate structure, and funding it from PREPA cash would reduce liquidity, pending P3A confirmation of Genera's submission.
- PREPA expressed serious concerns about LUMA's management of federal funds, citing issues with understanding rules for reimbursement, recordkeeping, validation, and timeliness.
- Based on data LUMA released, PREPA's analysis indicated a net negative liquidity impact exceeding \$500 million on PREPA cash, primarily due to delays in federal capital reimbursement funding by COR3, which PREPA linked to LUMA's management issues and states it as the main reason it had been unable to fund LUMA and Genera Service Accounts fully.
- PREPA stated LUMA had provided no indication or commitment that it would promptly stabilize or reverse this worsening negative liquidity trend.
- PREPA urged LUMA's Finance Department to demonstrate the required expertise and immediately take steps with COR3 to correct incomplete/delayed federal fund reimbursement requests. PREPA noted it had invited LUMA to discuss urgently recommended remedial measures, but LUMA had unfortunately never agreed to meet.
- PREPA reiterated that LUMA was responsible for billing, collecting, and effectively managing federal funds for T&D reconstruction

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efforts, highlighting the direct and material impact this had on PREPA's cash.

13. April 18, 2024- P3A (F. Fermín Fontanés Gómez-Exec. Dir.) Letter to LUMA (CFO-C. Scheider)-Re: Federally Funded Projects and Management of Operating Account

- PREPA repeatedly communicated with LUMA regarding concerns about PREPA's liquidity, LUMA's management of service account funding, and federal funding reimbursements from COR3 and FEMA. LUMA did not respond to some of PREPA's letters and never confirmed its availability to meet with PREPA to discuss the issues.
- PREPA stated it had funded two-thirds of the required Service Account funding for LUMA, consistent with the T&D OMA. However, PREPA warned LUMA that it would face a shortfall and be unable to fully fund the Service Accounts for the June 2024 and July 2024 cycles due to LUMA's failures.
- The Capital Account, managed by LUMA, had been overfunded, and PREPA/P3A requested that these funds be transferred to the Operating Account. This transfer did not appear to be done promptly or consistently.
- PREPA and P3A raised significant concerns about LUMA's handling of the federal reimbursement process, identifying it as a primary driver of PREPA's liquidity issues.
- LUMA had not submitted RFRs below a \$1M threshold, contrary to COR3/FEMA guidelines. Specific RFRs submitted by LUMA have remained uncertified by COR3 since July 2022. Many RFRs were returned by FEMA and/or COR3 due to significant deficiencies, including issues with the format and detail of submitted task details, missing required information (i.e., mileage maps and travel reports), and generic replies to Requests for Information (RFIs).
- LUMA failed to obtain any reimbursement for specific disaster declarations or categories of work, including Category B (Emergency Measures), Hazard Mitigation Grant Program, and

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Category Z (Management Cost) for Hurricane Maria, and Category B and Z for Hurricane Fiona. PREPA highlighted that it had obtained reimbursements in these categories while LUMA did not.

- PREPA was forced to transfer significant amounts (over \$430-\$445 million) from its federal funds account to compensate for LUMA's inefficiencies and fund Service Accounts. Despite repeated warnings and invitations to discuss solutions and implement improvements in areas like billing, collections, meter operations, project management, and the reimbursement process, LUMA took no action whatsoever to correct its inefficiencies.
- As a direct consequence of LUMA's failure to urgently implement necessary measures, PREPA faced projected cash shortfalls and noted its inability to fund the Service Accounts in upcoming cycles fully.

14. January 26, 2024-PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (C. Schneider-CFO)-Re: Response to LUMA's January 17th, 2024, Letter Regarding Service Accounts Funding (Transmittal # LUMA-PREP-T-00683)

- PREPA rejected all explicit and implicit allegations of purported non-compliance or breach of the T&D OMA made by LUMA concerning Service Accounts funding. It reiterated that it funded the Service Accounts in an amount that was two-thirds (2/3) of the sums LUMA notified, which PREPA stated was compliant with Section 14.3(f) of the T&D OMA, indicating no default event had occurred. Therefore, PREPA had consistently funded two-thirds (2/3) of the sums for T&D Service Accounts in the past months as a necessary measure to maintain sufficient liquidity under HoldCo.
- PREPA stated that LUMA's ability to fund the Service Accounts depended primarily on LUMA's proper execution of its contractual obligations, which include timely and accurate billing, collection from customers, ensuring proper meter operation, suspending service to delinquents, and managing federally funded T&D

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projects. PREPA asserted that LUMA's failure or inefficient execution of its contractual duties thwarted PREPA's ability to adequately fund the Service Accounts.

- As of September 2021, PREPA obtained over \$664,620,311 in federal reimbursements from federally funded projects, while LUMA had only obtained approximately \$43M during the same period.
- Additionally, PREPA had been required to allocate over \$411,474,000 from its federal reimbursements to fund LUMA's Service Accounts and other fiscal deficiencies, instead of the reconstruction projects it intended to develop.
- PREPA viewed LUMA's claims as disconnected, incomplete, and believed a fair discussion required LUMA to acknowledge its shortcomings in raising sufficient revenues, deeming LUMA's attempt to blame PREPA as misleading and counterproductive.

15. October 5, 2024-PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (J. Saca-President & CEO)-Re: LUMA Response to Josué Colón's Email August 17th, 2023

- PREPA emphasized that in the past few months both it and LUMA had exchanged multiple letters regarding Service Account funding.
- Nonetheless, PREPA again rejected all explicit and implicit allegations of purported non-compliance or breach of the T&D OMA made by LUMA concerning Service Account funding. It reiterated it had funded the T&D Service Accounts at two-thirds (2/3) of the sums LUMA notified, which PREPA asserted was compliant with Section 14.3(f) of the T&D OMA. PREPA indicated this funding level was necessary to preserve its minimum liquidity, given growing funding obligations.

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- PREPA specifically highlighted LUMA's "double counting" of certain funding requested for Purchased Power, noting that this funding was now directly funded to Genera under the LGA OMA. This indicated a financial mismanagement issue on LUMA's part in their funding requests.
- PREPA also raised the issue of the outstanding Outage Events Reserve Account funding request from LUMA that remained unfunded, indicating a lack of a proper revenue source for its replenishment.
- PREPA stressed that LUMA's ability to fund its Service Accounts depended primarily on LUMA's proper execution of its contractual obligations, which included timely and accurate billing, collection from customers, ensuring proper meter operation, suspending service to delinquents, and managing federally funded T&D projects. PREPA implied that LUMA's inefficient execution of these duties impacted on PREPA's ability to fulfill its funding obligations.

16. August 30, 2023-PREPA (N. Morales-CFO) Letter to LUMA (C. Schneider-CFO)-Re: Service Account Funding – July 2023

- PREPA yet again asserted that it had funded two-thirds (2/3) of the sums LUMA requested for the Operating Account + Capital Account – Non-Federally Funded, which PREPA stated was compliant with Section 14.3(f) of the T&D OMA. PREPA highlighted that LUMA's request for \$98,645,000 for the Purchased Power Account double-counts over \$52M of funds already provided to GenCo Operating Account (Genera), under the LGA OMA. PREPA only funded two-thirds of the amount LUMA estimated was needed (\$31,014,000).
- PREPA also noted it had not funded LUMA's Outage Event Reserve Account because there was no recurrent revenue source to replenish this account.

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- PREPA urged LUMA to optimize the use of available funding and its collections, and federal funds reimbursements to enhance collective liquidity.
- PREPA rejected all explicit and implicit allegations of purported non-compliance or breach of the T&D OMA made by LUMA concerning Service Account funding.

17. October 15, 2021-PREPA (J. Colón Ortiz-Exec. Dir.) Letter to P3A (F. Fontanés Gómez-Exec. Dir.)-Re: LUMA Financial Reports Accounting Information Reporting Obligations under T&D OMA

- PREPA rejected all explicit and implicit allegations of purported non-compliance or breach of the T&D OMA made by LUMA against it concerning Service Account funding.
- PREPA noted that LUMA's letter contained "irrelevant and incorrect data" and that LUMA misrepresented valid revenue sources in its funding requests.
- PREPA presented data indicating that LUMA largely failed to obtain federal reimbursements for disaster declarations, showing zero reimbursement in many categories where PREPA secured millions.
- PREPA highlighted LUMA's inability to secure disaster relief funds and its inefficient execution of duties such as timely and accurate billing, collection from customers, proper meter operation, and managing federally funded T&D projects. PREPA stated that LUMA's expenditure significantly exceeded its budget, spending over \$730 million.
- PREPA concluded that LUMA's "underperformance" was not cause for celebration and that the people of Puerto Rico were suffering

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the consequences of LUMA's mistakes, deeming LUMA's "petulant letters" a "misuse of taxpayers' funds".

P3A hereby demands that LUMA (i) submit within seven (7) days a remediation schedule that eliminates the reimbursement backlog and restores statutory reserve levels, and (ii) refund PREPA the \$500 million advanced to cover LUMA's federal-funding failures. PREPA/P3A submit this dispute to Article 15 for adjudication.

### **III. Notice of Technical Dispute: Outages- Performance of O&M Services**

P3A, as Administrator of the T&D OMA, issues this Notice of Dispute against LUMA, due to its failure to comply with its contractual obligations following the island-wide blackout of April 16, 2025.

1. April 19, 2025- P3A (J. Colón Ortiz-Exec. Dir.) to LUMA (J. Saca- CEO)- Re: Request for Information in Connection with the April 16, 2025 Power Outage (April 16 Outage)

- P3A issued this request for information following a power outage on April 16, 2025, which initial reports attributed to vegetation on Line 50,100 of 230kV between the Cambalache Power Plant and Manatí, leading to a cascade effect and the exit of all generation units.
- P3A characterized the April 16-outage as the "most recent manifestation of a prolonged and deeply troubling trend" of recurring service interruptions.
- Between June 5, 2024, and April 16, 2025, Puerto Rico experienced at least six outages affecting over 70,000 customers, with three resulting in total system collapse. Notable incidents included:
  - A failure on Line 39,000 on June 5, 2024, affecting over 123,000 customers.

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- A total blackout on June 12, 2024, caused by "unaddressed vegetation problem".
  - An outage on July 2, 2024, affecting over 71,000 customers.
  - An extended outage on August 24, 2024, affecting over 728,000 customers due to system-wide instability.
  - Another total blackout on December 31, 2024, leaving most of the Island without power.
  - The April 16, 2025, event resulted in all 1,468,223 customers losing power in an island-wide outage.
- P3A stated that these "recurring service interruptions – many preventable – are embarrassing and unacceptable" and are incompatible with the promised service quality, resilience, and reliability as obligated by the T&D OMA.
  - As Administrator under the T&D OMA, P3A is compelled to ensure LUMA takes appropriate and timely steps to diagnose and respond to incidents and assess system reliability risks.
  - Under the reporting obligations in Articles 5 and 6 of the T&D OMA, P3A requested LUMA to provide specific information no later than Friday, April 25, 2025.
  - The requested information included:
    - Root Cause Analysis and Incident Reporting:
      - Copies of all incident reports, root cause analyses, operational logs, and internal memoranda from the past twelve months related to the April 16-Outage.
      - This includes inspection, maintenance, and thermography records for Line 50,100 of 230kV, patrol

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and inspection records for the same line, and information on the maintenance and calibration of related switches and protection devices (Relays and Breakers).

- Also requested were assessments of the failure's origin, sequence of events, system impacts, and immediate/planned remedial measures, along with any reports provided or to be provided to PREB, FEMA, or other government agencies.
- P3A also requested prompt notification of any ongoing developments, filings, or updates related to the April 16 Outage.

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○ Current Organizational Chart and Key Personnel:

- A detailed and up-to-date organizational chart for both LUMA Energy ServCo and ManageCo, showing departmental structure, employee counts per department, job titles for all critical or leadership roles (e.g., System Operations, Grid Control, Maintenance, Customer Service, IT/Cybersecurity, and Regulatory Compliance), and a list of current vacant positions.

○ System Status Summary:

- A report detailing the operational status of the transmission and distribution infrastructure as of April 19, 2025, identifying any major components (lines, substations, transformers, control systems) currently out of service, under repair, operating under constraints, or affected by recent contingency events.
- P3A expressed confidence that LUMA shares its interest in ensuring transparency, stability, and public accountability, and

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that prompt cooperation would assist in identifying improvements to mitigate future service disruptions.

P3A hereby requires that LUMA (i) submit a comprehensive root-cause analysis for each island-wide or major outage since June 2024, together with a corrective-action program that restores SAIFI/SAIDI to pre-2021 benchmarks, (ii) publicly report progress to P3A each quarter, and (iii) reimburse PREPA for outage-related emergency costs attributable to LUMA's negligence. PREPA/P3A invoke Article 15 and demand immediate initiation of the dispute-resolution process.

#### **IV. Notice of Technical Dispute: Vegetation, Transmission Lines and Public Lighting- Performance of O&M Services**

P3A, as Administrator of the T&D OMA, issues this Notice of Dispute to LUMA for its repeated and ongoing noncompliance with its contractual obligations, particularly in vegetation management. Despite multiple letters from as early as August 2022 through as recent as April 2025-LUMA has failed to address critical deficiencies, such as unsafe vegetation proximity to high-voltage lines, inadequate inspection protocols, ahead of the 2025 hurricane season, and persistent delays in submitting compliant work plans a documentation, as required by the T&D OMA.

##### **1. January 26, 2025- P3A (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (J. Saca-CEO)- Re: Maintenance and Inspection of Transmission Lines during 2025 Hurricane Season**

- P3A expressed concerns regarding the "proximity of vegetation within the easement to the lines" and "vegetation is within unsafe clearance distances, creating potential risks to the safe operation of the T&D System".
- The "massive power outage of June 12, 2024, was directly attributed to inadequate vegetation oversight".
- LUMA itself has identified vegetation as the primary cause of approximately fifty percent (50%) of power outages.

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- P3A emphasized that it is "imperative that any deficiencies, particularly related to vegetation clearance, are promptly identified and addressed" through daily inspections. The recurring issue indicated a potential lack of readiness for the upcoming hurricane season by not maintaining safe vegetation clearances and implementing required measures as outlined in the Emergency Response Plan.
- P3A requested LUMA to provide relevant documentation and/or information demonstrating compliance with Section 4.2 of the T&D OMA.
  - Specifically, including details regarding measures currently being implemented in preparation for the 2025 hurricane season.
  - P3A required LUMA to provide the pertinent documentation and information no later than noon on Friday, January 31<sup>st</sup>, 2025.

2. January 22, 2025- P3A (J. Colón Ortiz-Exec. Dir.) to LUMA (J. Saca-CEO)-  
Re: LUMA's Work Plan for the Maintenance of the Public Lighting System

- P3A referenced LUMA's obligation under Annex I (Scope of Services) of the T&D OMA to "operate and maintain the public lighting system" and to "prepare, develop, and maintain a work plan to establish priorities and a major maintenance plan for public lighting". This includes the installation of highly efficient Light-Emitting Diode (LED) technology.
- The P3A highlighted that "Public lighting is an essential service that directly impacts public safety across all island municipalities".
- A key concern was that "Adequate lighting has extraordinarily vexed, hereby residents of Puerto Rico for years", indicating that the failure to adequately maintain public lighting has been a

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"long-standing issue". This suggested a perceived ongoing failure by LUMA to meet its operational and maintenance obligations regarding public lighting.

- P3A requested that LUMA "submit within five (5) calendar days, due on January 27, 2025, a detailed work plan outlining its approach to fulfilling this obligation". This plan must be "organized by municipality and specify the sectors within each municipality to be addressed".

3. January 4, 2023- PREPA (J. Colón Ortiz-Exec. Dir.) Letter to FEMA (J. Baquero Tirado-Federal Disaster Recovery Coordinator), COR3 (M. Laboy Rivera- Exec. Dir.), P3A (F. Fontanés Gómez-Exec. Dir.), and LUMA (W. Stensby-President and CEO)-Re: Regulations and Permitting Process for New Projects

- PREPA identified several areas where LUMA's previously submitted documentation for FEMA-funded projects require clarification, correction, or additional detail to comply with regulations and ensure proper project execution and FEMA reimbursements. PREPA acts as the recipient of FEMA funds and owner of assets, making it responsible for the development of projects in compliance with federal laws, regulations, and engineering best practices.
- PREPA requested LUMA to clarify or correct the following matters:
  - Vegetation Management: While agreeing with vegetation management in project scopes, PREPA indicated that LUMA must consider specific factors regarding when and where to cut/prune vegetation (i.e., avoiding unnecessary pruning for underground/submarine lines, high-altitude transmission lines, and agricultural land easements).
  - Cost and Documentation for Distribution Projects: For distribution feeders, pole, and conductor repair projects,

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LUMA's documentation needed to clearly explain repair estimates. This includes justifying unit costs of poles (with LUMA Standard Material Price), detailing labor costs (including field workers, transportation), separating hardware and installation costs for fittings, specifying cable type and installation cost, justifying A&E and Project Management/Administration costs, marking pole routes in the FAAS document, providing design guides for pole replacement, and justifying pole material choices (e.g., why steel is cheaper than concrete).

- Infrastructure Project Design and Justification: For electrical infrastructure projects connected to the transmission or sub transmission system, LUMA was required to submit detailed planning studies and design criteria if projects increase transformation capacity or add circuits/bundles and are *not* included in PREPA's 10-Year Infrastructure Plan or the IRP 2019. PREPA also clarifies that changes in bus configurations in substations do not necessarily improve resilience after atmospheric events<sup>5</sup>. Specific criteria and justifications are required for FEMA 406 mitigation projects (i.e., conversion to gas-insulated substations, SCADA redundancy).
- Financial and Administrative Documentation: LUMA needed to ensure consistency between tasks/activities in FEMA documents and its own Scope of Work (SOW), submit engineering documents to verify A&E costs, clarify state/municipal taxes (as they don't apply to PREPA), detail unit costs for equipment (not aggregated), justify contingency calculations (by LUMA Risk Analyst), and explain escalation, overhead, and profit expenses which may inflate costs for government utility projects.

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- Project Design Drawings: Project design drawings must be included in the SOW and signed by a licensed and collegiate engineer in Puerto Rico.
- PREPA requested LUMA address the identified deficiencies and provide the necessary clarifications, corrections, and supporting documentation for the FEMA-funded projects. PREPA implied these corrections are necessary for the ongoing development and evaluation of the projects and for FEMA reimbursement.

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4. August 1, 2022-PREPA (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (W. Stensby-President and CEO)-Re: Easements Conditions on Transmission Lines 230kV, 115 kV, and 38 kV

- PREPA expressed significant concerns regarding the "condition of the vegetation in the easements and their proximity to the lines" within the electrical system.
- PREPA highlighted that "in some areas the distance between the vegetation and the lines' conductors and structures, appears to be less than the required clearance for safe operation".
- PREPA emphasized that "daily inspection of the transmission lines by helicopter and other means is of utmost importance to detect and attend in time the most critical areas that put at risk the continuity of the electric service".
- LUMA was not performing these essential inspections or addressing the identified vegetation issues effectively.

P3A hereby directs LUMA to (i) present, within five (5) calendar days, a hurricane-season vegetation-clearance plan that satisfies Annex I, § II(B); (ii) clear all unsafe easement intrusions on 230 kV, 115 kV and 38 kV lines; and (iii) certify monthly compliance through third-party inspections. Failure to do so will expose LUMA to

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indemnity for any vegetation-caused outage. This dispute is submitted to Article 15 for formal resolution.

## **V. Notice of Technical Dispute: Financial Statements/Audit/Comptroller**

P3A, as Administrator to the T&D OMA, issues this Notice of Dispute due to LUMA's persistent and material noncompliance with its audit and financial reporting obligations. Despite multiple directives and extensive time afforded, LUMA has failed to provide accurate and timely financial data.

### 1. February 4, 2025-PREPA (M. Zapata Acosta-Exec. Dir.) Letter to LUMA (J. Saca-CEO)-Re: Urgent Request for Data and Analysis for PREPA's External Audit

- PREPA stated that for its Fiscal Year 2023 financial statement audit, it was concerned are underscored regarding LUMA's continued delays in providing essential data and analyses. Under Annex I, Section V(F)(2) of the T&D OMA, LUMA is obligated to aid, including necessary information and data, to support PREPA's annual reporting requirements.
- Additionally, PREPA emphasized that Section 3.5 of the T&D OMA, titled *Right of Access*, grants PREPA the right to access PREPA's System Information to oversee LUMA's performance under the T&D OMA.
- PREPA has repeatedly raised concerns to P3A about LUMA's failure to supply critical audit information promptly.
- P3A's January 17, 2025-letter reiterated the urgency for LUMA to comply with its obligations, as LUMA's continued failure to provide requested data and analyses and its ongoing refusal to provide access impedes PREPA's ability to meet audit and financial statement issuance deadlines.

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- PREPA requested specific items for auditor analyses, detailed in Attachment I (*Prepared by Client-PBC items, which PREPA relies on LUMA to provide for auditor analyses*).
  - To facilitate the audit process, PREPA requested LUMA to provide Oracle IT personnel, support for depreciation issues, payroll details, cash receipt details, access to journal entries, accounts payable files, and system access to Project Accounting Modules.
  - PREPA emphasized that this information had to be provided by LUMA on Friday, February 7, 2025.
2. January 30, 2025-PREPA (M. Zapata Acosta-Exec. Dir) Letter to LUMA (J. Saca-CEO) RE: Response to LUMA's January 21, 2025, Letter Regarding Audit Obligations

- PREPA emphasized that finally with its January 21, 2025-Letter LUMA responded to PREPA's November 27, 2024-Letter.
- PREPA stated LUMA has repeatedly demonstrated non-compliance, evasion, and delay in addressing the audit, leading to an overall lack of diligence.
- PREPA stated that LUMA agreed to assume its responsibility under the T&D OMA and the SSA with full knowledge of the challenges involved, including the volume and complexity of financial reporting. LUMA has certified its ability to perform these obligations and is being compensated accordingly.
- PREPA claimed that LUMA's deficiencies in financial accounting responsibilities led to over 381 correcting journal entries identified in PREPA's October 31, 2024-Letter.
- PREPA asserted that LUMA's claim of having addressed 180 out of 188 shared service audit-related requests is misleading, as many remain unresolved, and LUMA had unilaterally marked detailed

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information requests on pass-through expenses as “closed” without providing the necessary documentation.

- External auditors were forced to step away from the audit in December 2024 due to LUMA’s “backlog of pending information requests”.
- PREPA listed several critical audit requests that remain overdue, including:
  - T&D Federal Revenues: Overdue 6 months (since July 7, 2024).
  - Fringe Benefits LUMA employees: Overdue 7 months (since June 9, 2024).
  - Pass-Through Expenses incurred by LUMA: Overdue 3 months (since September 27, 2024).
  - Seconded Payroll incurred by LUMA: Overdue 3 months (since October 16, 2024).
  - Depreciation Analysis (errors that originated during FY23): 7 months overdue (since June 23, 2024).
  - AP samples: Overdue 2 months (since November 11, 2024).
- PREPA attributed the outstanding audit issues to LUMA's lack of cooperation and failure to meet its contractual obligations, impacting PREPA's and the Government of Puerto Rico's financial statements.
- PREPA stated that it expected LUMA to take immediate corrective action by Thursday, February 6, 2025. PREPA demanded LUMA to:
  - Fully comply with all outstanding audit-related requests.

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- Cease unilateral closure of requests without resolving underlying issues.
- Provide PREPA with full system access to streamline the audit process.
- Adhere to established deadlines for document submissions.
- Cease bypassing PREPA in the audit process and respect PREPA's role as the owner of the financial statements.
- Reopen PREPA FY2023 accounting periods to post pending accounting entries as requested by the P3A.

- PREPA maintained that LUMA's continued failure to meet its contractual obligations is obstructing progress and will not accept further delays.

3. January 26, 2025-P3A (J. Colón Ortiz-Exec. Dir.) Letter to LUMA (J. Saca-CEO) Re: LUMA's Continued Noncompliance with Audit and Financial Obligations

- This letter highlighted LUMA's persistent non-compliance with audit and financial obligations is severely hindering PREPA's financial restructuring and Puerto Rico's fiscal stability.
- LUMA had failed to respond to previous P3A letters from December 15, 2024, January 15 and 17, 2025.
- PREPA emphasized LUMA's failure to grant access to System Information, lack of cooperation in providing accurate financial data for audits, and unresolved 24 outstanding audit items (some overdue by over 200 days), causing significant delays in PREPA's FY23 financial statements.

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- PREPA emphasized that the T&D OMA imposes extensive obligations on LUMA to provide timely and accurate financial and operational information necessary for the proper functioning and reporting of PREPA's financial operations. Hence, LUMA's actions are in violation of multiple provisions of the T&D OMA:
  - Section 3.5: requires LUMA to provide access to all System Information to enable PREPA's compliance with its oversight and reporting responsibilities.
  - Section 5.15(c)(i): mandates LUMA's full cooperation in providing complete and accurate financial data required for audits and financial statements.
  - Annex I, Section VI: further obligates LUMA to deliver all financial and operational data necessary for audits in compliance with Generally Accepted Accounting Principles ("GAAP").
- These actions were a violation of the T&D OMA and compromise the credibility of Puerto Rico's financial reporting. P3A demanded immediate compliance with the November 13, 2024-directive to reopen PREPA's FY23 accounting periods, resuming participation in weekly financial audit meetings to resolve all outstanding audit items within five calendar days, and submission of a detailed corrective action plan by January 30, 2025.

4. January 30, 2025 - PREPA (M. Zapata-Exec. Dir.) Letter to LUMA (J. Saca - CEO) – Response to LUMA's January 21, 2025, Letter Regarding Audit Obligations

- LUMA's Noncompliance and Deficiencies:
  - LUMA's response to PREPA's audit obligations is characterized as an instance of evasion and delay, contributing to overall audit delays.

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- LUMA is criticized for not fully assuming its responsibilities under the Transmission and Distribution (T&D) and Shared Services Agreements (SSA) concerning financial reporting, which PREPA states has become an unfulfilled and burdensome obligation.
- On October 31, 2024, a letter from PREPA detailed deficiencies in LUMA's financial reporting, including over 381 uncorrected journal entries, errors in audit corrections, and unclosed information requests.
- LUMA's T&D and Operations and Maintenance Agreement (OMA) Division failed to ensure the accurate and timely closing of financial information, impacting the T&D general ledger's completion.
- LUMA's refusal to provide PREPA with information is cited as non-compliance with federal revenue accounting and potentially discriminatory.
- LUMA has consistently slowed the audit process by delaying access to information and documentation.
- As of December 2024, and January 15, 2025, 120 and 15 pending information requests respectively remained overdue.
- LUMA committed to delivering 15 PBCs (Prepared by Client) by January 17, 2025, but only one was provided.
- LUMA's claim that 188 of 190 shared service audit-related requests were "closed" was refuted, as 180 were either not addressed or improperly marked closed.
- Several specific items remain overdue, including T&D/Federal Revenues (over 6 months since July 7, 2024),

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Fringe Benefits LUMA (over 6 months since September 27, 2024), Pass-Through Expenses (over 3 months since September 27, 2024), Seconded Payroll (over 3 months since October 16, 2024), Depreciation Analysis (over 7 months since November 11, 2024), and AP samples (over 2 months since November 11, 2024).

- LUMA's lack of cooperation and failure to meet its obligations prevents external auditors from issuing financial statements, with 100% of the PBCs still outstanding.
- LUMA has failed to participate in critical audit meetings and provide overdue financial data, directly impacting the issuance of PREPA's financial statements.

- Requests for Action and Information (Due Date: February 6, 2025):
  - PREPA demands immediate corrective action from LUMA on or before Thursday, February 6, 2025.
  - LUMA must fully comply with all outstanding audit-related requests without further delay.
  - LUMA must cease the unilateral closure of requests without resolving the underlying issues.
  - LUMA must provide PREPA with full system access to streamline the audit process.
  - LUMA must adhere to established deadlines and commitments for document submissions.
  - LUMA must cease attempts to bypass PREPA in the audit process and respect PREPA's role as the owner of the financial statements.

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- LUMA is requested to reopen PREPA FY23 accounting periods to post pending accounting entries, as previously requested verbally, in writing, and ordered by the PJA.
- PREPA expects LUMA's full cooperation to resolve these outstanding issues immediately.

5. January 17, 2025 - P3A (J. Colón-Executive Director) Letter to LUMA (J. Saca-CEO)-Re: LUMA's Continued Noncompliance with Audit Obligations

- LUMA has repeatedly failed to provide critical information necessary for the completion of PREPA's consolidated financial statements and audits, which is deemed a clear breach of LUMA's obligations under the T&D OMA.
- This noncompliance includes LUMA's refusal to participate in weekly audit meetings with the Puerto Rico Treasury Department.
- Outstanding items such as federal revenue details (193 days overdue) and Governmental Accounting Standards Board ("GASB 68") items (249 days overdue) directly impeding PREPA's ability to produce accurate financial statements and comply with reporting obligations.
- LUMA's actions have already caused PREPA to miss the December 2024 and January 2025 deadlines for establishing GAAP, and the March 31st, 2025, deadline for the final financial statements is at risk.
- LUMA's conduct is a breach of Sections 3.5 and 6.15(O) of the T&D OMA, which require timely access to System Information and support for PREPA's oversight and financial reporting responsibilities.
- Request for Action:
  - P3A expects LUMA to take immediate action within the next seven (7) days to address these deficiencies.

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- This includes participation in upcoming meetings on Tuesday, January 21st, and Wednesday, January 22nd.
- LUMA is requested to demonstrate a renewed commitment to the attestation of trust, which has been undermined by its recent actions.

6. January 15, 2025- P3A (J. Colón-Executive Director) Letter to LUMA (J. Saca-CEO)-Re: Authorization to Reopen FY2023 Accounting Periods

- LUMA has failed to comply with P3A's directive, issued on November 13, 2024, which mandated the reopening of PREPA's FY2023 accounting periods.
- LUMA had previously requested reconsideration of this directive but has not complied with the P3A's reaffirmation of the original directive.
- This noncompliance is an urgent and important obligation for PREPA and the Commonwealth, exacerbating risks related to Puerto Rico's audited financial reporting, compliance, and the issuance of government financial statements. It also undermines ongoing Title III proceedings.
- Requested Action:
  - The P3A is giving LUMA a final opportunity to comply with the directive to reopen and report PREPA's FY2023 accounting periods.
  - LUMA is requested to take immediate action to comply as directed.
  - The P3A will engage PREPA, the Puerto Rico Treasury Department, and respective auditors to work with LUMA on

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these effects immediately, and this subject will be incorporated into weekly financial statement audit meetings.

7. December 26, 2024- PREPA (J. Colón-Executive Director) Letter to LUMA (J. Saca-CEO) & P3A (Gerardo Loran, Esq., Interim Executive Director)-Re: Response to LUMA's December 10, 2024, Letter Regarding Reopening FY23 Accounting Periods

- Delayed Response and Defiance: LUMA's month-long delay in contesting P3A's directive to reopen PREPA's FY23 accounting periods is deemed unjustifiable and part of a pattern of defiance that has directly contributed to delays in issuing PREPA's financial statements.
- Contradictory Arguments: LUMA's reliance on the Committee of Sponsoring Organizations (COSO) framework, US Generally Accepted Accounting Principles (GAAP), and Generally Accepted Government Auditing Standards (GAGAS) as arguments against reopening accounting periods is considered unsubstantiated and contradictory, especially given the scale of required adjustments.
- Distortion of Financial Reporting: LUMA's proposal to delay material adjustments into future periods would distort PREPA's financial reporting, mislead stakeholders, and create significant cut-off issues, compromising audit accuracy. This approach also disregards KPMG's observation that it would increase audit complexity and delay timelines.
- Compromised Internal Controls: LUMA's suggestion to move journal entries to top-level Excel files would result in a significant deficiency in PREPA's internal controls over financial reporting and material noncompliance with US GAAP. Managing PREPA's financial reporting through spreadsheets, instead of Oracle, is considered untenable and prone to errors and manipulation.

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- Violation of Agreement: LUMA's refusal to comply with P3A's directive is a significant obstacle to completing PREPA's financial statements and directly contradicts LUMA's obligations under the Transmission and Distribution Operating and Maintenance Agreement (T&D OMA), which requires supporting PREPA's audits, maintaining GAAP-compliant records, and ensuring timely financial reporting.
- Request for Action:
  - PREPA emphasizes that the directive to reopen FY23 accounting periods is necessary and appropriate and must be implemented immediately to safeguard the integrity of PREPA's and the Government of Puerto Rico's financial reporting.
  - The letter implicitly requests that P3A, as the sole entity empowered to enforce compliance, act swiftly and decisively to compel LUMA's compliance and ensure it fulfills its responsibilities without further obstruction. No specific due date is provided beyond "immediately" and "swiftly".

8. November 27, 2024 - PREPA (J. Colón-Executive Director) Letter to P3A (Fermín Fontanés, Esq., Executive Director)-Re: Response to LUMA's November 25, 2024, Letter on FY23 Financial Statements Audit Meetings

- PREPA stated that LUMA's letter contained "unfounded" and "inaccurate" statements, including a false claim that a meeting occurred on November 24, 2024 (a Sunday); the meeting took place on November 15, 2024. PREPA asserts LUMA's claims misrepresent facts and are an attempt to deflect from its own failures.
- LUMA was "conspicuously absent" from the weekly Financial Statements Audit Meeting held on November 27, 2024, demonstrating a lack of commitment.

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- LUMA has failed to meet its obligations under T&D OMA, causing significant delays in the audit process and jeopardizing PREPA's ability to meet critical deadlines for financial statements.
- LUMA has not provided timely and accurate information, leading to extensive delays and errors, including unresolved critical audit items, missed deadlines, and an inability to reconcile key financial data.
- Despite authorization from P3A on November 13, 2024, to reopen necessary closed accounting periods for accurate financial reporting (a critical GAAP compliance step), LUMA has failed to act, obstructing PREPA's ability to meet its obligations.
- LUMA is responsible for 29 open audit items, comprising 36% of all unresolved issues, including critical areas like payroll details, federal revenue reconciliation, and depreciation analysis. Some of these items have been overdue for up to 145 days. This violates Annex I, Section VI of the T&D OMA.
  - Violation of T&D OMA Provisions: LUMA's actions contravene Sections 3.5 and 5.15(c)(i) of the T&D OMA, which mandate timely access to System Information, including financial data and records, for PREPA's oversight and compliance responsibilities. Annex I, Section VI further delineates LUMA's duty to provide accurate, complete, and GAAP-compliant information for PREPA's audits and reports.
  - LUMA's decision to bypass PREPA and engage directly with auditors is a "clear violation of its contractual obligations", undermines PREPA's oversight of the audit process.
- PREPA emphasized the urgency, stating that "LUMA's time is up".
- PREPA urged LUMA to act on P3A's authorization to reopen accounts.

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- PREPA reiterated to LUMA that it must comply with the T&D OMA, which includes full participation in audit meetings, compliance with authorized protocols, and the timely provision of accurate financial data. LUMA's cooperation is "not optional" and is an "essential requirement".

- Deadlines for Financial Statements:

- Second draft of financial statements: December 20, 2024.
- Final issuance of financial statements: January 18, 2025.

9. November 26, 2024- PREPA (J. Colón-Exec. Dir.) Letter to LUMA (J. Saca - CEO)-Re: Response to Notification Regarding the Decommissioning or Disabling of Servers

- LUMA's proposed decommissioning of servers on November 27, 2024, is inconsistent with the timeline and constitutes a breach of the express terms of the Extended Amended and Restated Shared Services Agreement (A&R SSA). The A&R SSA, which was extended to an effective September 30, 2024, explicitly stipulates that services under the agreement are to remain operational until February 28, 2025, to allow for the proper completion of migration, validation, and commissioning activities.
- The servers LUMA intended to decommission (specifically STREBS-SRV1, SRETLNS-SRV1, SRETLXEB\$, SRETWEB-WS1, SRETEBS-SRV2, and PREPA-SRET-IVR) are critical to PREPA's essential operations. Their premature decommissioning would paralyze functions like the administration of accounting for loans, retiree payroll, and the printing of checks and reports. This action would result in severe operational disruptions, significant legal and financial risks, and a failure to comply with the A&R SSA terms. It would also disrupt vital interfaces with Oracle-ERP, halt financial accounting processes, and

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impact the Retirement System's functions. These servers also contain highly sensitive and legal data, risking damages and violations of federal and local laws.

- PREPA asserted that LUMA has not provided the requested work plan for the migration of the aeppr.com and prepa.com domains, thereby impeding progress on a critical component of the migration process. This failure undermines LUMA's ability to justify decommissioning these servers, especially with the February 28, 2025, deadline still three months away.
- PREPA demanded the immediate postponement of the proposed server decommissioning scheduled for November 27, 2024.
- PREPA stated that if LUMA insists on proceeding with the decommissioning, PREPA will file for injunctive relief as well as other appropriate legal remedies.
- PREPA invited LUMA to engage in constructive discussions to establish a timeline consistent with the February 28, 2025, extension of the A&R SSA, while ensuring compliance and safeguarding critical systems and services.

10. November 6, 2024- PREPA (J. Colón-Exec. Dir. Letter to LUMA (J. Saca - CEO)-Re: Response to LUMA's October 24, 2024, Internal Controls Memo

- Noncompliance made by LUMA:
  - LUMA failed to adequately apply Generally Accepted Accounting Principles (GAAP).
  - LUMA did not maintain permanent documentation to support revenues and expenses.
  - These deficiencies are considered a significant internal control deficiency.

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- The noncompliance creates a risk of presenting outdated or incomplete financial data, as material financial events were not properly accounted for.
- Request for information or action:
  - This letter is a response to LUMA's prior internal controls memo.
  - It notes that the P3 authority authorized LUMA to proceed with reopening necessary closed accounting periods to make material adjustments and correct accounting.
  - PREPA's Remediation Plan continues to actively collaborate with LUMA and Genera to implement improvements and address internal control findings.
  - The letter itself does not issue a new direct request for information or action from PREPA to LUMA with a specific due date.

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11. October 31, 2024 - PREPA (J. Colón-Executive Director) Letter to P3A (Fermin Fontanez- Exec. Dir.)-Re: Response to LUMA's October 24, 2024, Internal Controls Memo

- LUMA's Noncompliance and Failures Identified by PREPA in this letter:
  - Diverting Attention and Shifting Responsibility: LUMA's assertions were characterized as an attempt to divert P3A's attention and shift responsibility for potential delays in financial statement issuance onto PREPA.
  - Mismanagement and Failure to Fulfill OMA Obligations: Any delays in the issuance of financial statements are directly attributed to LUMA's mismanagement and its failure to fulfill obligations under the T&D OMA.

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- Refusal to Align Accounting Policy: LUMA's refusal to align with PREPA's policy of reopening closed accounting periods for material adjustments, which is consistent with GAAP and essential for transparency in the Title III process, is delaying the audit process.
- Failure to Support Audit Processes: LUMA failed to meet its contractual obligation under Annex I, Section VI.D of the T&D OMA by questioning PREPA's policy on material adjustments, which requires LUMA to support PREPA's audit processes, provide access to financial records, and ensure information accuracy.
- Poor Quality of Accounting Services: Issues have been identified within LUMA's accounting shared services, leading PREPA to request approximately 155 correcting journal entries after the FY2023 audit began in April 2024, impacting critical areas like cash, receivables, accruals, and intercompany transactions. This called into question the quality of LUMA's financial data and the effectiveness of its internal controls.
- Disregard for Prudent Utility Practices: LUMA's objections to PREPA's accounting practices disregard the "Prudent Utility Practices" standard outlined in Annex I, Section I.A part of the T&D OMA, which mandates adherence to recognized industry practices for reliability, transparency, and accuracy.
- Delayed Financial Reporting and Non-Compliance: LUMA's actions resulted in significant financial reporting delays. LUMA is obligated under Annex I, Section VI.F of the OMA to provide timely financial information for PREPA's reporting, including federal filings, and under Annex I, Section VI.B, to maintain GAAP-compliant records.

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- 15-Month Delay in Federal Revenue Recognition: As of October 2024, LUMA has a 15-month delay in recording approximately \$65 million in federal revenues for FY2023, a clear failure to meet its obligations under Annex I, Section VI.F of the OMA, and compromising PREPA's compliance with federal reporting standards.
- Incorrect Capitalization of Expenses: LUMA capitalized approximately \$60 million in Category Z Administrative Expenses without adhering to GAAP, violating Annex I, Section VI.B of the T&D OMA. This misclassification led to audit adjustments and compounded audit delays.
- Consistent Missed Audit Deadlines: Throughout the FY23 audit, LUMA has consistently missed deadlines, with 30 of 66 outstanding audit items unresolved as of October 18, violating its obligations under Annex I, Section VI.D of the OMA.
- PREPA highlighted that LUMA's actions are delaying the audit process for PREPA's FY2023 audited financial statements, which the Puerto Rico Treasury Department mandated to be completed by December 2024.
- PREPA expressed confidence that LUMA can fulfill its obligations and align with OMA standards by following the guidance provided in the letter, implicitly requesting LUMA to correct its deficiencies and comply with the contractual requirements.

12. October 30, 2024-PREPA (N. Morales-CFO) Letter to P3A (-G. Lorán-Dir.- Project Monitoring) Re: LUMA's Letter of September 27, 2024, to P3A Regarding Accounting Documentation

- PREPA reaffirmed its full compliance with documentation requests, stating it had provided the requisite accounting records. It contended that LUMA's request for P3A intervention

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disregarded PREPA's prior communications and efforts in sharing information pertinent to audit work.

- PREPA detailed that, as of August 2023, it had provided the requested accounting documentation, and that in bi-weekly meetings, specifically on May 22, 2024, the agenda indicated LUMA was reviewing this information.
- PREPA clarified that information requests related to FY2020 and FY2021 financial statement audits were irrelevant or outdated, given that those audited statements had been issued on September 30, 2022, and March 3, 2023, respectively.
- PREPA, as the System's Owner, had not received any communication from external auditors regarding open items pertinent to the FY2020 and FY2021 financial statement audits.
- Despite PREPA's extensive efforts, LUMA had reportedly declined to acknowledge the provided documentation, opting instead to escalate the matter without a justifiable basis.
- PREPA stated that its prior references to liquidity challenges were not to detract from the documentation issue, but to highlight critical operational challenges, primarily stemming from over \$550 million in delayed federal reimbursements for LUMA-managed CapEx, for which LUMA had yet to present a structured resolution plan.

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13. September 9, 2024-PREPA (N. Morales-CFO) Letter to LUMA (Corey Schneider-CFO) Re: LUMA Letter of July 24, 2024-Accounting Documentation

- PREPA asserted that LUMA's allegations regarding accounting documentation were secondary issues that distracted the critical liquidity crisis.

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- PREPA contended that the liquidity crisis was caused by LUMA's deficient federal funds management process, citing over \$550 million in LUMA Federally Funded Capital Expenses that remained unreimbursed due to LUMA's mismanagement of federal funds and has to correct, improve, disclose, secure material reimbursements, or present a credible plan to accelerate and improve the go-forward FEMA reimbursement process or to address the substantial Hurricane Fiona-related claims.
- This liquidity depletion significantly strained PREPA's operational account and impacted its ability to meet various contractual obligations.
- PREPA, P3A, and FOMB had previously requested information and demanded action from LUMA to immediately address these federal funds matters, noting LUMA's responsibility under the T&D OMA for collecting System Revenues and securing federal reimbursements.
- Regarding LUMA's accounting allegations, PREPA characterized them as incorrect and misleading.
- PREPA stated that LUMA's letter was a "feeble and belated attempt to distract" from LUMA's unilateral obstruction and delay of data and information necessary for PREPA to complete its FY2023 financial statement audit process.
- PREPA asserted that it had provided the accounting documentation requested by LUMA since at least August 2023, and that LUMA was reviewing this information as of a May 22, 2024-meeting.
- PREPA deemed any requests related to FY2020 and FY2021 financial statement audits irrelevant or outdated, as the audited financial statements for those fiscal years had already been issued.

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- PREPA, as System Owner, confirmed it had not received any communication from external auditors about open items related to the FY2020 and FY2021 financial statement audits.
- PREPA further noted that "Attachment A" referenced in LUMA's letter was never received.
- PREPA concluded by expressing its anticipation of LUMA's prompt response concerning the federal funds reimbursement and Fiona claim matters, and LUMA's normalization of PREPA's access to System Information in compliance with the T&D OMA.

14. July 29, 2024- PREPA (Nelson Morales, Chief Financial Officer) Letter to LUMA (Kazi Hasan – Chief Financial Officer)-Re: Urgent Notice Regarding Timely and Accurate Cash Flow Data from LUMA

- Noncompliance by LUMA that PREPA identified:
  - LUMA has failed to provide daily bank balance and cash flow files to PREPA, instead providing them only twice per week over the past two months. These files are crucial for PREPA to monitor liquidity and comply with the FOMB Certified Fiscal Plan.
  - The cash flow data supplied by LUMA frequently contains errors, which complicates and delays PREPA's ability to submit timely reports to stakeholders.
  - LUMA has not acted to correct these issues despite PREPA's repeated relaying of the importance of this information, both in-person and in writing.
  - This failure by LUMA has resulted in PREPA being unable to publish accurate cash flow files and lacking adequate visibility into its liquidity, a practice deemed "wholly negligent" and

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"unacceptable". This is particularly critical as a significant deterioration in PREPA's liquidity is projected to lead to a cash flow shortfall within 30 calendar days.

- LUMA's failure to provide the required information constitutes a violation of the T&D OMA, Section 3.8.
- PREPA requested immediate attention to this matter and prompt confirmation of LUMA's corrective actions. PREPA specifically asked that LUMA immediately begin to provide the relevant financial information in a way that is timely and accurate.
  - While no specific future due date is given for the confirmation of corrective actions, the request stresses the need for "immediate" action regarding the provision of accurate and timely data.

15. April 11, 2024-PREPA (J. Colón Ortiz-Exec. Dic.) Letter to P3A (R. Lugo Mas-Contract Compliance Manager)– Re: OIG Report OIG-E-24-004

- Under Section 5.3 and Annex 1 Section 1(A)(4) of the Transmission and Distribution Operating and Maintenance Agreement (T&D OMA), LUMA (collectively referring to LUMA Energy, LLC and LUMA Energy ServCo, LLC) is responsible for performing all billing and collection services for the T&D System. Furthermore, LUMA is responsible for managing the information systems that contained historical data, balances, and payments for all PREPA clients, including central government agencies and corporations, and for providing said information. While the letter did not explicitly use the term "noncompliance," it indicated that PREPA was providing information that was explicitly LUMA's responsibility, specifically "LUMA's pre-commencement (June 1, 2021) historical accounts receivable" and data related to the Global Settlement Agreement, implying a failure by LUMA to provide this information as per their contractual obligations. PREPA reminded P3A that LUMA was responsible for these data management and provision tasks.

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16. December 8th, 2023- PREPA (J. Colón Ortiz-Exec. Dir.) letter to LUMA (C. Schneider) – Re: FY22 Audit – Construction Work in Progress (CWIP) Project Status

- Historically, PREPA had Construction Work in Progress (CWIP) projects that were not reclassified to depreciable assets due to pending paperwork. While PREPA acknowledged ownership of this responsibility, the current operating structure left PREPA without the necessary resources to continue these capitalization efforts.
- Under the new structure, the custody, maintenance, and accounting of these assets were transferred to operators, including LUMA Energy, LLC.
- Auditors from KPMG, LLC, required the ability to assert the existence and status of these CWIP projects for the FY22 audit. The urgency stemmed from the Governor's requirement for PREPA's audited financial statements for FY22 to be finalized by December 31st, 2023. The letter implied that LUMA's lack of action or status reporting on these transferred assets prevented PREPA from completing its audit obligations.
- PREPA requested LUMA to examine a provided list of open CWIP projects (including those with no movement in the last two years).
- LUMA was specifically asked to verify the existence of these projects and report on their current status (completed, in progress, abandoned/impaired).
- The response for each CWIP estimate should have indicated whether the asset existed, whether construction was completed, or whether it was impaired and should have no longer been reported as construction in progress.

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- PREPA also noted the need to coordinate the capitalization of these projects.
- The due date for LUMA to advise on the current status of the CWIP projects was December 11th, 2023, by the end of business.

17. January 11, 2023-Email from OCPR to LUMA (Reporting and Regulatory H. Leyendecker & L. Jiménez Torres) - Re: Requests for Information from the Office of the Comptroller of Puerto Rico – Data from Information Systems of Files in LUMA Custody.<sup>3</sup>

- The Office of the Comptroller stated that the information previously provided was incomplete, noting that "the request for information is not yet complete". This indicates a lack of full compliance with the Comptroller's data request.
- Specifically, the pending and missing information for the period from January 1, 2000, to June 30, 2020 (prior to LUMA's Commencement in June 2021), included:
  - Rate revenue, detailed by residential, commercial, and government customers, by fiscal year.
  - Accounts receivable, detailed by residential, commercial, and government customers, by fiscal year.
  - Loss from energy theft, detailed by residential, commercial, and government customers, by fiscal year.
- An internal PREPA email further explained that PREPA does not have access to the systems required to coordinate the missing information with LUMA. It also noted that the Authority (PREPA) had not directly requested LUMA to send the information and only became aware of LUMA's January 10, 2023, letter because they were copied on an email.

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<sup>3</sup> This email was originally in Spanish.

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This suggests a gap in direct information exchange between PREPA and LUMA regarding the Comptroller's requests.

- The Office of the Comptroller requested the outstanding detailed information listed above.
- It also requested to be informed of a contact person for follow-up on the information request.
- While the Comptroller's email itself did not state a new due date for the remaining information, an internal PREPA email confirmed that an "expiration date" was in January (partially visible as "Janu" in source), and that PREPA is preparing a letter to request an extension for the delivery of the remaining information. This indicates that the original deadline for providing the complete information was either missed or imminent.

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18. August 1st, 2022- PREPA (J. Colón Ortiz) Letter to LUMA (W. Stensby President & CEO) – Re: Letter from the Office of Comptroller of PR – Audit 15592 Term

- The letter indicated a procedural difficulty where PREPA was unable to respond promptly to the Comptroller's Office regarding Audit 15592 because the necessary information was under the control and custody of LUMA. While not explicitly stated as "noncompliance," this situation highlighted that LUMA's control over information impeded PREPA's ability to fulfill its obligations to the Comptroller's Office in a timely manner.
- PREPA requested LUMA's intervention to establish a more agile mechanism to respond promptly to the Comptroller's Office in cases where LUMA holds the required information. Additionally, PREPA asked LUMA to identify a point of contact within LUMA to discuss viable alternatives for this process.

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19. June 21, 2022 - PREPA (J. Colón Ortiz-Exec. Dir.) Letter to P3A (Fermin Fontanes, Executive Director) & FOMB (Alejandro Figueroa, Director) - FY23 Budget

- Noncompliance by LUMA:
  - LUMA failed to properly consolidate PREPA's Generation Budget, instead submitting it as an exhibit without consolidation, which PREPA views as a deceptive and misleading representation.
  - LUMA's proposed FY23 budget, including the HoldCo and Generation budgets, does not comply with the Transmission and Distribution (T&D) Operating and Maintenance Agreement (OMA) requirement that expenses must be adjusted to avoid a base rate increase.
  - The consolidated budget proposed by LUMA exceeds the 2017 Rate Order revenue cap, making it noncompliant with the applicable Rate Order.
  - LUMA did not agree to additional scheduled budget meetings following a courtesy meeting on March 3, 2022, regarding the FY23 Generation Budget.
  - By March 11, 2022, LUMA had not contacted PREPA to request information necessary for PREPA to prepare the FY23 Generation budget, despite the April 1, 2022, deadline for consolidated budget submission.
  - LUMA's initial revenue allocation proposal to PREPA on March 17, 2022, suggested an approximate \$54 million reduction to PREPA's generation budget, which PREPA contends ignored historical trends and the availability of federal funds for generation purposes.

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- On March 31, 2022, LUMA submitted a counterproposal that deviated from the 2017 Rate Order.
- The P3A's certification of LUMA's proposed FY23 Budget as compliant with the Rate Order was impaired due to LUMA's non-compliance with the T&D OMA, specifically the requirement that LUMA submit a budget prepared and delivered by PREPA to LUMA for consolidation.
- Request for Action:
  - PREPA requests that the P3A reverse its certification of LUMA's proposed FY23 budget.
  - PREPA requests that the P3A coordinate a meeting to review LUMA's proposed budget to ensure it responsibly serves the needs of the electric system.
  - No specific due dates for these requested actions are mentioned in the source.

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20. November 8, 2021 - PREPA (J. Colón Ortiz-Exec. Dir.) Letter to FOMB (Alejandro Figueroa, Director) – PREPA Audited Financial Statements FY 2019

- Noncompliance: The source details noncompliance by PREPA, not LUMA. PREPA was in a "pattern of noncompliance" regarding the timely issuance of its financial statements. Specifically, PREPA acknowledged that the proposed issuance date for the 2019 Financial Statement "does not comply with the timeline established in Circular Letter No. 1300-33-21". PREPA received the audited financial statements for FY 2018 on November 4, 2021. Delays in completing the FY 2019 audit were attributed to PREPA Management's efforts to prepare financial statements for previous fiscal years (2015, 2016, 2017, and 2018) and for the PREPA Employee Retirement System (2015, 2016, 2017, and 2018). Further delays for the 2018 audit were attributed to internal quality control

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process issues and "external delays" from other financial stakeholders, including the Treasury Department.

- Request for Information or Action: The sender (PREPA) did not request specific information or action from the receiver (Financial Oversight and Management Board) with a due date for the receiver. Instead, the letter provides updates on PREPA's efforts and projected timelines for its own deliverables, while also stating a need for "constructive support":
  - PREPA anticipated KPMG would issue the 2018 Audited Financial Statement by the end of the week of October 7, 2021.
  - An initial draft of the 2019 financial statements was established to be submitted by October 31, 2021.
  - The second draft of the 2019 Financial Statements was scheduled for submission to the Treasury Department on December 10, 2021.
  - The projected issuance date for the 2019 financial statements is January 31, 2022.
  - PREPA committed to doing "everything possible to accelerate the schedule" with "constructive support" from the representatives of the Financial Oversight and Management Board and KPMG to achieve the requested milestones.

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P3A require LUMA to (i) clear the open items required to complete the financial statements for FY 2023 audit items—including federal-revenue detail, depreciation analysis, and GASB 68 schedules—within seven (7) calendar days, (iii) deliver the outstanding historical revenue, accounts-receivable, and energy-loss data demanded by the Comptroller for FY 2000-FY 2020 within ten (10) business days, (ii) establish a permanent one-stop audit liaison, and (iii) bear any fines or

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penalties resulting from delayed production. PREPA/P3A escalate this issue under Article 15.

## **VI. Notice of Technical Dispute: Pole Attachment**

P3A, as Administrator of the T&D OMA, issues this Notice of Technical Dispute due to LUMA's ongoing failure to comply with its core billing and collection obligations under the T&D OMA. Specifically, LUMA has refused to collect pole attachment fees owed by third-party telecommunications and cable entities.

### **1. February 2, 2024-PREPA Letter to LUMA (President & CEO- J. Saca) – Billing & Collection of Pole Attachment Fees**

- PREPA stated that it received LUMA's January 12, 2024, proposal to split all pole (third-party) attachment fees, but states it is unable to proceed as requested by LUMA.
- PREPA emphasized that based on the T&D OMA is that the responsibility for collecting pole attachment fees owed to PREPA by telecommunications and cable companies is exclusively LUMA's.
- PREPA stated that under the OMA, LUMA is solely responsible for "all electric transmission, distribution, load serving, and related activities for the safe and reliable operation and maintenance of the T&D system.
- Section 5.3 of the OMA explicitly states LUMA's responsibility to "perform all billing and collection services for the T&D System by the Contract Standards, including the requirements outlined in Annex I (Scope of Services).
- Annex I, Section II(A) of the OMA further indicates LUMA (the operator) is responsible for managing and maintaining all T&D System assets, including billing and collection for pole attachment fees.

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- PREPA further emphasized that it lacks the personnel, infrastructure, or budget to assist LUMA in collecting delinquent attachment fees.

2. May 21, 2024- PREPA Letter (J. Colón-Executive Director) to LUMA (-J. Saca, President & CEO) Re: Assignment of Pole Attachment Billing to HUB Advanced Networks, LLC

- PREPA notified LUMA that the billing and collection of PREPA's Pole Attachment fees for specific past due periods will be assigned to HUB Advanced Networks, LLC.
- The past due periods assigned to HUB were July 2018-June 2019, July 2019-June 2020, and July 2020-June 2021.
- PREPA emphasized to LUMA that it owns the electrical infrastructure and poles and has designated HUB as its representative to invoice all past due payments related to joint pole attachment fees for PREPA's infrastructure used by private companies.

3. August 28, 2024-Resolution and Order-Case No. NEPR-MI-2019-0007; Subject: Request for Extension of Time to Submit Updated Data Template for Quarterly Reporting in Response to April 2024 Quarterly Report

- The Resolution and Order took notice and granted LUMA the extension of time it requested to submit its responses to ROIs, until August 30, 2024.
- It includes as an attachment PREPA's *Motion in Compliance with Resolution and Order of October 16, 2024*, which:
  - PREPA asserted that its financial liquidity is severely impacted by LUMA's inefficiencies in critical operational areas, despite LUMA being compensated for these services.

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- PREPA argued that LUMA's responsibility for collecting pole attachment fees and other revenue streams is integral to PREPA's financial health, and LUMA's refusal to acknowledge this responsibility is a misinterpretation of the T&D OMA, making LUMA's business model "unsustainable" and contributing to PREPA's liquidity shortfall.
- PREPA highlighted LUMA's "deficient collection for power services, collection and suspension of power service to delinquent customers, collection of pole attachments fees, among others," as well as issues with the administration of federally funded T&D system capital projects.
- PREPA stated it has repeatedly alerted LUMA about its inefficiencies and underperformance that negatively impact its liquidity.
- PREPA explicitly noted a net negative liquidity impact of over \$550 million due to receiving less than expected in FEMA reimbursements and WCA.

P3A insists that LUMA (i) assume immediate responsibility for billing and collecting all pole-attachment charges, including delinquent balances for FY 2018-FY 2021, and (ii) file within thirty (30) days a revised revenue-collection plan that aligns with § 5.3 and Annex I of the OMA. PREPA/P3A commence Article 15 proceedings on this rate-related dispute.

## **Conclusion**

The litany of failures cataloged above - federal-funding lapses, grid-crippling outages, vegetation hazards, budget overruns, and stone-walled audits - has pushed Puerto Rico's patience to the breaking point. The P3A therefore invokes Article 15's dispute-resolution mechanism forthwith and puts LUMA on formal notice: the Government of Puerto Rico will no longer subsidize incompetence or excuse defiance. Puerto Ricans deserve a power-grid operator that keeps the

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lights on, respects public money, and obeys the terms and conditions of the contract it signed.

Should LUMA fail to cure each breach during the Article 15 process, the P3A stands ready to exercise the OMA's ultimate remedy - early termination of the contract. Upon an Operator Event of Default, including chronic non-performance and other material violations as detailed herein, the P3 Authority is empowered under Section 14.2 to declare LUMA in default, terminate the OMA, and recover all damages while orchestrating an orderly, LUMA-funded transition to a qualified successor operator. The P3A will not hesitate to pursue that remedy, together with all attendant transition and recovery measures, to protect the public interest and restore accountability to Puerto Rico's energy system.

Cordially,  
Signed by:



ACAE18A8DEF549C...  
Josué A. Colón Ortiz  
Executive Director

## Annexes

- C Francisco J. Domenech, Executive Director, AAFAF, [fjdomenech@aaaf.pr.gov](mailto:fjdomenech@aaaf.pr.gov)  
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# APPENDIX C

## Brady, Corey

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**From:** Octus Alert <dockets@octus.com>  
**Sent:** Wednesday, July 23, 2025 17:50  
**To:** Brady, Corey  
**Subject:** Puerto Rico, New Fortress Energy - 3PPO in Talks With New LNG Suppliers, Raises Potential for New Long-Term Gas Supply RFP; Oversight Board Confirms Government Not Willing to Defend Terms of Proposed NFE Contract



### Puerto Rico, New Fortress Energy

3PPO in Talks With New LNG Suppliers, Raises Potential for New Long-Term Gas Supply RFP; Oversight Board Confirms Government Not Willing to Defend Terms of Proposed NFE Contract

Wed Jul 23, 2025 05:49 PM ET

#### Summary

✦ Powered by AI at Octus

The Puerto Rico Public-Private Partnerships Authority's Third Party Procurement Office (3PPO) has ended negotiations with New Fortress Energy (NFE) over a proposed \$20 billion, 15-year natural gas sale and purchase agreement. The decision was made due to a perceived lack of interest from NFE to discuss contract terms. The 3PPO is now reportedly considering short-term "emergency" supply agreements with other potential suppliers and may publish a new request for proposal for a long-term fuel agreement. Meanwhile, the PROMESA oversight board continues to seek a solution for the supply of liquefied natural gas that serves the best interests of the Puerto Rican people.

Reporting: [John Marino](#)

#### Relevant Document:

[Letter](#)

The PROMESA oversight board said today that a response by the Puerto Rico Public-Private Partnerships

Authority's Third Party Procurement Office, or 3PPO, to its July 22 [request for information](#), or RFI, reflects that neither the commonwealth government nor the 3PPO is willing to defend the terms of the proposed 15-year, \$20 billion natural gas sale and purchase agreement, or NGSPA, with New Fortress Energy, or NFE, according to an emailed statement. The oversight board said in the statement that it "will continue to work with all parties to find a solution for the supply of liquefied natural gas, or LNG, at terms that are in the interest of the people of Puerto Rico."

The board's statement comes after Osvaldo Carlo, who represents Regulatory Compliance Services, the firm selected by the 3PPO to run the fuel procurement process, said in a [local television interview](#) yesterday, July 22, that negotiations with NFE have concluded for the long-term contract and that the contract "right now is not on the table." Carlo did not respond to an Octus request for comment, but he also told [Bloomberg](#) today that NFE was not willing to discuss contract terms and that the 3PPO was ending the procurement process based on what it perceived as a lack of interest. The procurement process for the Puerto Rico Electric Power Authority's, or PREPA's, legacy power plants, which NFE subsidiary Genera PR operates through a 10-year contract, were carried out by the 3PPO to address potential conflicts between the two firms.

In the television interview, Carlo indicated that the 3PPO is in discussions with potential suppliers to provide LNG through short-term, "emergency" supply agreements as an alternative. He also indicated that when an "exigency" is declared, agreements with fuel suppliers can be reached for durations of up to 30 days without undergoing a formal procurement process, which would provide time to publish a new RFP for a long-term fuel supply agreement.

Carlo said that other fuel suppliers could use the NFE port facilities through a "tolling agreement" with the company. He also indicated that July 22 was the deadline for the potential fuel supply companies to submit bids.

While NFE currently [holds a contract](#) that runs through July 25, subject to possible extension, to supply temporary generating units in the San Juan area with LNG under a declared "exigency," Carlo said that one of the other fuel suppliers could ultimately wind up with the contract. The "exigency" was declared by Genera on July 16 because of delays in the procurement process for long-term LNG supply, its current reserve margin, the advent of hurricane season and "the need for immediate action to alleviate and/or avoid serious harm, financial or otherwise." Carlo indicated that NFE is "preliminarily" willing to enter into a tolling agreement with another supplier, explaining that despite the public disputes about the contracts, "at

the end of the day, everybody wants to do business.”

“This is a possibility that we can't discard, that this facility, one way or another, will be available so that another business can come and bring gas,” Carlo said. He [previously indicated](#) that the lease agreement has an estimated value of \$65 million and could be “bought out” by the government and paid for in a future RFP process.

NFE also has a separate contract to supply PREPA's San Juan power plant with LNG through 2026.

The oversight board also sent a letter on July 22 directing commonwealth government officials to provide by tomorrow, Thursday, July 24, a copy of the May 3, 2018, contract between the Puerto Rico Ports Authority, or PRPA, and NFE subsidiary NF Energía LLC that provides for the lease of certain facilities and areas located in the Puerto Nuevo Port in San Juan for the supply of LNG. The letter, which was penned by board Executive Director Robert Mujica and addressed to PRPA Executive Director Norberto Negrón Díaz and Puerto Rico Public-Private Partnerships Authority, or P3A Executive Director Josué Colón, requests that any contract amendments and related documentation on the contract's valuation and related procurement processes also be included.

Mujica also cites a recent statement by Colón that the contract should have been submitted to the oversight board for review pursuant to the board's contract review policy and asks the official to explain why the contract should have been submitted to the oversight board prior to execution for consideration in accordance with the policy. Mujica reiterated that the contract was never submitted to the oversight board for review and approval.

The oversight board [has previously asserted](#) that the lease agreement's granting of exclusive rights to NFE over the gas importing and handling facility limits market competition because it prevents alternative suppliers from accessing critical delivery infrastructure in San Juan. The oversight board first [disclosed concerns](#) about the lease agreement when it raised “[profound concerns](#)” regarding the proposed 15-year, \$20 billion NGSPA with NFE to supply LNG. The board said the proposed contract's exclusivity provision for the supply of LNG “aggravates an already problematic situation as it expands the scope of NFE's exclusive rights, increasing the barriers to entry in this sector.”

While Mujica said during [Congressional testimony last week](#) that the oversight board has not made a final determination regarding the contract, the oversight board's [voluminous RFI](#) issued on July 22 regarding

the contract procurement process indicated that the board's ongoing analysis "has deepened concerns" regarding the proposal's terms, market competition, inconsistencies with the request for proposals and other documentation and inconsistencies with PREPA's fiscal plan. The RFI included copies of correspondence from NFE CEO Wes Edens telling Puerto Rico officials that NFE is the only "viable alternative" for the NGSPA, in part because of its control of the "only LNG terminal in San Juan, where the bulk of Puerto Rico's population and energy demand resides."

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