

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

NEPR

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IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY RATE REVIEW

CASE NO: NEPR-AP-2023-0003

SUBJECT: Order Requesting Comments
on Possible Additional Rate Design Filing

**SESA INFORMATIVE MOTION ON REQUIREMENTS IN LAW AND
ADMINISTRATIVE ORDER FOR ALL PER-KWH CHARGES TO BE BASED ON NET
CONSUMPTION**

**TO THE HONORABLE ENERGY BUREAU AND HONORABLE HEARING
EXAMINER:**

COMES NOW, the Solar and Energy Storage Association of Puerto Rico ("SESA"),
represented by the undersigned, and respectfully STATES and REQUESTS as follows:

I. Introduction

1. On July 24, 2025, the Puerto Rico Energy Bureau ("Bureau" or "PREB") convened a public Virtual Conference as part of its ongoing rate review proceeding. At this conference, LUMA Energy discussed and proposed that prosumers—including net metering and distributed generation customers—be made subject to new provisional charges starting on September 1st, 2025. SESA's legal counsel explained that such charges, if assessed volumetrically, can only legally be assessed on customers' net consumption of electricity, per Puerto Rico's Law 114 of 2007, as amended.

2. Furthermore, the Honorable Hearing Examiner, via Order of July 25th, specifically requested information from LUMA regarding the feasibility of implementing provisional rate changes—including fixed or differentiated charges by customer class.
3. These ongoing discussions raise not only technical implementation concerns but also questions regarding consistency and legality under Puerto Rico energy statutes in force. SESA submits this filing to further brief on these issues, ensure any future rate changes comply with Puerto Rico law, and to encourage best practices.

II. Any Volumetric Charges are Required to be Based on Net Consumption

4. Net metering customers have been billed solely for their net consumption since Law 114 of 2007 (Puerto Rico's Net Metering Program Act) was adopted,¹ and the Bureau is statutorily prohibited from advancing or approving any rate mechanism that contravenes Puerto Rico Law. Any such charges for net metering or distributed generation customers is legally prohibited, unless they are based on a customer's net consumption. Law 114 of 2007, as amended by Law 17 of 2019

¹ As the Legislator's Statement of Motives explains in Law 114-2007, "Net metering translates into benefits for the customer because it promotes the use of clean and inexpensive energy, and **the customer receives compensation for the excess electricity generated and only pays for the net electricity supplied by PREPA.**" As such, Law 114 of 2007, expressed in original Article 5b that "In those cases in which the Electric Power Authority supplies a customer more electricity than the customer feeds back to the public utility during a billing cycle, the Electric Power Authority may charge the customer for the **net electricity** it supplied." [Emphasis supplied.] <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2-ingles/0114-2007.pdf>.

(Puerto Rico Energy Public Policy Act), Section 4 (22 L.P.R.A. §§ 1014–1015), sets forth this unequivocal prohibition:

Section 4(c) states:

“The Electric Power Authority or the transmission and distribution network Contractor shall not impose any charge or modify the monthly electric power usage consumption rate of its net metering customers, or customers who interconnect any distributed generation system, without prior authorization from the Bureau as provided above... No direct or indirect charge shall be imposed on the generation of renewable energy by prosumers.”

5. Furthermore, via Resolution and Order of April 25, 2019 (in docket CEPR-AP-2015-0001/NEPR-AP-2018-0003)² the Energy Bureau clearly reaffirmed that all per-kWh charges are to be based on all customers’ net consumption. This Resolution and Order expressly requires that net metering customers – the same as all customers - pay for their net consumption, at class rates, including all applicable energy charges (base, fuel, purchased power, CILT, etc.), but—crucially—no additional direct or indirect charges. The Resolution and Order states, leaving no ambiguity:

“...all net metering clients will be required to pay the full rate applicable to their class for the net energy supplied by PREPA, including base rates, fuel charge, purchased power charge, CILT charge, SUBA-HH charge, SUBA-NHH charge, and EE charge.”

“The term ‘Applicable Retail kWh Sales’ in the FCA, the PPCA, the CILTA, the SUBA-HH, the SUBA-NHH and the EE riders, shall be amended so it reads as follows: ‘Applicable Retail kWh Sales’—Energy sales to all classes of customers, including the net inflow (i.e., inflow – outflow) to all net metering customers.”

² https://energia.pr.gov/wp-content/uploads/sites/7/2019/04/Resolution-and-Order-CEPR-AP-2015-0001_NEPR-AP-2018-0003.pdf.

III. Base Rates Increases and Fixed Charges Are Regressive, Harming the Poorest

6. Puerto Rico has the highest poverty rate in the United States—an unprecedented reality with unique public policy implications. The burden of any new fixed or base rate increases would fall heaviest on the low-income majority, who use the least energy.
7. Raising fixed monthly charges (base rates) unavoidably and unfairly amplifies economic hardship among poor households.
8. By contrast, volumetric (per-kWh) charges are generally progressive: those who use more, pay more. Therefore, if the goal is to raise needed revenues fairly, the per-kWh approach is fairer, and a more policy-consistent method for any temporary rate increase.

IV. Conclusion

9. Given all of the foregoing, SESA respectfully requests that:
 - a) The Energy Bureau categorically reject any proposal for per-kWh charges which are based on anything other than net consumption, as all per-kWh charges are required to be based on net consumption under Law 114 of 2007, as amended, and the Energy Bureau Resolution and Order of April 25, 2019.
 - b) If a provisional increase is to move forward, it should do so on a per-kWh (volumetric) basis based on net consumption, rather than an increase in fixed or base charges.

July 28, 2025

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RESPECTFULLY SUBMITTED in San Juan, Puerto Rico, this 28th day of July, 2025.

I **HEREBY CERTIFY** that this motion was filed using the Energy Bureau's electronic filing system and that electronic copies of this motion will be notified to the Hearing Examiner. Scott Hempling, via shempling@scotthemplinglaw.com; and to the following parties: LUMA, Margarita Mercado - margarita.mercado@us.dlapiper.com; Carolyn Clarkin - carolyn.clarkin@us.dlapiper.com; Katiuska Bolaños- katiuska.bolanos-lugo@us.dlapiper.com; Yahaira de la Rosa-Yahaira.delarosa@us.dlapiper.com and Andrea Chambers - andrea.chambers@us.dlapiper.com; the Puerto Rico Electric Power Authority, Mirelis Valle-Cancel - mvalle@gmlex.net; Juan González- jgonzalez@gmlex.net; and Alexis G. Rivera Medina - arivera@gmlex.net Genera PR, LLC, Jorge Fernández-Reboredo - jfr@sbqblaw.com; regulatory@genera-pr.com; and legal@genera-pr.com; Moraima Rios Arroyo- mrrios@arroyorioslaw.com; Carlos Fernández Lugo- Cfl@mcvpr.com; André J Palerm Colon- apc@mcvpr.com; ratecase@genera-pr.com; Lcda. Hannia Rivera Diaz- hrivera@jrsp.pr.gov; contratistas@jrsp.pr.gov; Lcdo. Fernando Agrait- agraitfe@agrailawpr.com; Jose Pou- jpouroman@outlook.com; Victor Luis Gonzalez- victorluisgonzalez@yahoo.com

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