

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

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Hearing Examiner's Order
Canceling Conference; Clarifying Scope of
Rate Case

**Hearing Examiner's Order Canceling Conference;
Clarifying Scope of Rate Case**

Conference cancellation

My order issued yesterday afternoon had tentatively scheduled a conference for noon today. The purpose was to discuss any LUMA assertion of trade-secret status for certain submitted documents. Having learned that LUMA is not making that assertion, I am canceling today's conference.

Guidance on scope of rate case

I have noticed a number of discovery questions about subjects not directly relevant to LUMA's base-rate cost of service. This Order aims to clarify the scope of this case so that parties can allocate their limited resources most usefully, so that the evidentiary hearing can run smoothly, and so that the Energy Bureau's final order covers the necessary issues but does not address matters that belong in other dockets.

The statutory purpose of this proceeding is to set base rates. This proceeding will not establish fuel costs or purchased power costs, because those costs enter their respective riders in dockets devoted to those subjects. This rate proceeding will not establish the cost of renewable energy credits (RECs) associated with purchased power agreements, because those costs are currently recovered through the Purchased Power Charge Adjustment (PPCA) rider. As for REC costs associated with distributed generation: While those costs are the subject of a separate proceeding, parties are free to discuss in this rate proceeding whether some estimate of those costs should go into base rates, with any included cost to be subject to reconciliation once the Energy Bureau makes its decision in that separate proceeding.

This rate proceeding also will not establish or review the programs for, or costs associated with, energy efficiency or demand response, because those programs are the subject of separate dockets and because the recovery of those programs' costs occurs

through separate riders. The extent to which those programs affect consumption and demand is relevant to the rate proceeding, of course, because the Energy Bureau must determine the billing determinants used to calculate rates.

While the above-mentioned costs do not go into base rates, they do contribute to the total cost that customers bear when they consume electricity. These non-base-rate costs are therefore relevant to the Energy Bureau when it sets base rates, for the reasons discussed in Part V of the Energy Bureau's Resolution and Order on provisional rates (July 31, 2025). The Energy Bureau there stated (at pp. 34-35):

In considering a proposed rate increase, the Energy Bureau has to consider practicability. In this context, practicability means this question: Will the rate increase actually produce the required revenue increase? Or instead, will customers react to the rate increase by reducing their consumption, or installing solar panels, or leaving Puerto Rico?

An important component of practicability is affordability. If some customers cannot pay their bills, the utility will not receive the funds that it needs to provide service to all. Total revenues must be sufficient to make service adequate. Rates that are below the level needed to make service adequate are not just-and-reasonable rates.

The relationship among those four goals, just-and-reasonable rates, adequate service, affordability, and practicability, is complex and difficult. To reach the right balance among requires information on such things as elasticity of demand, ability to pay, the effects on people and businesses of unpredictability in electric service, among other factors. At this provisional-rate stage, the Energy Bureau does not have the necessary information to determine that balance. On that subject, we appreciate the thoughtful comments submitted by Institute of Competitiveness and Economic Sustainability. We look forward to hearing more from them and others in the permanent-rate phase.

In determining the practicability of an increase in base rates, the Energy Bureau will be considering not the base rates alone but rather the customers' total bill.

On the scope of this rate proceeding, the foregoing factors support these conclusions:

- Debates about the specific level and recovery of costs associated with fuel, purchased power (including RECs associated with purchased power), energy efficiency programs, and demand response programs, lie outside this proceeding.

- Concerns about the total cost of electric service, and the contribution of base-rate increases to that total cost, to the extent those concerns affect practicability, lie within this proceeding.
- If parties see estimates about non-base-rate costs that are substantially off-base, such that by relying on those estimates the Energy Bureau might err when determining practicability, that concern is relevant to this rate case. But debates about specific methodologies for estimating these costs, and minor differences over the predicted level of these costs, belong in the other dockets.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on August 20, 2025. I also certify that on August 20, 2025, I have proceeded with the filing of the Order , and a copy was notified by electronic mail to: mvalle@gmlex.net; arivera@gmlex.net; jmartinez@gmlex.net; jgonzalez@gmlex.net; nzayas@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; jfr@sbgblaw.com; regulatory@genera-pr.com; legal@genera-pr.com; mvazquez@vvlawpr.com; gvilanova@vvlawpr.com; ratecase@genera-pr.com; hrivera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidhouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; 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.bradley@weil.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com;

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I sign this in San Juan, Puerto Rico, on August 20, 2025.





Sonia Seda Gaztambide