

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

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

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

**SUBJECT:** Hearing Examiner's Order on  
Agenda for September 4 Conference,  
Covering Revenue Requirement Questions,  
Hearing Procedures, and Related Matters

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**Hearing Examiner's Order on Agenda for September 4 Conference,  
Covering Revenue Requirement Questions, Hearing Procedures, and  
Related Matters**

This Order establishes for the September 4, 2025, conference a six-part agenda, described below and in the Appendices.

**I. Questions on the LUMA's August 28 submission on revenue requirement (Appendix A)**

The questions submitted by email yesterday covered four categories: FOMB Items, Title III, Other Income, and Miscellaneous. See **Appendix A**. Preceding each question is the party asking the question. "PREB" means PREB consultant.

**II. Possible supplemental submissions (Appendix B)**

Appendix B lists topics that are relevant to the Commissioners' decisionmaking but not directly covered under the categories of revenue requirement and rate design. Moreover, the testimony submitted on July 3 does not address them. I am therefore considering requiring supplemental submissions.

At the September 4 conference I hope to hear the parties' thoughts on these topics' relevance, and on whether and how to fit supplemental submissions into the schedule. Perhaps we can address some of these topics without formal testimony but rather with written position statements from the parties. Perhaps we can address them initially in the panels, followed by the parties' written submissions in their post-hearing briefs. Perhaps a combination of those approaches would work.

### **III. Organization of the evidentiary hearing**

#### **A. Tentative panels**

My plan is to have witnesses appear on panels. **Appendix C** has a tentative list of individual panels, in three major categories: revenue requirement, matters other than revenue requirement and rate design, and rate design.

#### **B. Sequence for each panel**

- Questions by Hearing Examiner and PREB consultants: Initially, and throughout
- Parties' cross: No friendly cross; no discovery without my permission.
- Redirect: Confined to subjects covered by cross
- Recross: Only with my permission

#### **C. Procedural and logistical questions (Appendix D)**

By email September 2, LUMA asked a series of helpful questions. They are listed at Appendix D. I do not yet have answers to all of them. Except the first one, discussed next.

From LUMA's email of Sept. 2: "LUMA requests that a discovery deadline regarding the July 3rd Rate Review Petition be set. LUMA proposes that the deadline applicable to intervenors be set for September 8, 2025, the date when intervenors are set to file rebuttal testimonies and the cut-off for Energy Bureau consultants, September 29, 2025, when they will file expert reports."

Answer: Per my Order of April 25, 2025, all discovery continues through the end of the evidentiary hearing. "[Q]uestions can always arise and we all want the fullest possible record."

### **IV. Draft revised procedural schedule (Appendix E)**

My August 21 Order moved some intervenors' answering testimony from September 1 to September 8. The draft revised schedule, **Appendix E**, has the ripple effects. The main changes are to give the PREB consultants one extra week, to move the remaining submissions forward in time by slightly less than a week, and to start the evidentiary hearing on November 12 rather than November 10 given the November 11 holiday in memory of the fallen soldiers. In Thanksgiving week we would meet only on Monday and Tuesday.

Given the possibility that we will not need a full week for rate design, this schedule notes the possibility of using December 15 and 16 to complete the revenue requirements hearing.

The common purpose was to allow adequate time for the remaining submissions without losing an entire week of the hearing schedule, and without bringing everyone back for the last week of December.

**V. Genera-PREPA discovery dispute (GENERA-of-PREPA-FIN-1)**

I will hear views from the two parties, ask my own questions, then attempt to resolve this dispute. If I need more submissions, I will request them after the discussion.

**VI. Future Hearing Examiner orders**

There have been many Hearing Examiner orders. There will be more. Do counsel prefer a separate Hearing Examiner order for each different subject? Or do counsel prefer to see, or instead mind seeing, multiple unrelated items within a single order?

Be notified and published.



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Scott Hempling  
Hearing Examiner

**CERTIFICATION**

I certify that the Hearing Examiner, Scott Hempling, has so established on September 3, 2025. I also certify that on September 3, 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; Gerard.Gil@ankura.com; Jorge.SanMiguel@ankura.com; Lucas.Porter@ankura.com; mdiconza@omm.com; golivera@omm.com; pfriedman@omm.com; msyassin@omm.com; 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; 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;

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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; zack.schrieber@cwt.com; thomas.curtin@cwt.com;  
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I sign this in San Juan, Puerto Rico, on September 3, 2025.



  
Sonia Seda Gaztambide  
Clerk

## **Appendix A**

### **Questions on LUMA's August 28 Submission of Revenue Requirement**

#### **FOMB Items**

[PREB] The C-2, line 42 and 41 update items include \$51,289,184 for FOMB advisor costs and \$27.45 million for Luma Interim Costs for fiscal year 2026. Both of these items relate to the Fiscal Management and Oversight Board (FOMB). The following questions relate to these items:

[PREB] Has any of the \$51,289,184 line 42 item been spent to date? If so, how much?

[PREB] Is any of that \$51,289,184 line 42 item an avoidable cost? If so, how can some or all of that be avoided?

[PREB] Has any of the \$27.45 million Sch C-2, line 41 item been spent to date? If so, how much?

[PREB] Is any of that \$27.45 line 41 item an avoidable cost? If so, how can some or all of that be avoided?

[PREB] Line 42 is titled: FOMB Advisor Costs allocated to PREPA- is this a PREPA budgeted item?

[PREB] Among PREPA and LUMA, which has the specific knowledge about those Line 41 and 42 items, such as the details of what is included in those amounts and whether and how those are impacted by recent changes at the FOMB?

[PREB] Has the FOMB provided any updates on its budget for FY 2026, 2027 or 2028?

[PREB] LUMA also shows additional amounts for LUMA Interim Costs for Sch C-2, line 41 and for FOMB Advisor Costs, for Sch C-2, line 41 for fiscal year 2027 and for fiscal year 2028. LUMA's explanation says that \$17,712,500 of Interim Costs are LUMA's costs associated with supporting the Title III process. What is the basis for LUMA's assumption that the Title III process will continue into fiscal years 2027 and 2028?

[PREB] Are any of the Schedule C-2, line 41 and line 42 costs that LUMA has projected for fiscal years 2027 and 2028 avoidable? If so, what amounts are avoidable and under what circumstances?

### **Title III**

[PREB] Line 41 is titled: PREPA Restructuring & Title III - is this a PREPA budgeted item?

[PREPA] Please confirm that the increase in PREPA Restructuring & Title III expenses is related to LUMA's Title III expenses. This line is titled "LUMA Interim" on the 'Sheet 1' tab of the Excel file titled "PC-of-LUMA-FIN-2\_Attachment 1" (row 11).

[PREPA] Please confirm in detail the scope of what LUMA considers to be Title III-related expenses.

[PREPA] Please provide a breakdown of such LUMA-related Title III expenses.

[PREPA] Please confirm with supporting documentation that LUMA's Title III budgets, to date, have been used for Title III-related workstreams.

[PREB] Does LUMA or PREPA have any insights as to when they expect the Title III process to be completed? If so, please provide those insights.

### **Other Income**

[PREB] Refer to the Sch C-2, line 7, Other Income items, for fiscal years 2026, 2027 and 2028. The update to the FY 2026 amount states that: Other Income has been standardized to the number used in the Energy Bureaus July 31, Provisional Rate Order. The FY 2027 and FY 2028 amounts indicated that they each use the prior year amount inflated by 3.48%. The following questions pertain to this:

[PREB] Why has LUMA identified the correction to the FY 2026 amount for Other Income as an inadvertent error in [the] July 3 filing?

[PREB] Is collection of the FY 2026 amount for Other Income of \$84.4 million achievable? If not, why not?

[PREB] Are there any uncollectibles on the Other Income? If not, why not? If so, how are those uncollectible amounts measured and accounted for?

### **Miscellaneous**

[PREPA] General- Please confirm and explain the increase in Professional & Technical Outsourced Services for FY2026, 2027, and 2028.

[Bondholders] Given the revisions to the proposed revenue requirement, does LUMA intend to file an updated set of rate design schedules (and if so, when)?

## Appendix B

### Topics for Possible Supplemental Submissions

*Practicability of a rate increase:* Ordering a rate increase does not guarantee that the incremental revenues will arrive. Some customers might be unable to pay;<sup>1</sup> others might decline to pay—by moving their homes or businesses elsewhere, by installing solar panels,<sup>2</sup> or by reducing consumption. Should these possibilities affect the Energy Bureau’s decision on the revenue requirement; and if so, does the Energy Bureau need evidence on this subject?

*Conflicts of interest:* It is human nature, and business nature, to seek advantage at others’ expense. If this were not true, we would not need supermarket checkout counters to prevent theft and tax auditors to prevent cheating. And we would let utilities set their own rates. The question is not whether one has a conflict of interest; the question is

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<sup>1</sup> See, e.g., ICSE’s Motion on affordability submitted July 25, 2025.

<sup>2</sup> On this topic, Mr. Victor González emailed on September 2, 2025 the following comments:

- Reducing consumption and installing solar panels are the pillars of Puerto Rico’s Public Policy. Both activities reduce pollution and the need for new fossil fuel generation. They provide customers a choice.
- Since Hurricanes Irma and Maria, BESS (battery energy storage systems) have been incorporated into almost all new solar panel installations, and most of the existing ones were retrofitted with a BESS system. Why? Because, the grid has failed to provide reliable and resilient energy.
- During the last 10 years, the price of electricity has fluctuated, yet solar PV+BESS installations have continued to grow both when cost where below twenty cents and when they were above thirty cents.
- Facilitating EV (electric vehicles), particularly V2G (vehicle to grid) infrastructure , can provide both technical and economic benefits to the grid.
- Customers who install solar panels and those who reduce consumption are not “**declining to pay**”. They are choosing a cleaner, safer, more reliable and more resilient way to live.
- Unbundling and raising fix costs are no more than Scottish in disguise. They are an attempt to derail energy conservation and self-generated renewable energy.

whether one is sufficiently self-aware, and honest, to identify the conflicts, and then to install and heed alert systems that prevent one from acting on the conflicts.

Genera and LUMA are, and are owned by, for-profit companies. A rate case is an opportunity for profit or loss. The question is whether for each company there is motivation and opportunity to seek through rates opportunities to profit unreasonably; or whether instead the unique OMA context removes the motivation and opportunity that exists in the traditional investor-owned utility context. The answer can affect what level of trust, or skepticism, the Energy Bureau should apply to each company's proposals.

*Reconciliation of permanent rates with provisional rates:* This process, a standard one that the Energy Bureau must address in its final order on permanent rates, involves some judgment, including choosing the length of the prospective period over which the reconciliation should occur.

*Recordkeeping for project costs:* For budgeting and rate-setting after FY26, the Energy Bureau expects the three utilities to develop recordkeeping systems that not only follow the FERC Uniform System of Accounts (USoA), but also allow benefit-cost analysis of all proposed expenditures. For the former, a template exists, in the form of the USoA. For the latter, a template does not exist. The Energy Bureau tried to create one when it worked with various utility representatives to fashion Schedules A-1 and A-2 described in the Order on Filing Requirements (February 12, 2025). That effort did not succeed. It would be useful to receive from thoughtful experts the insights and information necessary to establish requirements and deadlines for these two efforts.

*Interutility cooperation:* I have observed tension between at least two of the three utilities. The question is whether any interutility tension, along with its various sources, has affected any of the projected costs in the proposed revenue requirement.

*FEMA funds:* FEMA funds are not always certain. When they are certain, they do not arrive simultaneously with the need to spend on projects that are eligible for those funds. The question is whether there is a role for base rates in addressing, through cash flow, those two unavoidable factors—uncertainty and timing.

*Relationship of revenue requirement to metrics:* The Energy Bureau's Order on Filing Requirements (Feb. 12, 2025) stated:

For the Constrained Budget, tradeoffs are unavoidable; the Energy Bureau will have to elevate some needs over others. But the revenue requirement still must give LUMA and Genera a reasonable opportunity to achieve the metrics that trigger for each operator its respective incentive fee. In addressing the revenue requirement for the Constrained Budget, therefore, the Energy Bureau will need to adjust the metrics, or the allocation of compensation, or both, to reflect the lower budget amount that some areas of the Constrained Budget will receive as compared to the Optimal Budget. The Energy Bureau has the authority to make these adjustments in this rate



proceeding. Section 1.5 (3)(d) of Act 17-2019 states: “When deemed appropriate, during ratemaking processes, the Bureau shall establish performance-based incentives and penalty mechanisms for electric power service companies as well as mechanisms that ensure strict compliance with the orders of the Bureau. . . .” Any adjustment shall consider the metrics approved by the Energy Bureau in the performance metric proceeding and shall be consistent with just-and-reasonable ratemaking.

The question is whether to address metric adjustments in the current rate proceeding or in a separate docket. In that separate docket, the Energy Bureau would use the revenue requirement it determined in the instant rate docket to determine what if any revisions to make in the metrics established in its Final Resolution and Order on Performance Targets for Luma Energy LLC and Luma Energy Servco LLC (Jan. 26, 2024) in Case No. NEPR-AP-2020-0025.

## **Appendix C**

### **Tentative Panels at the Evidentiary Hearing**

Each item listed under “Revenue requirement” and under “Matters other than revenue requirement and rate design” represents an individual panel. In contrast, “Rate design” will be a single panel, covering the five issues listed there.

#### **Revenue requirement**

- generation costs
- transmission costs
- distribution costs
- customer service costs
- federal funds
- overhead costs
- debt costs
- total revenue requirement

#### **Matters other than revenue requirement and rate design**

- budget process and budget flexibility
- reconciliation of permanent rate with provisional rate
- Recordkeeping for project cost and to comply with USoA
- Practicability of various levels of rate increase
- conflicts of interest between profit and cost
- interutility cooperation
- relationship of revenue requirement to metrics

#### **Rate design**

- load forecast
- cost of service study
- revenue allocation
- rate design
- actual bills

## **Appendix D**

### **Procedural and logistical questions from LUMA**

What will be the procedural rules and/or protocol for the evidentiary hearing for topics such as: remote testimonies and procedural safeguards for any remote testimonies; marking and publishing exhibits; and protections for confidential information during the evidentiary hearing?

Will the Energy Bureau set a deadline for the parties and Energy Bureau consultants to disclose if they plan to discuss confidential information during the evidentiary hearing?

Will the Energy Bureau use an electronic platform for marking and publishing exhibits during the evidentiary hearing? If so, what is the platform? If not, how will exhibits be handled? And assuming electronic exhibits will be used, are there any times when the Energy Bureau or the Hearing Examiner would also like paper copies?

Will the Energy Bureau have live transcripts and monitors? If so, will counsel have access to the same transcripts?

Where will the evidentiary hearing be held? Will the parties have private rooms available to meet and confer and store belongings?

Consider if the procedural schedule may accommodate a break during the week of November 24th.

When will the Energy Bureau disclose panel compositions for hearings?

How many panels is the Energy Bureau planning to convene? LUMA suggests that a preliminary list of panel compositions be issued the first week of October, subject to update considering that LUMA's rebuttals are due October 27th.

How much time will be allotted for cross examinations by the parties and for questions by PREB consultants and Commissioners? LUMA proposes that the Energy Bureau set a deadline for parties to inform if they plan to cross examine witnesses.

Will there be a chance for re-direct examinations?

What are the planned typical start and stop times each day?

Will there be regularly scheduled breaks during the day? If so, at approximately what times and for how long?

Once witnesses are submitted for cross examination, are they permitted to speak with counsel during breaks or not until they are released from cross examination?

**Appendix E**  
**Draft Revised Procedural Schedule**

**Revised Rate Case Schedule (*Draft 3 September*)**  
*(italics indicate text changes from existing schedule)*

Starting now	Participants submit requests to intervene in rate case
Thursday, May 1, 2025	Hearing Examiner begins approving rate case interventions (ongoing)
Wednesday, May 7, 2025	Technical conference on rate design
TBD	Technical conference on rate design (if necessary)
Friday, May 16, 2025	Hearing Examiner circulates draft rate design filing requirements
Friday, May 23, 2025	Participants submit comments on draft rate design filing requirements
TBD	Technical conference on rate design filing requirements (if necessary)
Friday, May 30, 2025	Order establishing rate design filing requirements*
Thursday, July 3, 2025	Applicants file complete formal application by noon, consisting of revenue requirement materials, rate design materials, permanent rates, provisional rates, amendment to the FY 2025 budget, FY2026 Constrained Budget, FY 2026 Optimal Budget, and all associated prefiled testimony
Thursday, July 3, 2025	PREB ratifies Hearing Examiner's prior approvals of rate case interventions*
Thursday, July 3, 2025	Discovery opens. (All discovery is rolling discovery, as described in Hearing Examiner's Order of April 25, and continues through the end of the evidentiary hearing.)
<i>Thursday, July 31, 2025</i>	PREB approves provisional rates
Tuesday, August 19, 2025	Determination of completeness of July 3 application*
<del>9/1/2025</del> <i>Monday, Sept. 8, 2025</i>	Intervenors' answering testimony on revenue requirement and rate design; plus any testimony of PREPA, LUMA, or Genera responding to one of the other two companies on revenue requirement and rate design
<del>9/29/2025</del> <i>Monday, Oct. 6, 2025</i>	PREB consultants file expert reports on revenue requirement and rate design
<del>10/17/2025</del> <i>Thursday, October 23, 2025</i>	Intervenors' rebuttal to PREB consultants' expert reports on revenue requirement and rate design

<del>10/20/2025</del> <i>To be determined</i>	Prehearing conference to organize evidentiary hearing on revenue requirement and rate design
<del>10/27/2025</del> <i>Thursday, October 30, 2025</i>	Applicants' surrebuttals to all intervenor testimony on revenue requirement and rate design, and to PREB consultants' expert reports on revenue requirement and rate design
<del>Monday, Nov. 10, 2025</del> <i>Wednesday, Nov. 12, 2025</i>	Start of evidentiary hearing on revenue requirement. <i>No hearings 26-28 November.</i>
Friday, December 12, 2025	<i>Possible</i> end of evidentiary hearing on revenue requirement*
TBD	Public hearing
TBD	Public comment deadline
Monday, December 15, 2025	<i>Completion of revenue requirement if necessary</i> , start of rate design
Friday, December 19, 2025	End of evidentiary hearing on rate design*
Friday, January 16, 2026	Initial briefs on revenue requirement and rate design
Monday, February 2, 2026	Reply briefs on revenue requirement and rate design
<i>2/16/2026 to 4/16/2026</i>	Final order on revenue requirement and rate design (180-240 days after determination of completeness <i>(issued Aug. 19, 2025)</i> )

\*Estimated date