

**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
Revising Procedural Schedule, Ordering Cost
Information, and Ordering CEO Testimony on
Conflicts of Interest

**Hearing Examiner's Order Revising Procedural Schedule, Ordering Cost
Information, and Ordering CEO Testimony on Conflicts of Interest**

Revised procedural schedule

The attached procedural schedule, shared with the parties in draft form before the conference of September 4, 2025, replaces the procedural schedule attached to my Order of May 2, 2025.

Discovery deadlines: A previous order of mine stated that discovery continues through the end of the evidentiary hearing. I am not eliminating that feature. But I am adjusting it as follows: **Friday, Nov. 7, 2025**, is the last day for discovery questions without my approval. If you want discovery after that day, you must submit a motion to me. In deciding the motion, I will take into account the respondent's practical ability to respond given the pressures of the hearing. I don't expect to see either (a) discovery requests that the requestor could have asked earlier, or (b) a respondent's unsupported assertions that a response is impractical. If I deem a request important to the Energy Bureau, I expect both sides to cooperate with me in finding a way to satisfy it.

One clarification of the above: Before filing a motion with me, seek agreement on the discovery without me. Submit the motion only if agreement fails. And if agreement fails, I will be asking why.

Applicants' surrebuttals due October 30: Please organize the material by topics. Within a topic, address the intervenors' and PREB experts' submittals. Say only what is necessary to respond to those submittals. Do not offer evidence that belonged in your July 3 submission. Remember that the intervenors and the PREB consultants will have only 12 days to review this material. Apply the Golden Rule.

Discovery about the cost of “Professional and Technical Services”

My discovery Order yesterday, September 8, 2025, rejected Bondholders’ request for details about the makeup of a previous version of this cost category—a version that was constrained by 2017 rate levels. The Order explained that what matters to the Energy Bureau is the reasonableness of this category’s total proposed cost. What is relevant to that reasonableness is not the 2017-confined items but the prospective items.

If LUMA has not already provided details on the total items in this category and their costs, LUMA must provide those details as a response to NPFGC-of-LUMA-SUPPORT-2. LUMA must submit that response by **September 11, 2025**, preferably sooner. I am shortening the normal response period because I assume that LUMA would not have requested the amount that it did request without having the backup readily available.

LUMA’s and Genera’s possible conflicts of interest

In partial preparation for the conference of September 4, 2025, my Order of September 3, 2025, had this paragraph:

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 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.

During the September 4 conference, I asked representatives of LUMA and Genera whether their companies had any conflicts. Each representative denied any conflict. LUMA’s representative asserted, as I understood him, that LUMA’s profit interest in serving Puerto Rico was covered fully by the OMA’s fixed fee and incentive fee. My recollection is that Genera’s representative offered no additional explanation for her denial.

I find the two representatives’ responses unsatisfying, because they don’t account for these facts, about which my consulting colleagues have informed me (and which LUMA and Genera are welcome to correct if they are wrong):

- As T&D operator, LUMA influences or controls entry for new renewable projects. It is a subsidiary of Quanta, a competitor in Puerto Rico’s market for construction and ownership of renewable projects.
- Genera operates Puerto Rico’s legacy generators. Genera’s parent, NFE, is a primary supplier of liquefied natural gas (LNG) to Puerto Rico, including to Genera.

- LUMA's and Genera's parent companies engage in the business of supplying and modernizing infrastructure for distribution and transmission (LUMA) and generation (Genera). They therefore have a profit interest in Puerto Rico energy solutions that involve infrastructure.
- LUMA uses "seconded" employees of its parent companies, Quanta and ATCO.
- The amount of ratepayer funds that each company seeks for various performance-improvement activities can increase profitability by (a) reducing the possibility of performance penalties, (b) increasing the possibility of receiving any contractual "incentive fees," and (c) reducing the possibility that the Puerto Rico Government will seek to terminate their contracts.

Given my dissatisfaction with the denials from the two companies' representatives, I require prefiled testimony from each company's CEO, to be submitted no later than **September 22, 2025**. Label the testimony "Supplemental Testimony on Conflicts." This testimony shall—

- address this question: "Does my company have any conflict between its self-interest and the public interest, as that public interest is defined by statutes that grant jurisdiction to the Energy Bureau?"—and in answering that question, address at least the five factors listed above;
- address this question: "Over what matters do I, as CEO, have complete discretion; and over what matters must I get authorization from, or do I receive influence from, executives or board members of my company's corporate ownership?"; and
- for each conflict that the CEO acknowledges, describe the procedures in place that the CEO thinks prevent anyone from acting on the conflict to the detriment of Puerto Rico electricity consumers.

Caution: The answer to the question "Do you have conflicts?" cannot be "No, because we have guardrails in place." If you have guardrails in place, it means you think you have conflicts. A guardrail's existence doesn't remove a conflict's presence. I am looking not only for conflicts, but for candor about conflicts.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on September 9, 2025. I also certify that on September 9, 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; jolivera@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; jfr@sbgblaw.com; hriviera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; 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; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; javrua@sesapr.org; Brett.ingerman@us.dlapiper.com; brett.solberg@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; 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; 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; Isaac.Stevens@dechert.com; James.Moser@dechert.com; Kayla.Yoon@dechert.com; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; juan@londoneconomics.com; mmcgill@gibsondunn.com; LShelfer@gibsondunn.com; jcasillas@cstlawpr.com; jnieves@cstlawpr.com; arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com.

I sign this in San Juan, Puerto Rico, on September 9, 2025.



Sonia Seda Gaztambide
Clerk

Revised Rate Case Schedule (*September 8, 2025*)
(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
<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
<i>Monday, Oct. 6, 2025</i>	PREB consultants file expert reports on revenue requirement and rate design
<i>Thursday, Oct. 23, 2025</i>	Intervenors' rebuttal to PREB consultants' expert reports on revenue requirement and rate design

<i>To be determined</i>	Prehearing conference to organize evidentiary hearing on revenue requirement and rate design
<i>Thursday, Oct. 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
<i>Friday, Nov. 7, 2025</i>	<i>Last day for discovery questions without explicit Hearing Examiner approval</i>
<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, start of rate design</i>
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 <i>August 19, 2025</i> determination of completeness)

*Estimated date