

**GOVERNMENT OF PUERTO RICO
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: Guidance on Use of the Emergency
Reserve Account ("ERA")

RESOLUTION AND ORDER

I. Introduction and Procedural Background

On July 3, 2025, LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA") filed a document titled, *Rate Review Petition* ("July 3 Motion"), through which LUMA filed on a System Wide utility level on behalf of Genera PR LLC ("Genera"), the Puerto Rico Electric Power Authority ("PREPA") and itself, a petition for permanent and provisional rates. LUMA filed the Provisional Rate request in recognition of the admonition by the Energy Bureau that any Provisional Rate request should only include expenditures that were high priority and non-controversial and according to Act No. 57-2014¹, which provides that a provisional rate must be just and reasonable.

LUMA requested Provisional Rates to replenish and collect the accumulated balance of the Outage Event Reserve account. LUMA asserted that the fund was systematically underfunded by PREPA in an amount of \$239M, of which LUMA sought \$120M to include partial repayment for past expenditures and \$30M to bring the account to the T&D OMA specified level.

On July 11, 2025 PREPA filed a document titled *PREPA's Motion to Amend Rate Application and Objection to LUMA's Requested Provisional Rate Rider Amount* ("July 11 Motion"), through which PREPA objected to LUMA's Provisional Rate Request on the grounds that LUMA mismanaged the federal funding process which contributed to the current financial crisis and the resulting liability should not be passed on to ratepayers.

On July 14, 2025, Genera filed a document titled *Motion in Compliance with the July 14 Hearing Agenda Questions to Genera Related Provisional Rate* ("July 14 Motion"), through which, Genera explained and supported its request for funding of Genera's Outage Event Reserve Account and Generation Maintenance Reserve in the amount of \$30M and \$25M respectively in the Provisional Rate.

On July 31, 2025, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("July 31 Resolution"), through which, the Energy Bureau established the Fiscal Year 2026 Provisional Rates and the Fiscal Year 2026 Provisional Budget. The Energy Bureau rejected the requests by LUMA and Genera for funding of the reserve accounts through the Provisional Rate. In their place, the Energy Bureau established a single, system wide Emergency Reserve Account ("ERA"), funded at \$20MM.

II. Discussion and Clarifications

The Hearing Officer convened a conference on August 6, 2025, to address questions about the ERA. The Energy Bureau issues the following clarifications to provide certainty and

¹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").

ensure disciplined use of emergency funds, consistent with the July 31 establishment of the ERA.

A. Relationship to OMA Reserve Accounts

1. **Not a replacement in kind.** The ERA is not a replenishment or permanent substitute for reserve accounts contemplated by the OMAs (e.g., LUMA's Outage Event Reserve or Genera's Generation Maintenance Reserve). Replenishing OMA based reserves will be addressed in the permanent rate phase of this proceeding.
2. **Systemwide access funded through base rates.** The ERA exists to provide system level emergency liquidity funded through base rates; it reduces the need for duplicative, incremental operator level reserves during the provisional rate period.
3. **Existing Genera buffer.** The Energy Bureau notes that Genera already maintains a Generation Maintenance Reserve with a balance exceeding \$10 million. That operator level balance remains Genera's primary buffer for unplanned maintenance.
4. **Contract reference.** LUMA's asserted \$30 million minimum for its outage reserve arises from T&D OMA § 7.5(d)(ii).

B. Good-faith expectation and certification.

Access to the ERA rests on good-faith use. A petitioner must not seek ERA reimbursement for costs already funded—or simultaneously claimed—from an OMA reserve or any other source. The sworn statement required with an ERA petition is expanded to certify that the requested costs (i) cannot be covered by the approved operating budget, (ii) are not available from another source (including insurance, grants, or operator-level reserves), and (iii) have not been, and will not be, funded from any OMA or Energy Bureau established reserve fund.

C. No automatic replenishment.

The Energy Bureau established the ERA as a stand-alone account, with funding for the period of Provisional Rates. The account is funded through base rates and is not intended to be replenished as used. If an emergency situation requires funds over those available in the ERA, upon application by LUMA, Genera or PREPA for emergency funding, the Energy Bureau will take immediate action to address the petition.

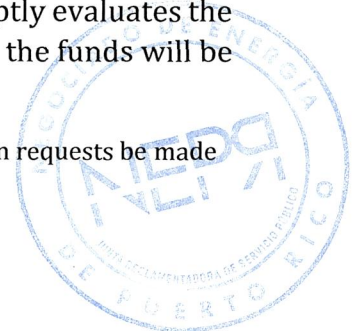
D. Prior approval required.

The Energy Bureau declines to adopt any "notice-and-spend" mechanism. Withdrawals from the ERA require prior, case-specific authorization to confirm that the event qualifies for ERA treatment and to prevent overdrawing the account in the face of simultaneous requests.

E. Request and Disbursement Process; Timing

1. **Petition contents (baseline).** A request to use ERA funds must include: (i) a full description of the emergency event, (ii) a detailed, itemized cost estimate, and (iii) a sworn statement that the costs cannot be covered by the petitioner's approved operating budget.
2. **Petition contents (expanded in this Order).** The sworn statement in item (iii) is expanded as stated in § II.B.
3. **Procedure.** ERA requests will be processed on an expedited basis similar to budget amendment petitions:² the petitioner files, the Energy Bureau promptly evaluates the submission (and may seek targeted supplements), and, if approved, the funds will be

² The timeframe within which the Energy Bureau requires that amendment or reallocation requests be made would not be applicable to requests for ERA funds.



allocated to the petitioner's budget for the specified purpose and available subject to standard processing and any applicable conditions.

4. **Administration.** PREPA administers the account in trust and is responsible for maintaining the ERA account; approvals for withdrawals rest exclusively with the Energy Bureau.

F. Evidentiary Threshold and Urgency Triggers

Case specific- showing. The Energy Bureau was purposely not explicit in the criteria it established for access to funding through the ERA and deliberately avoided rigid, pre-set triggers. Petitioners must make a case -specific showing of good cause that the event is **extraordinary** and of **high impact**, and that the costs exceed normal operating budgets. In establishing the Provisional Rate, which includes the ERA, the Energy Bureau sought to ensure that any included expenditures encompassed high priority and non-controversial items and did not create an unnecessary or excessive financial burden for ratepayers.

The Energy Bureau specified that LUMA, Genera and PREPA would require case-specific authorization to access the ERA. Depending on the case specific details, this could encompass some or all of the criteria in the OMAs for access to the Reserve accounts. It is incumbent on LUMA, Genera and PREPA to make a good faith determination of whether a proposed expenditure justifies a request for access to the ERA. The requesting party must then, on a case specific basis, make showing good cause and support its request to the Energy Bureau.

The Energy Bureau will not pre-judge or establish pre-conceived criteria for access to the ERA. LUMA, Genera and PREPA are the most qualified parties to make that initial decision. The Energy Bureau, as regulator, will assess that determination by LUMA, Genera, and PREPA, and balance their demonstrated need against the appropriateness of requiring customers to bear the expense under priority needs of the electric system for safe and reliable electric service, at reasonable rates.

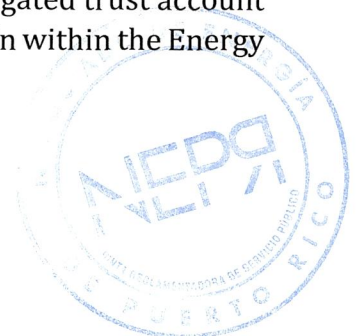
III. Conclusion

The Energy Bureau clarifies the ERA's purpose, access criteria, and administration. The ERA is a system-wide, restricted emergency fund—not an operator-level replenishment—available upon a case-specific showing of emergency need that exceeds normal budgets. The expanded certification adopted protects against double recovery and helps ensure that customers pay only for necessary, urgent expenditures, needed for safe and reliable electric service, during the provisional period.

A. Funds Request. To request ERA funds, LUMA, Genera, and/or PREPA **SHALL** file a petition with the Energy Bureau. The petition **SHALL** include, at a minimum:

1. **Event Description.** A full description of the emergency event necessitating the request.
2. **Itemized Estimate.** A detailed, itemized estimate of the required funds.
3. **Sworn Statement.** A sworn statement certifying that the requested costs (a) cannot be covered by the petitioner's approved operational budget, (b) are not available from any other source (including insurance, federal or other grants, or any OMA-based reserve), and (c) have not been and will not be accessed from any OMA or Energy Bureau established reserve fund.

B. Administration. PREPA shall continue to maintain the ERA in a segregated trust account as established in the July 31 Order. Authorizations for withdrawals remain within the Energy Bureau's exclusive purview.

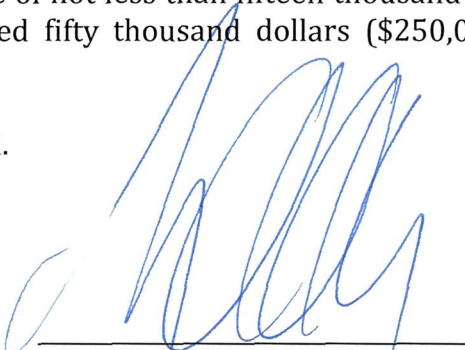


C. Applicability in Provisional Period. The policies and procedures in this Order apply only during the provisional-rate period addressed by the July 31 Order. Issues of replenishment of operator-level reserves and longer-term emergency-funding mechanisms will be decided in the permanent rate phase.

The Energy Bureau **WARNS** LUMA, Genera and PREPA that, in accordance Art. 6.36 of Act 57-2014:

- (i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions from ten thousand dollars (\$10,000) up to one hundred twenty-five thousand dollars (\$125,000) per day; and
- (ii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than fifteen thousand dollars (\$15,000) nor greater than two hundred fifty thousand dollars (\$250,000), at the discretion of the Energy Bureau.


Be it notified and published.




Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 10, 2025. I also certify that on September 10, 2025 I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau, and a copy of this Resolution and Order 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; katuska.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; hrivera@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;



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I sign this in San Juan, Puerto Rico, today September 10, 2025.



Sonia Seda Gaztambide
Clerk

