

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

NEPR

Received:

Sep 26, 2025

12:08 PM

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO. NEPR-AP-2023-0003

SUBJECT: LUMA's Motion Regarding Witness
Panels and Other Procedural Matters

**LUMA'S MOTION REGARDING WITNESS PANELS AND OTHER PROCEDURAL
MATTERS**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU, AND ITS HEARING
EXAMINER, SCOTT HEMPLING:**

COME NOW LUMA Energy, LLC ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo"), (jointly referred to as "LUMA"), and respectfully state and request the following:

1. On September 16, 2025, Hearing Examiner, Scott Hempling, circulated an email to counsel for all parties involved in the captioned proceeding, outlining the initial steps for organizing the evidentiary hearing panels. In this communication, he provided a draft list of proposed panel topics and instructed each party to populate the list with the names of their proposed witnesses for each panel. The Hearing Examiner requested that parties submit their redlined versions of the panel roster by September 19, 2025, emphasizing that this process would facilitate the creation of a panel schedule and help ensure all participants have adequate notice of their appearance dates.

2. In compliance therewith, on September 19, 2025, LUMA submitted its proposed witnesses for each panel, as did the other parties.

3. On that same night, the Hearing Examiner sent a new email to all parties, acknowledging receipt of the panelist lists and provided initial feedback, noting that some panels

had an excessive number of proposed participants, which could hinder the panels' effectiveness and efficiency. The Hearing Examiner emphasized that the purpose of the panels is to apply the expertise of the participants to the existing record, not to introduce new information. Consequently, the Hearing Examiner invited the parties to file ideas, proposals and suggestions regarding the composition and organization of the panels by formal motion. He also encouraged the parties to work toward reaching agreement on panelist selection, if possible.

4. On September 24, 2025, Genera PR LLC ("Genera") filed a *Motion in Compliance with Hearing Examiner's Directive on Witnesses Panel Composition for Rate Case* ("Genera's Motion"). In sum, Genera supports limiting most panels to two or three witnesses but highlights the unique complexity of the Generation Cost Panel, where a broader range of expertise may be required due to the diverse topics involved. To address this, Genera proposes a structured approach: advance identification of specific topics and questions by the panelists, phased witness testimony organized by subject area, and flexibility to add or substitute witnesses in special circumstances. Genera posits that this method aims to balance efficiency and fairness, ensuring that the Energy Bureau receives targeted, relevant testimony while protecting the parties' due process rights and maintaining the integrity of the hearing record.

5. Similarly, on September 24, 2025, National Public Finance Guarantee Corporation, GoldenTree Asset Management LP, Syncora Guarantee, Inc., Assured Guaranty Inc., and the PREPA Ad Hoc Group ("Bondholders"), filed an *Informative Motion, Objections, and Requests for Clarification* ("Bondholders' Motion").¹ In what is relevant to this Motion, the Bondholders

¹ On that same date, the Puerto Rico Electric Power Authority ("PREPA") filed *Motion for Extension of Time to Comply with September 19th Order Regarding Evidentiary Hearing Panels*, whereby it requested an extension of time until October 1, 2025, to submit its motion in compliance with the Hearing Examiner's September 19th directive. The Hearing Examiner, by email dated September 25, 2025, granted PREPA a shortened extension until September 26, 2025, at 3:00 p.m.

raised several objections and requests for clarification. Specifically, they objected to the inclusion of “surprise” witnesses – i.e. those who did not submit written direct testimony by the established deadlines – arguing that allowing such witnesses would violate due process and undermine the fairness of the proceedings. The Bondholders further requested that PREPA reduce its newly designated witnesses and clarify the status of certain witnesses who submitted direct testimony but do not appear on the master panel roster. The Bondholders’ Motion also raised concerns with the improper reservation by PREPA and Instituto de Competitividad y Sostenibilidad Económica de Puerto Rico (“ICSE”) of witnesses for future designation.

6. LUMA respectfully joins in the objections raised by the Bondholders regarding the improper designation of new witnesses who did not submit written direct testimony by the applicable deadlines, as set forth in Section II(a) of the Bondholders’ Motion. Allowing such “surprise” witnesses would undermine the fairness and integrity of the evidentiary process, depriving parties of the opportunity to prepare for meaningful cross-examination and violating fundamental due process principles.

7. Art. II, Sec. 7 of the Constitution of the Commonwealth of Puerto Rico establishes the right of every person to be guaranteed due process of law as a condition for being deprived of his property or liberty. *See also Fuentes Bonilla v. ELA*, 200 DPR 364, 394 (2018). The Puerto Rico Supreme Court has recognized due process in administrative proceedings as requiring “a fair and impartial process that respects the dignity of affected individuals.” *López Vives v. Policía de PR*, 118 DPR 219, 231 (1987). Among the guarantees that make up due process of law, jurisprudence has recognized the right of the parties to confront the evidence presented against them. *P.N.P. v. Rodz. Estrada, Pres. C.E.E.*, 123 DPR 1, 35 (1988). In ensuring due process guarantees, parties should not be given a *pro forma* opportunity to present and rebut evidence but

be able to do so effectively. *See Rentas Nieves v. Betancourt Figueroa*, 201 DPR 416, 429 (2018) (in the context of a child custody proceeding); *Ortiz Cruz v. Junta*, 101 DPR 791, 795 (1973) (in the context of an administrative proceeding).

8. LUMA further concurs with the PREPA Bondholders' concerns in Section II(c) regarding PREPA's and ICSE's reservation of the right to identify "surprise" witnesses at a later date. This practice is inconsistent with the orderly administration of these proceedings and prejudices the ability of all parties to prepare for the hearing.

9. As the Bondholders recognize, LUMA's designation of Sarah Hanley and Miguel A. Sosa Alvarado as panelists does not fall within the scope of the "surprise" witness category, as it responds to said witnesses serving as substitutes for prior witnesses who had already submitted written direct testimony. The same goes for the designation of Juan Saca, whose testimony for the Conflicts of Interest panel was timely submitted on September 22, 2025 as directed by the Hearing Examiner. *See* Bondholders' Motion, at n. 15 and 16.

10. LUMA additionally notes – as it did in its September 19th submission – that its own witness list remains subject to change as it is in the process of developing sur-rebuttal testimony.

11. LUMA also echoes the logistical concerns raised in Section II(d) of the Bondholders' Motion regarding the adequacy of the hearing venue, and respectfully requests that the Hearing Examiner and the Energy Bureau consider that space limitations in the Energy Bureau's hearing room may limit the parties' effective participation in the evidentiary hearing.

12. Finally, LUMA supports Genera's proposal to require a more detailed list of topics for each panel, which would facilitate the efficient designation of no more than three witnesses per panel, as contemplated by the Hearing Examiner. LUMA welcomes the opportunity to discuss this proposal in the September 28th technical conference.

13. Finally, LUMA observes that the Hearing Examiner has already made clear that non-witness panelists are not permitted to introduce new facts into the record. If the intended role of these panelists is merely to pose questions, such questioning can be accomplished through cross-examination. If their purpose is to offer opinions on the evidence, those arguments are more appropriately presented in post-hearing briefs.

WHEREFORE, LUMA respectfully requests that the Hearing Examiner **take notice** of the above; and **provide clarifications** pursuant to the objections and proposals by PREPA Bondholders and Genera, which LUMA echoes herein.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26th day of September, 2025.

WE HEREBY CERTIFY that this Motion was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Notice will be notified to Hearing Examiner, Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record. To wit, to the *Puerto Rico Electric Power Authority*, through: Mirelis Valle-Cancel, mvalle@gmlex.net; Juan González, jgonzalez@gmlex.net; Alexis G. Rivera Medina, arivera@gmlex.net; Juan Martínez, jmartinez@gmlex.net; and Natalia Zayas Godoy, nzayas@gmlex.net; and to *Genera PR, LLC*, through: Jorge Fernández-Reboredo, jfr@sbgblaw.com; Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com; Maraliz Vázquez-Marrero, mvazquez@vvlawpr.com; ratecase@genera-pr.com; regulatory@genera-pr.com; and legal@genera-pr.com; *Co-counsel for Oficina Independiente de Protección al Consumidor*, hrivera@jrsp.pr.gov; contratistas@jrsp.pr.gov; pvazquez.oipc@avlawpr.com; *Co-counsel for Instituto de Competitividad y Sustentabilidad Económica*, jpouroman@outlook.com; agraitfe@agraitlawpr.com; *Co-counsel for National Public Finance Guarantee Corporation*, epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; robert.berezin@weil.com; Gabriel.morgan@weil.com; Corey.Brady@weil.com; *Co-counsel for GoldenTree Asset Management LP*, lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; iglassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; *Co-counsel for Assured Guaranty, Inc.*, hburgos@cabprlaw.com; dperez@cabprlaw.com; mmcgill@gibsondunn.com; lshelfer@gibsondunn.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; thomas.curtin@cwt.com; *Co-counsel for Syncora Guarantee, Inc.*, escalera@reichardescalera.com; arizmendis@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; *Co-Counsel for the PREPA Ad Hoc Group*, dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; david.herman@dechert.com; michael.doluisio@dechert.com; stuart.steinberg@dechert.com; *Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica*, nancy@emmanuelli.law; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; *Official Committee of Unsecured Creditors of PREPA*, jcasillas@cstlawpr.com; jnieves@cstlawpr.com; *Solar and Energy Storage Association of Puerto Rico*,

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