

**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
Requiring Response to ROI #NPFGC-of-
GENERA-CAPEX-31

**Hearing Examiner's Order Requiring Response to ROI #NPFGC-of-
GENERA-CAPEX-31**

National Public Finance Guarantee Corporation (National) requested from Genera this information:

For each of Fiscal Year 2023, 2024, and 2025, please provide Genera's:

- (i) total actual capital project spending, federally funded;*
- (ii) total actual capital project spending, non-federally funded;*
- (iii) total budgeted/planned capital project spending, federally funded; and*
- (iv) total budgeted/planned capital project spending, non-federally funded.*

After discussions with Genera, National limited the request to 2024 and 2025.

Genera objected on grounds of relevance (the requested data “falls outside the relevant test year and review period”) and “unnecessary burden” (the request “require[es] the compilation of information not material to the base rate determination”). The full Genera-National dialogue appears in the Appendix.

This is not a close question.

- **Relevance:** Information on recent spending—amounts budgeted and spent—often helps to explain the reasonableness of proposed prospective spending. An apartment building owner planning the next three years’ capital spending will consider recent spending—both to determine what projects are necessary; and to assess, based on prior experience with project completion, the prospective plan’s executability.
- **Burden:** Genera gave no information about burden. It said only that the burden was unnecessary because the information was irrelevant. By logic, this argument goes out the same window as the relevance argument.

The cause of this dispute was thoughtless boilerplate, remote from the realities of just-and-reasonable ratemaking. It wasted counsel's and my limited time. I require Genera to provide the response no later than **Wednesday, Oct. 1, 2025, at 5.00pm Atlantic.**

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on September 30, 2025. I also certify that on September 30, 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; 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; 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;

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I sign this in San Juan, Puerto Rico, on September 30, 2025.





Sonia Seda Gaztambide
Clerk

Appendix
Official Record of the Discovery Dispute

ROI #NPFGC-of-GENERA-CAPEX-31 Author: National Public Finance Guarantee Corporation

Category: Capital Expenditures

Recipient: Genera

Due Date: Sep. 29, 2025

For each of Fiscal Year 2023, 2024, and 2025, please provide Genera's:

- (i) total actual capital project spending, federally funded;
- (ii) total actual capital project spending, non-federally funded;
- (iii) total budgeted/planned capital project spending, federally funded; and
- (iv) total budgeted/planned capital project spending, non-federally funded.

Objection

Sep. 24, 2025 Pending Response

Objection From: Genera

Genera filed an objection. National Public Finance Guarantee Corporation must respond by Sep. 29, 2025.

Objection Details:

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: Objection to NPFGC-of-GENERA-CAPEX-31

TO: National Public Finance Guarantee Corporation (“NPFGC”)

Through counsel: Corey Brady, corey.brady@weil.com

FROM: Genera PR, LLC (“Genera”)

Through counsels: Maraliz Vazquez-Marrero, mvazquez@vvlawpr.com and Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com

DATE: September 23, 2025.

Genera PR LLC (“Genera”), by and through its attorneys, and pursuant to Regulation No. 8543 of the Puerto Rico Energy Bureau, hereby objects and responds to the National Public Finance Guarantee Corporation (“NPFGC”) September 19, 2025 Request for Information identified as “NPFGC-of-GENERA-CAPEX-31” (“ROI”) as follows:

GENERA’S OBJECTION TO NPFGC SEPTEMBER 19TH REQUEST ON GENERA’S PROVISIONAL RATE REQUEST

Genera PR, LLC (“Genera”), in its capacity as the agent of the Puerto Rico Electric Power Authority (“PREPA”), respectfully submits this objection to the discovery requests served by NPFGC on September 19, 2025, in the context of the rate review proceeding *In Re: Puerto Rico Electric Power Authority Rate Review*, Case No. NEPR-AP-2023-0003.

1. ROI NPFGC-of-GENERA-CAPEX-31 requests the following information for Fiscal Years 2023, 2024, and 2025:
 - i. total actual capital project spending, federally funded;
 - ii. total actual capital project spending, non-federally funded;
 - iii. total budgeted/planned capital project spending, federally funded; and
 - iv. total budgeted/planned capital project spending, non-federally funded.

2. Genera objects to this ROI because it improperly seeks information that falls **outside the relevant test year and review period** applicable to this rate case.
3. The scope of this proceeding, as clarified by the **Puerto Rico Energy Bureau (“PREB”) Hearing Examiner’s Order dated August 20, 2025 (Order Canceling Conference; Clarifying Scope of Rate Case)**, is limited to establishing base rates for the upcoming fiscal periods under review. Historical capital expenditure data from Fiscal Years (“FY”) 20243 through 2025 have been provided to the Contract Administrator as part of the LG-OMA requirements but are not part of the designated evidentiary scope for the determination of the FY2026 thru FY2028 Optimal and Constrained Budgets that are properly before the Bureau.
4. Genera further objects because each of these requests imposes an **unnecessary burden** on Genera, requiring the compilation of information not material to the base rate determination.
5. Genera also objects because the requested information is not pertinent and **does not contribute to the Bureau’s statutory evaluation of the reasonableness and prudence of the FY2026 thru FY2028 Optimal and Constrained Budgets**.
6. Accordingly, Genera’s specific objections are as follows:

- i. **(i) and (ii) Total actual capital project spending (federally and non-federally funded) for FY2023 and FY2024:**

Objection. These requests fall outside the time frame relevant to this rate case and are thus irrelevant. The Bureau is not reviewing actual expenditures from prior fiscal years but rather the reasonableness and prudence of the budgets for the test year and forward-looking periods. Moreover, Genera began as operator of the Legacy Generation Assets in FY2024.

- ii. **(iii) and (iv) Budgeted/planned capital project spending for FY2023 and FY2024 (federally and non-federally funded):**

Objection. These requests are also outside the scope of the relevant period and are thus irrelevant. Budgeted amounts from prior fiscal years do not inform the rate determination currently under review and improperly expand discovery into matters not designated for this proceeding. Again, Genera began as operator of the Legacy Generation Assets in FY2024.

Finally, Genera expressly reserves the right to **supplement, amend, clarify, or revise** any objections or responses provided herein and to assert additional objections in one or more supplemental submissions. Nothing contained in this response shall be construed as a waiver of Genera’s rights under the LGA OMA, nor as an acknowledgment that the information requested is relevant, discoverable, or admissible in the current proceeding.

WE HEREBY CERTIFY that, pursuant to the Hearing Examiner's April 25th and June 17th Orders, this Objection will be filed using the Accion Discovery platform, which will send notices to NPFGC, as issuer of NPFGC-of-GENERA-CAPEX-31. This Objection and Response will be accessible to the rest of the participants on the Accion Discovery platform.

Author Response:

Counsel for National and Genera are conferring regarding this objection. However, because counsel for Genera indicated today that they will not have a response from their client until Monday - which is the default deadline for the objection to be sent to the Hearing Examiner for resolution - National submits this brief response to preserve its rights.

Genera objects to this ROI on three grounds: relevance, burden, and, as to FY 2023, that Genera was not yet generation operator in FY 2023. The first two objections are unfounded; as to the third, National withdraws the request as to FY 2023 based on Genera's representation that it does not have data from that period.

Relevance

First, at a high level, Genera's relevance objection is misplaced and, if applied, would result in the exclusion of a large amount of the evidence in this proceeding. Genera argues that because this case is considering what rates to set for prospective years FY 26, 27, and 28, information about the past is irrelevant. Yet, the rate proponents (including Genera) each rely extensively on information about the past in their application, including for example how the system was maintained and operated, how the assets have changed over time, the kind of work they (or PREPA) did, and more. Many of their projections and budget estimates are likewise based on and/or extrapolated from past data. If Genera's relevance objection were accepted, none of this information would be relevant. That cannot be right. Information about the past is relevant to what is needed for the future.

Second, at a more granular level, the requested information is specifically relevant to testimony put in by the Bondholders, i.e. Mr. Hogan's testimony on executability. The rate proponents' ability to execute on the budget levels they have requested is, of course, highly relevant. Information about Genera's ability, to date, to execute on its budget is directly relevant to Mr. Hogan's analysis of whether and to what extent Genera will be able to execute on its (much larger) requested budget.

Burden

The points above regarding relevance are particularly powerful given that relevance and burden are considered in tandem - and here the burden of providing the requested information is de minimis. In its objection, Genera admits that it has already provided the requested information "to the Contract Administrator [P3] as part of the LG-OMA requirements." If Genera has already provided the requested information to another party, then it can simply re-produce that information to National here.

Moreover, National specifically tailored this ROI to only request *total* capex amounts across four areas per fiscal year, thus minimizing any burden of generating detailed spreadsheets. To respond, Genera would need only provide four numbers, for two fiscal years (so eight numbers total). No narrative or spreadsheet is required. The burden is minimal.

Finally, National notes that LUMA already publicly reports this information quarterly and annually. It seems natural to expect Genera, the other private operator, to provide similar information.

FY 2023

Genera objects that it began as generation operator in FY 2024. Assuming that Genera thereby means to state it does not have the requested information for FY 2023, National will withdraw the ROI as to FY 2023. Thus, Genera would only need to produce the information for FY 2024 and 2025, further minimizing any alleged burden.