

**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 Rate
Case Procedures

Hearing Examiner's Order on Rate Case Procedures

This Order on rate case procedures updates and replaces the comparable topics addressed by my Order of September 29. That prior order's discussion of substantive topics (relationship of rate case to metrics case, relationship of FY26 to FY27 and FY28, the role of "solar" in the rate case, and consideration of legacy debt) remains in place.

Appended to this Order is a revised Appendix A—Exhibits: Process for Numbering and Admitting. In that Appendix, revisions from the version circulated on September 29 are highlighted.

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Procedural schedule: I am revising the schedule as follows (please read carefully, as it differs from what I said at the September 29 conference):

- **Oct 3-6:** PREB consultant reports on rate design, energy efficiency, electric vehicles, revenue decoupling.
- **Oct. 10:** PREB consultant reports on costs, overall revenue requirement.
- **Oct. 27** (instead of Thurs Oct. 23) Intervenor's rebuttal to PREB consultant reports.
- **Oct. 30** (existing date): Applicants' surrebuttal on debt, rate design, and decoupling. For these subjects, I am maintaining the existing date because (a) the PREB consultant reports on rate design and energy efficiency will issue by the original date of October 6; and (b) there will be only limited PREB consultant discussion of debt.
- **Nov. 3** (instead of Thurs Oct. 30): Applicants' remaining surrebuttal.

Panels: I am limiting each panel initially to two witnesses per party, restricted to witnesses who submitted prefiled testimony. As discussed at the September 29 conference, I will invite additional utility panelists when necessary to supplement contributions from a utility's original two panelists.

- Parties that submitted more than two names: Email me your two witnesses for each panel by **this Friday 5:00pm**.
- For any additional panelists resulting from the intervenor rebuttal or applicant surrebuttal, email those to me within 24 hours of the submission date. Email to me only. I will inform all others.
- Mr. Báez, Genera's VP of Public and Government Affairs, will appear on the Overhead and Miscellaneous panel.
- I may allow panelists to question other panelists, but will not allow questions to become arguments.
- At some point in October I will provide definitions of panel purposes. Before each panel, though it might be only the night before, I will circulate an agenda of subtopics for that panel.

Exhibits: For exhibit procedures, see **Revised Appendix A** attached to this Order. Again, highlighted areas in Revised Appendix A reflect changes from what I circulated on Monday, September 29.

- By today's Order, I am deeming all prefiled testimony and accompanying materials, already submitted and to be submitted, as presented for identification and proposed for admission. Guidance for numbering these materials as exhibits appears in Part II of Revised Appendix A.
- *PDF items:* For pdf documents delivered to the Accion platform, "save as" PDF; no scanned copies. For documents that originated in Word and not already submitted, email the final Word version to all.
- *Exhibit numbers for forthcoming prefiled testimony:* Mr. Brady will coordinate sequential numbering of Intervenors' rebuttal testimony, beginning with the number following the last PREB Consultant number. LUMA's counsel will coordinate the numbering of Applicants' surrebuttal, starting with the number following the last Intervenor number.
- *Bench exhibits:* In late October or early November, I will circulate a list of ROIs and responses, selected by PREB consultants, that I wish to include in evidence

as bench exhibits. Parties will have an opportunity to object. I will rule on objections before hearing.

- *Mid-hearing materials:* If you want them marked for identification during the hearing, upload them to the platform no later than 8:00 p.m. Atlantic the night before. Fail to do so? Risk rejection, but at least bring enough paper copies to the hearing for Commissioners, Hearing Examiner, all parties, and the official record.

Objections to prefiled testimony: Please think very carefully before objecting. Object formally, using the procedures described in Part III.A.1 of Revised Appendix A, per the following deadlines:

- Objections to applicant testimony submitted July 3: **Oct. 20.**
- Objections to intervenor testimony submitted Sept. 2 or 8: **Oct. 20.**
- Objections to PREB consultant reports submitted between now and Oct. 10: **Oct. 20.**
- Objections to intervenor rebuttal testimony submitted Oct. 27: **Nov. 3.**
- Objections to applicant surrebuttal testimony submitted Oct. 30: **Nov. 5.**
- Objections to applicant surrebuttal testimony submitted Nov. 3: **Nov. 7.**

Nonadversarial cross (sometimes called friendly cross): No one has a right to question an allied witness. I will allow it if I find it useful.

Administrative notice: Ms. Vásquez will coordinate and compile a list of all documents for which parties want administrative notice taken. She will submit the list to me by **November 3.** She can do so in stages. That list should identify any items to which a party objects, with the name of the party. Ms. Mercado might circulate guidance on permissibility. No ccs to me please. I will create a separate procedure for administrative-notice documents identified by the Energy Bureau or its consultants.

Witnesses adopting others' testimony: Submit formally a motion, witness affirmation, and witness credentials, by **October 15.**

Witnesses whom no one wishes to cross-examine: Mr. Brady will survey parties, starting now and after each new testimony submission, to make a list. Inform me at each stage by email (copy all); submit the final list to me by **November 7.**

Remote questioning by attorneys: There is no entitlement. Mr. Brady will compile these requests (attorney and panel) and submit to me in stages, with the final set of requests (relating to applicants' surrebuttal testimony) submitted to me by **November 3**.

The "Direct Testimony" ritual: Eliminated. A week or so before the hearing, I will by order admit all prefiled testimony not subject to objection, "as if the witness presented every word orally." At the hearing, I will swear all witnesses in, then questioning will begin.

Solar issues: LUMA counsel will talk with SUN and SESA counsel to determine what if any substance should be excluded from the latter two parties' prefiled testimony. Submit to me the solution, including any objections for me to resolve (try for none), by **October 15**.

Hearing attire: Comfortable, not formal.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on October 1st, 2025. I also certify that on October 1st, 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; 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@sbgbllaw.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;

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I sign this in San Juan, Puerto Rico, on October 1st, 2025.




 Sonia Seda Gaztambide
 Clerk

Appendix A

Exhibits: Process for Numbering and Admitting

The approach described here avoids renumbering the 47 pieces of testimony already submitted, avoids time-consuming “marking for identification” before or during the hearing, and creates a clear platform organization for the parties and the Commissioners. It creates a file system that the Energy Bureau’s appellate team can convert into the format required by the appellate courts. This document has four parts:

- Initiating the process
- Numbering all documentary evidence for identification
- Admitting or rejecting documentary evidence
- Using the Accion platform

This document is the same as that circulated to the parties in the September 29 order, except that new or revised passages are highlighted.

I. Initiating the process

My Order of October 1, 2025, deems all prefiled testimony and accompanying materials as presented for identification and proposed for admission. The process for assigning identification numbers is addressed in Part II below.

II. Numbering all documentary evidence for identification

- A. Per the Schedule in Part III.A.1 below, each party will upload all testimony and accompanying documents, in pdf, into an Accion platform folder labeled “Marked for Identification.”
- B. *File names—use existing numbers:* Each document’s filename will state the presenting entity, followed by a number. To save time, work, and confusion, parties will use the numbering system initiated by the three utilities in their July 3 application. As was done in the application, each party’s first number will be the number that follows the last number of the preceding party. Therefore, here is what we have so far, as a result of the July 3 application:

LUMA 1.0 to LUMA 20.0

Genera 21 to Genera 30

PREPA 31 to PREPA 47

- C. In addition to the **material** labeled as testimony and “exhibits” in the July 3 application, the three utilities included many schedules, worksheets, and other documents. Here is the process for dealing with those documents:

For each document that a utility wants marked for identification and admission (including Schedules A-1 and A-2 (July 16, 2025), the Long-Term Investment Plan (Aug. 19, 2025), and other schedules filed with the testimony on July 3): The utility must assign that document to a sponsoring witness, and label the document using a number that starts with the number associated with the witness’s testimony.

Example: Shannon’s testimony was LUMA 20.0. LUMA would label schedules and other documents not previously numbered, for which Shannon is the sponsoring witness, beginning with LUMA 20.04 (because LUMA has already labeled a document LUMA 20.03).

D. Confidential exhibits: Label them clearly and include a Redacted version. Label as follows: LUMA 11.02 CONFIDENTIAL and LUMA 11.02 REDACTED.

E. CEO testimony: The last July 3 “exhibit” was PREPA 47. So I am designating the CEO testimony due September 22 as LUMA 48 and Genera 49.

F. I am designating intervenor documents as follows:

Bondholders: Hogan BH 50; Hurley BH 51; Tierney BH 52

ICPO Sanabria: ICPO 53

ICSE Cao: ICSE 54

SESA Datta: SESA 55.00 - to 55.02

SUN Faruqui: SUN 56

Walmart Chriss 57.0 - to 57.02

G. The PREB Consultant expert reports will begin with PREB 58.0.

H. The intervenors’ rebuttal testimony numbers will begin with the number that follows the last PREB consultant number. Mr. Brady will convene intervenors after **October 10** (the new deadline for all PREB consultants’ reports) to determine the numbers for this testimony. The Applicants’ surrebuttal materials will begin with the number that follows the last intervenor rebuttal number. LUMA’s counsel will coordinate the surrebuttal numbering.

I. *If a witness’s testimony quotes from an ROI:* Present the ROI (the entire question and answer, including supplemental responses and any follow-up questions and responses) for identification as evidence. To do so, the party has two options: (1) if there are only a few ROIs, append them to the testimony (that combined document then having a single exhibit number); or (2) if there are more than a few ROIs, or if they are lengthy, create a separate numbered document that contains all the ROIs that the witness cites.

Example: If Bondholder witness Tierney (BH 52.00, per above) cites multiple ROIs in her testimony, Bondholders will create a document that contains all ROIs used to support Tierney’s testimony, and label it as BH 52.01.

Note: The only documents that anyone should mark for identification are materials that a party (or a PREB consultant) wants in evidence. So if in the past

few months a party replaced Document X with Document Y (e.g., because Document X had an error), only Document Y needs to be marked because the party is presenting only Document Y for admission. An example is Revised Schedule O-1. Label the revised schedule with the date the revision was submitted in the PREB case file. e.g. LUMA Ex. 20.04 (7/11/25). (If an opposing party wants erroneous Document X in evidence, they can ask the Hearing Examiner to admit it.)

III. Admitting or rejecting exhibits

A. Before the evidentiary hearing

1. Our current plan is to have the Accion platform available by **October 7, 2025**, to receive documents to be marked for identification. For materials submitted through **October 10**, parties must upload them no later than **October 12**. For later-filed materials, parties must upload them **within 24 hours of submitting** the document to the case file.

The Accion platform will produce a master list of all uploaded materials marked for identification.

2. **Objections:** See the Order of October 1 for deadlines. If necessary I will hold a conference to hear arguments. Then I will issue an order admitting or rejecting those disputed items. A party wishing to make an offer of proof of a rejected item must do so within three 3 days of my order.

B. During the hearing

If cross-examiners wish to introduce documentary evidence during the hearing I will require the party to upload that material into the Marked for Identification folder on the Accion platform no later than 8:00 pm Atlantic the night before the date on which the cross-examiner will introduce the document. If I have not already addressed this material, I will rule on the request at the hearing. At that time, I will designate each such document by the cross-examining party and by the next consecutive number.

Example: If the last surrebuttal exhibit was PREPA 71.0, and if LUMA is the first party to cross-examine, LUMA's first cross-ex exhibit would be LUMA 72.0.

IV. Using the Accion platform

A. The Accion platform will have four folders:

Marked for Identification

Admitted as Evidence

Rejected but not subject to offer of proof

Rejected and subject to offer of proof

B. Accion platform functions

1. On a deadline that I establish, all parties will upload their labeled documents in pdf into the folder on the Accion Platform labeled “Marked for Identification” and provide the information required in a-d below to populate the master list.

The Accion platform will produce and continually update a master list of documents. The master list of documentary evidence will include:

- a. Documentary Evidence Number, e.g. LUMA 1.0
 - b. Description, e.g. Direct Testimony, Schedule A-1, or ROIs
 - c. Sponsoring Witness, e.g. Alejandro Figueroa
 - d. Date document was filed in NEPR-AP-2023-0003, e.g., July 3, 2025
 - e. Date document was deemed Marked for Identification, e.g., upload date
 - f. Status: Admitted, Rejected but not subject to offer of proof, Rejected subject to offer of proof
 - g. [Pointer to Ruling Document (e.g., "See Order of," "See Transcript p. 123, ll. 5-15")] [This item is still under discussion.]
2. Someone authorized by the Hearing Examiner, will use the platform to mark the status of each document in the Marked for Identification folder (e.g. admitted or rejected). The platform will sort the documents into the appropriate folders. If documents are rejected and subject to offer of proof, the platform will reflect the status as “proffered.” Documents rejected and

subject to offer of proof will remain in a folder for the appellate record. The person authorized by the Hearing Examiner will use the platform to mark documents admitted or rejected during the hearing on the day the Hearing Examiner rules on the document's admission.

3. At the end of hearing, the Hearing Examiner will set a deadline by which all counsel must confirm the accuracy of (a) Admitted as Evidence and (b) Rejected and Subject to Offer of Proof folders.