

**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
Summarizing Results of October 16 Conference

Hearing Examiner's Order Summarizing Results of October 16 Conference

This Order summarizes the main results of our October 16 conference. If I have omitted any items, please email them to me today, copying all; then I will address.

Tentative plan for constructing the FY26 final order on rates: This plan is Appendix E to the Order Setting Agenda for Conference of October 16, 2025. To add detail: The Hearing Examiner order describing the Energy Bureau's nonbinding decision on revenue requirement would issue in mid-February, after the February 2 deadline for reply briefs. Parties have until **Friday, October 24, 2025, at 5pm** to raise any legal objection to Appendix E.

Solar issues—exclusions from prefiled testimony: Parties will report the outcome by close of business today, **Friday, October 17, 2025**. Thank you for this effort.

Interutility cross-examination: The prohibition against interutility cross-examination, established by my Orders of July 18 and July 21, 2025, applies to each of the three utilities—LUMA, Genera, and PREPA. I will entertain a utility's request to use nonadversarial questioning to add relevant information, or to clarify facts or positions, where that questioning can help the Energy Bureau make decisions.

Objections to already-filed testimony and exhibits: New deadline of **October 25 at 5pm**. Responses due three days later. Respondents should pause because if I rule against an objection I will aim to do so within 24 hours of the objection. The fewer objections, the better.

Confidentiality: By **Monday, October 20 at 5pm**, inform me of anything missing from the list of confidentiality assertions attached as Appendix B to the Order of October 16. On that same day, inform me of any opposition to any confidentiality assertions. For these communications, use email, providing only a list, no argument. Then, seek compromises and report by email by Oct. 24. Is all of Ex. 2.06 truly confidential? Why not redact only the IT lines?

Cooperation panel, conflicts panel: Mr. Agraít will join these panels. His purpose is to add thoughtfulness, not facts. He will work with Ms. Mercado to define that role. I see no problem. One way or another, the Energy Bureau will receive his thinking on these topics. Making him a panel member, subject to questioning by opposing counsel and critique from other panel members, seems better for potential opponents than confining him to briefing.

Panel on debt: No one is proposing a dollar figure. And it is not clear that anyone opposes creating an empty rider. The Energy Bureau can determine the form of a rider, and any amount in it, without questioning a panel. Parties could contribute ideas on rider format via briefs or proposed orders. I therefore, tentatively, see no need for a debt panel and no need for Ms. Frayer to submit intervenor testimony relating to the PREB consultant's comments on debt. Those comments state no more than what others have stated--that until the Title III process ends, there should be no debt amount in the revenue requirement.¹

My tentative thinking leads this tentative conclusion: We don't need a panel on debt. If anyone objects, please inform and explain by formal motion **Friday, October 24, 2025 at 5pm**. Absent a panel, I would of course still allow cross-examination of any witness that testified about debt, if someone deems cross-examination necessary. So the questions are: (a) Who wants to cross which witnesses on debt? (b) Who thinks a panel would be useful?

Panel roster (Appendix C2 to my Oct. 15 order): People mentioned in the footnotes would sit in chairs. I am inviting, but not requiring, their attendance. Their names appear in Appendix C2 because a party requested their participation. They would join the panel if and when I invite them. It would be a panelist's responsibility to state, in response to a question, that one of those people can assist.

Panel roster: Per ICPO counsel's statement, Mr. Cosme Núñez will appear only if he submits rebuttal testimony.

Transmission and distribution panel: Because there is no PREB Consultant report on this subject, there will be no PREB Consultant on that panel.

¹ I have yet to hear, from anyone taking that position, any actual reasoning supporting the "should." What I hear is circular: Question: "Why should the PREB exclude debt subject to Title III?" Answer: "Because the debt is subject to Title III."

The exception is PREPA's Title III counsel, who cited "preemption." But she has failed, twice now, to support her point with any statutory language; or with any reasoning connected to the basic distinction between field preemption and conflict preemption—a distinction that yesterday, to my surprise and disappointment, she was completely unprepared to address. I expect more value from the post-hearing submissions.

Exhibits introduced during the hearing: The revised Appendix A (attached to my October 16 Order), has this language at Part III.B:

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. The platform will assign the next available number according to II C above. If I have not already addressed this material, I will rule on the request at the hearing.

To clarify: I intended this language to apply only to documents that the cross-examiner would use during cross-examination for impeachment. I did not intend with this language to invite new affirmative evidence. So, two points:

- Parties must mark for identification all substantive documentary evidence known before the hearing, per the schedule established in Appendix A.
- Parties must upload impeachment documents into the Marked for Identification folder on the Accion Platform no later than **8 pm** the night before the witness is likely to appear.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on October 17, 2025. I also certify that on October 17, 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; dbilloch@vvlawpr.com;

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I sign this in San Juan, Puerto Rico, on October 17, 2025.




 Sonia Seda Gaztambide
 Clerk