

**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
PREPA Testimony and Legal Discussion on Pensions

**Hearing Examiner's Order Requiring PREPA Testimony
and Legal Discussion on Pensions**

This Order requires PREPA, and invites other parties, to submit prefiled testimony and legal explanations on the pension-related questions attached to this Order. The deadline for those submissions is **Friday, November 14, 2025, at 5pm Atlantic**. The deadline for any rebuttal to or commentary on those submissions is **Monday, December 1, 2025, at 5pm Atlantic**. I expect the panel on pensions to occur around **December 11-12, 2025**.

Because the attachment includes not only factual and policy questions but also legal questions, parties should accompany the testimony with a legal submission. Cross-references between the two documents will help all readers.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on October 27, 2025. I also certify that on October 27, 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;

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I sign this in San Juan, Puerto Rico, on October 27, 2025.




 Sonia Seda Gaztambide
 Clerk

I. Background on entity structure and PREPA liability

- A. Explain the origin and legal structure of the PREPA Employees' Retirement System (SREAE, otherwise known as ERS): When was it established, under what statutory authority, and what is its formal legal relationship to PREPA?
- B. What is PREPA's current estimate of the unfunded pension plan liability? What is the basis for this estimate?
- C. How does that current estimate relate to the proposed recovery amount of \$307 million? Is the \$307 million somehow derived from the total unfunded pension plan liability?
- D. Concerning causes of, and customer responsibility for, the existing pension liability:
 - 1. What does PREPA view as the causes, in what proportions? Consider: (a) initial underpayments by PREPA, (b) insufficient ratepayer support via rate levels, (c) management of the pension funds, (d) incorrect assumption about number and annuity-related characteristics of the retirees, (e) macroeconomic factors, and (f) other factors.
 - 2. By seeking the \$307 million, is PREPA assuming that the statutory just-and-reasonable standard makes ratepayers responsible for filling the gaps attributable to each of the above-listed factors? If so: For each factor what is the legal reasoning by which the ratepayers are responsible?

II. Energy Bureau's authority

- A. Is PREPA ERS unfunded liability a "pre-petition claim" subject to Title III court compromise? Or is it instead a current operating expense?
- B. Is there an inconsistency between two things: (a) viewing this liability as a restructurable legacy debt subject to Title III, and (b) asking PREB to include the full, unmodified recovery in rates as a current operating expense?
- C. If PREB includes the amount in rates, would this action constitute a "recovery" or "payment" on behalf of pre-petition creditors (pensioners) outside the court-supervised bankruptcy process?
- D. Does the automatic stay in some way restrain the PREB from including these amounts in rates?

- E. If the Title III court later reduces pension benefits, what legal and practical actions, if any, are available to PREB to require refunds of amounts that customers paid in excess of the court-approved pension benefits?

III. PREPA's discretion to modify pensions

- A. Is PREPA adding new beneficiaries to the existing defined benefits plan?
- B. Is PREPA adding benefits to the existing defined benefits plan?
- C. If the answer to either of the preceding two questions is yes, is PREPA aware of whether the existence of the Title III process allows or prohibits those actions?
- D. Does PREPA have the legal authority to cease adding beneficiaries and cease adding benefits to existing beneficiaries? Specifically:
 - 1. What is PREPA's legal discretion, under Puerto Rico law and PROMESA, to unilaterally modify the pension benefits of former employees (i.e., current retirees and vested terminated employees)?
 - 2. What is PREPA's legal discretion, under Puerto Rico law and PROMESA, to unilaterally modify the ongoing benefit accruals of current active employees?

IV. Cost composition and financial projections

- A. What are the components of the \$307 million?
 - 1. Which portion is attributable to existing commitments to former employees?
 - 2. Which portion is attributable to existing commitments to current employees?
 - 3. Which portion is administrative costs--and what are the components of those administrative costs?
- B. In addition to the \$307 million, PREPA maintains employees dedicated to retirement administrative functions. For O&M costs relating to administration, PREPA seeks \$11.9 million. Is this \$11.9 million part of the \$307 million?

- C. The \$307 million represents FY2026 requirements. What are PREPA's projected annual cash requirements for FY2027 and FY2028? What are the bases for those predictions?
- D. Concerning mobility transfers (former PREPA employees who have moved to LUMA or Genera): What is the effect on the pension liability? For example:
 - 1. Are these transferred employees still eligible for future benefits but are no longer paying into the system? If so, what is the economic effect on the pension liability?
 - 2. When these transferred employees were PREPA employees, they were paying into a system that funded benefits to current retirees. If these transferred employees are no longer making payments to cover those benefits, three questions:
 - a. What is the amount of funding that PREPA is now missing?
 - b. What is PREPA doing to fill that gap?
 - c. Is that gap the legal responsibility of PREPA? Or is the legal responsibility of PREPA ERS?

V. Administrative efficiency

- A. What information does PREPA have about what actions PREPA ERS is taking in terms of cost-reduction measures, operational reforms, and/or efficiency initiatives?
- B. What actions is PREPA taking to ensure that PREPA ERS is carrying all possible cost-reduction measures, operational reforms, and or efficiency initiatives?

VI. Alternative funding sources, mitigation, and contingency planning

- A. What alternative funding sources beyond electric ratepayers has PREPA evaluated and pursued?
- B. Has PREPA ERS considered integrating its pensioners into Puerto Rico's public pension framework? That framework includes these three main systems:
 - 1. Employees Retirement System (ERS)
 - 2. Teachers Retirement System (TRS)
 - 3. Judicial Employees Retirement System (JRS)
- C. In setting rates that satisfy the statutory just-and-reasonable standard, what if any discretion does the Energy Bureau have in its treatment of pension costs?
- D. If PREB denies or materially reduces the Pension Funding Rider, what immediate, documented contingency plans does PREPA have to prevent disruption of pension payments to current beneficiaries?