

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

NEPR

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IN RE: Puerto Rico Electric Power
Authority Rate Review

CASE NO. NEPR-AP-2023-0003

SUBJECT: Debt Panel

ICSE'S MOTION REGARDING ELIMINATION OF THE DEBT PANEL

TO THE HONORABLE ENERGY BUREAU:

Comes now the **Institute of Competitiveness and Economic Sustainability ("ICSE" as its Spanish acronym)**, represented by the undersigned, respectfully states and prays:

1. On October 23, 2025, the Hearing Examiner issued the *Order Summarizing the October 23 Conference* that stated:

Panels on debt and pension: I am leaning toward eliminating the panels on debt and pension, on grounds that whatever facts the Commissioners need to make decision, those facts exist in documents that will go into the record. Parties can discuss any legal or policy issues in their proposed orders (which will substitute for post-hearing briefs). Anyone opposed to either the elimination of these two panels or the notion of proposed orders in place of post-hearing briefs, submit the opposition by formal pleading by Monday, October 27, 2025 5p.

2. As the Bureau is well-aware, one of ICSE's main interests in intervening in this proceeding is that the Final Rate Order produces a rate that is practicable—that is, *affordable*—for Puerto Rico's economy and its customers. In line with that reasoning, having a record with proposed figures for all revenue requirements is a necessary step.

3. There is uncertainty about the proposed Legacy Debt Rider. Of course, part of

that uncertainty is because there is no Plan of Debt Adjustment approved by the PROMESA Title III Court, but some of it is attributable to the fact that no party to this proceeding has proposed a definite figure amount. Some parties, like PREPA, have suggested a \$0 per kWh rider.

4. Bondholders, on their part, have claimed since July 11, 2025, that “the rate request does not recognize the utility’s outstanding debt, thus ignoring the legal requirement that rates must be sufficient to pay debt service”, but have failed to propose an estimation of the Legacy Debt Rider. *See PREPA’s Bondholders’ Preliminary Response to Provisional Rate Request*, at p. 2 (July 11, 2025). Bondholders make no substitute proposal regarding a Low Scenario, but simply argue that “FOMB’s plan of adjustment premised on the 2025 Fiscal Plan is effectively obsolete, and the \$2.6 billion figure is therefore no longer relevant”. *See Dr. Tierney’s Answering Testimony*. This suggests—but only that, a suggestion—that any Legacy Debt Rider should be based on the Full Scenario of approximately \$8.5 billion.

5. Rate proponents and bondholders alike have taken refuge in ambivalence, avoiding the responsibility of a clear, definitive proposal—effectively inviting the Bureau to determine the rider’s amount without the benefit of evidence or advocacy from those most responsible for it.

6. At the October 23, 2025 hearing, ICSE expressed concern that a definite figure be proposed for the first time in this proceeding in its briefing stage. This concern stems from what would be an untimely request not subject to cross-examination. Our principal concern, however, is that such untimeliness would foreclose any meaningful analysis of the practicability of the potential Legacy Debt Rider.

7. First, we wish to address PREPA's assertions that the Energy Bureau should "exclude the repayment of Legacy Obligations from any practicability analysis in the rate case". See PREPA's *Motion in Compliance with the Hearing Examiner's September 19th Order Regarding Rate Case Panels and PREPA's Objections to the Consideration of Repayment of any Legacy PREPA Obligations and "Legacy Debt Rider"*, at p. 4 (September 26, 2025). To ICSE's understanding, the Hearing Examiner ruled against PREPA's proposed omission when it was stated:

There is an infinite number of ways to build a practicable revenue requirement—one that customers will actually pay—from debt dollars, operational dollars, fuel dollars, and capital expenditure dollars. The FOMB does not build that revenue requirement; the Energy Bureau does.

8. Nonetheless, ICSE wants it to be clear that the scope of the Practicability Panel will not be restricted to address the Legacy Debt Rider's impact on practicability. Accordingly, ICSE clarifies that if that impact can be addressed and analyzed in the Practicability Panel, it has no opposition to eliminating the Debt Panel.

9. In light of the above, and consistent with the previous ruling in the present case, ICSE submits that the practicability analysis should remain comprehensive and inclusive of any proposed Legacy Debt Rider.

WHEREFORE, it is respectfully requested that the PREB take notice of the foregoing and permit practicability analysis of the Legacy Debt Rider.

RESPECTFULLY SUBMITTED.

I **CERTIFY** the present document was submitted electronically in the PREB's filing system and copy sent to the Hearing Examiner and the attorneys of record:

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In San Juan, Puerto Rico, October 27, 2025.

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