COMMONWEALTH OF PUERTO RICO
PUERTO RICO ENERGY BUREAU

IN RE: PUERTO RICO ELECTRIC POWER AUTHORITY RATE REVIEW	**CASE NO.:** NEPR-AP-2023-0003

REBUTTAL TESTIMONY OF Anthony Hurley
October 27, 2025

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I. INTRODUCTION, PURPOSE AND SUMMARY OF TESTIMONY

Q.1 Have you previously testified in this proceeding?

A. Yes, on September 8, 2025, I submitted answering testimony[1] on behalf of National Public Finance Guarantee Corporation, GoldenTree Asset Management LP, Syncora Guarantee, Inc., Assured Guaranty Inc., and the PREPA Ad Hoc Group (collectively, the "Bondholders").[2]

Q.2 Please describe the purpose of your rebuttal testimony.

A. I am responding to the Expert Report of Guímel Cortés on the Matter of Federal Funding,[3] submitted on behalf of the Puerto Rico Energy Bureau (the "Energy Bureau"). Mr. Cortés opines on LUMA, Genera, and PREPA's use of federal funding and makes recommendations to the Energy Bureau on matters related to federal funding.[4,5]

Q.3 Please summarize the key points in your rebuttal testimony.

A. The key points in my rebuttal testimony are as follows:

In **Section II**, I provide a brief overview of the positions in the Cortés report to which I

[1] Answering Testimony of Anthony Hurley, Case No. NEPR-AP-2023-0003, September 8, 2025 (hereafter, "Hurley Answering Testimony"), available at https://energia.pr.gov/wp-content/uploads/sites/7/2025/09/20250908-AP20230003-Answering-Testimony-of-Anthony-Hurley.pdf.

[2] Since I submitted my answering testimony on September 8, 2025, I understand that the Majority Member Ad Hoc Group has also joined the Cooperation Group of Bondholders as of October 1, 2025.

[3] Hearing Examiner's Order Submitting Expert Report of Energy Bureau Consultants: PREB Consultants Exhibit 65, Federal Funding Expert Report of Guímel Cortés, Case No. NEPR-AP-2023-0003, October 10, 2025 (hereafter, "Cortés Report"), available at https://energia.pr.gov/wp-content/uploads/sites/7/2025/10/20251010-AP20230003-HE-Order-Expert-Report-65-65-01.pdf.

[4] The Cortés Report primarily focuses on the use of federal funding by LUMA and Genera, but also discusses use of federal funding directly by PREPA, so the scope of my rebuttal testimony will cover LUMA, Genera, and PREPA together.

[5] I will not submit written rebuttal testimony to the expert report of Justo González, but note that his report largely concurs with my Answering Testimony and is also relevant to the issue of federal funds. For example, he opines that federal funds should not be misdirected to projects with marginal reliability impact, like improvements to the relatively small-capacity hydroelectric fleet owned by PREPA. *See* Hearing Examiner's Order Submitting Expert Report of Energy Bureau Consultants: PREB Consultants Exhibit 64, Generation Expert Report of Justo González, Case No. NEPR-AP-2023-0003, October 17, 2025 (hereafter, "González Report"), available at https://energia.pr.gov/wp-content/uploads/sites/7/2025/10/20251017-AP20230003-HE-order-on-PREB-expert-report-Ex-64-10-files-merged.pdf.

am responding, including the proposed comprehensive review of LUMA and Genera's non-federally funded projects, the creation of a Restricted Federally Funded Capital Account ("RFFCA"), and the parallel use of non-federal funds with federally funded capital programs.

In **Section III**, I explain that while a comprehensive review of proposed non-federally funded capital projects for federal funding eligibility is necessary, this review must also require reliability modeling, proper prioritization, and a demonstration of executability to ensure a prudent use of funds.

In **Section V**, I address Mr. Cortés's recommendation to establish a new ratepayer-funded RFFCA. I explain that such an account is unnecessary given the substantial balances already available in LUMA's Federally Funded Capital Improvement Account ("FFCIA"), in unrestricted cash at PREPA, and from other Commonwealth resources, would duplicate existing liquidity mechanisms such as Working Capital Advances ("WCAs"), and could create moral hazard issues by disincentivizing PREPA and its operators from seeking timely reimbursements or managing cash flow, all at ratepayers' expense.

In **Section** Error! Reference source not found., I discuss the limited use of non-federal funds to accelerate federally funded FEMA Accelerated Awards Strategy ("FAASt") projects, emphasizing that such use should occur only in narrow, well-justified cases under strict Energy Bureau oversight.

II. REVIEW OF CORTÉS REPORT

Q.4 What are the key positions in the Cortés Report to which you are responding?

A. As a threshold matter, Mr. Cortés states that PREPA and its operators LUMA and Genera should maximize the use of federal funding to pay for capital projects before asking

ratepayers to fund capital projects.[6] Mr. Cortés observes that LUMA and Genera have proposed to use "non-federal, customer-funded capital for projects that appear eligible for federal reimbursement," giving examples of a transmission line and generation equipment that are eligible for FEMA funding.[7] I agree with Mr. Cortés's general assessment that LUMA's and Genera's revenue requirements included capital projects that could be paid through federal funding instead of by ratepayers. I previously provided numerous examples of non-federal capital ("NFC") projects, adding up to hundreds of millions of dollars in budget requests from LUMA and Genera, that appear to be eligible for federal funding or are unnecessary or imprudent.[8]

Mr. Cortés then recommends a number of steps that PREPA and its operators should be required to take to ensure they maximize federal funding opportunities on a going forward basis. Specifically, in my rebuttal testimony, I address Mr. Cortés's suggestions that:

1) LUMA and Genera should be required to perform a "comprehensive review" of all NFC capital projects to ensure that they do not overlap with federal funding opportunities, and to move any federally eligible capital projects into the FAASt workflow.[9]

2) The Energy Bureau should require PREPA to create a new ratepayer-funded "Restricted Federally Funded Capital Account" as a temporary liquidity tool to expedite the use of federal funds by LUMA and Genera.[10]

3) PREPA and its operators should be allowed to make targeted use of NFCs to supplement federal funding, under limited conditions and strict Energy Bureau oversight.[11]

[6] Cortés Report, p. 12.
[7] Cortés Report, p. 7.
[8] Hurley Answering Testimony, Sections VI-VIII.
[9] Cortés Report, pp. 2, 12-13.
[10] Cortés Report, pp. 2, 14-15.
[11] Cortés Report, pp. 13-14.

III. THE "COMPREHENSIVE REVIEW" OF LUMA AND GENERA PROJECTS

Q.5 What does Mr. Cortés recommend in terms of a review of LUMA's and Genera's NFC projects?

A. Mr. Cortés proposes that LUMA and Genera be required to conduct a "comprehensive review" of all projects designated for non-federal funding to "cross-reference each project" against the island-wide FAASt master Damage Description and Dimensions list to confirm whether each project may be eligible for federal funding.[12] Mr. Cortés highlights examples of two specific projects—LUMA's proposed "Transmission Line Rebuild of Line 8700," and Genera's "Turbine Drive Boiler Feed Pumps Two Bundle Acquisition"—which appear eligible for funding under the FAASt program but nonetheless were included in LUMA's and Genera's respective requests for NFC funding.[13] I agree with Mr. Cortés's general conclusion that LUMA and Genera should prioritize maximizing the use of available federal funds before seeking recovery from ratepayers, and that requiring a "systematic cross-referencing of the NFC project pipeline" against available federal funding programs will help achieve this goal.[14]

However, I would expand his suggestion about use of outside funding to also include other non-federal resources. As I explained in my Answering Testimony, there are other significant internal and Commonwealth resources that could potentially fund capital projects, such as the Commonwealth's Energy Sector Reserve account ($683 million) and LUMA's FFCIA (~$500 million), among others.[15]

Recently, it has been publicly reported that the DOE will release an additional $365

[12] Cortés Report, pp. 7, 12-13.
[13] Cortés Report, p. 12.
[14] Mr. Cortés discusses use of FEMA, U.S. Department of Energy ("DOE"), and U.S. Department of Housing and Urban Development ("HUD") funds. *See* Cortés Report, pp. 12-13.
[15] Hurley Answering Testimony, Section III and Exhibit 1; *see also* Q&A 8 below.

million to fund practical repairs and emergency measures aimed at "strengthen[ing] the stability" of the electrical grid in Puerto Rico.[16] However, while much of this newly available funding will be used by LUMA to pay for a variety of LUMA projects and initiatives, LUMA has stated that it does not intend to concomitantly reduce its request for ratepayer funding for capital projects.[17] In other words, even though LUMA now has access to a significant amount of new federal funds, they still intend to charge just as much to ratepayers for capital spending. Thus, Mr. Cortés's suggested review must also ensure that use of federal funding actually leads to expense reductions to ratepayers. LUMA and Genera should maximize their use of all of these programs and accounts for their capital budget, before seeking ratepayer recovery.

Q.6 Is the comprehensive review Mr. Cortés proposes sufficient to ensure that LUMA and Genera maximize federal funding opportunities?

A. It is a good starting point, but it is not enough. A comprehensive review process should extend beyond simply cross-referencing LUMA and Genera's capital spending proposals with eligibility for federal funding. Even assuming the projects are eligible for federal funding, the Energy Bureau should not take at face value that LUMA's and Genera's insufficiently supported "wish list" of capital projects is the proper set of executable projects. Just because a project *can* be federally funded does not mean it *should* be federally funded, if those federal funds could be better used to fund other, more-impactful projects.[18]

As I detailed in my Answering Testimony, the prioritization and sequencing of capital

[16] El Nuevo Dia, "Departamento de Energía liberará los $365 millones que estaban destinados a energía solar," October 1, 2025, available at https://www.elnuevodia.com/corresponsalias/washington-dc/notas/departamento-de-energia-liberara-los-365-millones-que-estaban-destinados-a-energia-solar/.

[17] Responses for Information on Permanent Rates, Response: NPFGC-of-LUMA-FEMA-30, Case No. NEPR-AP-2023-0003, PDF pp. 2-3.

[18] The González report points out, for example, that PREPA's proposal to use $1.3B of federal funding on hydroelectric facilities is a misuse of money that could go elsewhere. *See* González Report, p. 13.

projects can have considerable impacts on how the project portfolio as a whole affects key metrics such as reliability.[19] Any capital project proposal should be weighed against the next best alternatives, using quantified estimates of the costs and benefits of each project, particularly in terms of reliability impact on PREPA's system.

Regrettably, LUMA and Genera have not put forth robust reliability modeling—or in the case of Genera, any reliability modeling—that allows for the proper weighing of project alternatives. LUMA has proposed a severely flawed reliability model in this rate case, and it has produced additional incomplete backup in this case, after the filing of my Answering Testimony.[20] I have commented on it in past ROI responses, and reiterate those concerns now.[21] For instance, LUMA's reliability model predicts baseline "natural degradation" that can be negative, is disconnected from LUMA's proposed capital spending, and does not account for the relationship between upstream and downstream assets.[22] In my opinion, the LUMA model is so flawed that it cannot be used to properly compare alternative projects, which is necessary in addition to the cross-referencing proposed by Mr. Cortés.[23]

Meanwhile, Genera does not appear to have any quantitative reliability model, and therefore cannot properly compare reliability alternatives.[24] Therefore, any comprehensive

[19] Hurley Answering Testimony, Section II.
[20] I understand that the Bondholders are continuing to seek backup for LUMA's reliability model, including through multiple ROIs and follow-up questions.
[21] Responses for Information on Permanent Rates, Response: LUMA-of-NPFGC-CAPEX-40, Case No. NEPR-AP-2023-0003.
[22] Responses for Information on Permanent Rates, Response: LUMA-of-NPFGC-CAPEX-40, Case No. NEPR-AP-2023-0003, PDF pp. 3-5.
[23] Responses for Information on Permanent Rates, Response: LUMA-of-NPFGC-CAPEX-40, Case No. NEPR-AP-2023-0003.
[24] Responses to Request of Information NPFGG-of-GENERA-CAPEX-19, Case No. NEPR-AP-2023-0003 ("Genera has been assessing and quantifying the anticipated effects of proposed projects on system reliability and prioritizing them accordingly. Notwithstanding, Genera did not have years of historical data to analyze the estimated reliability impacts for a formal study of proposed projects."); Responses to Request of Information ROI-NPFGG-of-GENERA-CAPEX-19-MTC, Case No. NEPR-AP-2023-0003 ("As previously stated, Genera has been assessing and quantifying the anticipated effects of proposed projects on system reliability and prioritizing them accordingly, even without having performed a formal study.").

review directed by the Energy Bureau should also require LUMA and Genera to construct a robust reliability model(s) so that they can quantify how each proposed project or program will actually improve the reliability of the system and weigh that impact against the program's net costs.

Finally, in addition to the cross-referencing proposed by Mr. Cortés, LUMA and Genera should be directed to rigorously analyze the executability of their proposed project spending, as discussed by Bondholders' witness Mr. Hogan.[25] In addition to prior project execution difficulties Mr. Hogan identified, recent developments raise further concerns in this area, including the layoffs of 160 employees by LUMA, and persistent headcount shortfalls at Genera, as observed by Justo González.[26] Given that the operators' proposed project spending involves material increases in headcount, it is notable that their workforces appear instead to be shrinking.

In sum, LUMA and Genera should be required to confirm whether each project is eligible for federal funding and then demonstrate that each federally funded project is necessary, properly prioritized, developed in adherence with all federal process guidelines, executable, and sequenced to deliver measurable reliability improvements. Simply identifying a project as eligible for federal funding, as Mr. Cortés proposes, is a start but does not establish that the project represents a prudent use of funds. The proposed comprehensive review of all NFC projects should also incorporate robust reliability modeling to ensure that both federal and non-federal funds are allocated efficiently, and in a manner that maximizes

[25] Answering Testimony of Patrick Hogan, Case No. NEPR-AP-2023-0003, September 8, 2025, Section III, available at https://energia.pr.gov/wp-content/uploads/sites/7/2025/09/20250908-AP20230003-Answering-Testimony-of-Patrick-Hogan.pdf.

[26] El Nuevo Dia, "LUMA Energy Lays Off 160 Employees Amid Supposed Cash Crisis," October 17, 2025, available at https://www.elnuevodia.com/english/news/story/luma-energy-lays-off-160-employees-amid-supposed-cash-crisis/; González Report, pp. 42-44.

restoration and reliability of the grid. LUMA, Genera, and PREPA put together the original NFC and federally funded budgets in the rate case, and they should already be trying to maximize the use of federal and other funds. They should also be required, as part of the comprehensive review, to quantify the benefits of their proposed programs, so that neither ratepayer nor federal or other funds are wasted.

IV. THE RESTRICTED FEDERALLY FUNDED CAPITAL ACCOUNT ("RFFCA")

Q.7 What is Mr. Cortés's proposal for the Restricted Federally Funded Capital Account?

A. Mr. Cortés proposes a new rate-rider-funded RFFCA intended to serve as a temporary liquidity mechanism to bridge delays in the federal funding reimbursement process.[27] He proposes that the target funding level of the RFFCA be the sum of three elements: the Liquidity Gap Provision ("LGP"), the Funding Uncertainty Provision ("FUP"), and the Cost-Share Provision ("CSP"), each intended to address a specific alleged timing or funding risk:

1) The LGP is intended to cover alleged short-term cash-flow gaps created by the time lag between FEMA WCA tranches. The amount would be based on average monthly spending on obligated projects multiplied by an assumed reimbursement lag.[28]
2) The FUP is intended to cover the alleged risk that FEMA may deny or delay funding for critical projects. The amount would be determined by multiplying each project's cost by an estimated probability of FEMA denial.[29]
3) The CSP is intended to temporarily advance the 10% non-federal cost share required for FEMA projects in cases where the cost share must be paid before

[27] Cortés Report, p. 2.
[28] Cortés Report, pp. 17-18.
[29] Cortés Report, pp. 17-19.

HUD's CDBG-DR Non-Federal Match Program funds become available.[30] Under Mr. Cortés's proposal, the RFFCA would be funded through a new rate rider applied to customer bills, and the RFFCA would reportedly "act as a regulated, customer-funded liquidity tool to ensure critical work proceeds without costly delays."[31] Mr. Cortés states that the RFFCA "would operate with regulatory guardrails, public transparency, and automatic credit mechanisms that ensure the principal is returned to customers once federal funds are received."[32]

Q.8 Do you have concerns about the necessity of the RFFCA?

A. Yes. I have serious questions about the necessity of the proposed RFFCA given the money that LUMA, PREPA, and Genera already have in their accounts and the money that may be available to them from other sources. Moreover, the RFFCA will not solve the underlying lack of cooperation and coordination between PREPA, its operators, and other parties in the federal funding process that have contributed to PREPA's and its operators' failure to maximize available federal funding.

As I stated in my Answering Testimony, LUMA has an operating account specifically designated for federally funded projects, the FFCIA, which has a current balance of $499.8 million, and an average balance of $591.2 million over the last year.[33] LUMA has stated that "the money in this account is only used in connection with federally funded capital improvements, and that PREPA has preapproved all transfers of monies from this account."[34] To the extent that there are issues with liquidity gaps in the use of federal funding, LUMA

[30] Cortés Report, pp. 17-19.
[31] Cortés Report, p. 14.
[32] Cortés Report, p. 14.
[33] Hurley Answering Testimony, p. 32; Responses for Information on Permanent Rates, Response: NPFGC-of-LUMA-CAPEX-4, Case No. NEPR-AP-2023-0003, PDF pp. 1-2.
[34] Hurley Answering Testimony, p. 32; Responses for Information on Permanent Rates, Response: NPFGC-of-LUMA-CAPEX-4, Case No. NEPR-AP-2023-0003, PDF p. 2.

already has nearly half a billion dollars in a designated account that could be used to solve some of those issues. Although Mr. Cortés does not reference the FFCIA in his testimony, the Energy Bureau should carefully consider what a new ratepayer-funded account would accomplish that LUMA's already-existing, $500 million federally funded account does not.

In addition, there are various other potential sources of funding to bridge short-term federal funding liquidity gaps. First, according to recent documents released by the Financial Oversight and Management Board for Puerto Rico (the "FOMB"), PREPA currently has $200 million in unrestricted cash, far beyond PREPA's internal needs as operator of a small-capacity hydroelectric fleet, which could be deployed to support LUMA's and Genera's federally funded capital programs and address the timing and uncertainty issues that Mr. Cortés has identified.[35] Second, the FOMB also identified that governmental customers currently owe PREPA $83 million in unpaid bills.[36] Governmental customers should pay their bills, providing a ready source of liquidity, rather than shifting those costs to non-governmental customer classes (including residential ratepayers) through the RFFCA. Third, as I discussed in my Answering Testimony, the Commonwealth's $683 million Energy Sector Reserve Fund is another potential source of funding to bridge liquidity gaps.[37] Finally, I understand that the FOMB has identified a $1.3 billion Commonwealth "emergency reserve for disaster-related expenses," which could potentially be a source of funding to bridge liquidity gaps.[38]

[35] Financial Oversight and Management Board for Puerto Rico, "Re: Liquidity Situation, Stabilization and Restoration of Puerto Rico's Energy Grid," October 20, 2025 (hereafter "October 20 FOMB Letter"), p. 3, available at https://drive.google.com/file/d/1S3PsuEmCl-Dxhix-AQLQS7lMVZwMBwKA/view.
[36] October 20 FOMB Letter, p. 2.
[37] Hurley Answering Testimony, Section III and Exhibit 1.
[38] Financial Oversight and Management Board for Puerto Rico, "Commonwealth Financial Plan, Quarterly Report: Q3 FY 2025," 2025, p. 16, available at https://drive.google.com/file/d/1CTBrNMKscT11XFztiiDo5xHsis_4-hU/view.

To illustrate, assuming that all the above sources were fully available to help bridge liquidity gaps associated with federal funding,[39] the total amount would be in excess of $2.5 billion. That amount is far in excess of the likely funding level of the RFFCA, as discussed below.

Finally, there continue to be repeated failures in cooperation and coordination between PREPA, its private operators, and other entities in the federal funding process. As the FOMB [recently] noted, "[t]he pace of FEMA obligations has slowed considerably, extending reimbursement timelines… Currently, at least $745 million in disaster-related expenses from FEMA and Vivienda remain unreimbursed. This is not an isolated issue—it reflects a systemic failure across multiple entities, including LUMA, FEMA, COR3, PREPA, and Vivienda, driven by process inefficiencies and lack of coordination."[40]

According to LUMA, distributions from the current federally funded account are preapproved by PREPA.[41] However, coordination between PREPA and LUMA has been anything but smooth in recent months. The FOMB has noted that "the current lack of cooperation is untenable," and that "[s]ince February 2025, it is clear PREPA's monthly transfers to GridCo [LUMA] are less than GridCo's monthly approved budget, impacting GridCo's liquidity for operations."[42] I have also been informed by Bondholders' counsel that there are multiple ongoing litigations in the Title III court: between LUMA and the P3 Authority (related to LUMA's alleged non-compliance with the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement); between LUMA and the

[39] I do not offer an opinion on whether this is the case, but make this assumption here for illustrative purposes.
[40] October 20 FOMB Letter, p. 3.
[41] Responses for Information on Permanent Rates, Response: NPFGC-of-LUMA-CAPEX-4, Case No. NEPR-AP-2023-0003, PDF p. 2.
[42] October 20 FOMB Letter, p. 2.

Commonwealth Department of Consumer Affairs (related to a liability waiver); and most recently, an administrative expense motion filed by LUMA (related to alleged underfunding of LUMA accounts by PREPA).

If PREPA and LUMA cannot coordinate properly on distributions from existing funding sources and accounts,[43] how would that cooperation improve with a new RFFCA? The RFFCA proposal shifts these financial risks to ratepayers while adding new administrative burdens for PREPA, the operators, and the Energy Bureau. The RFFCA would require various additional steps such as project selection, refund sweeps, and reconciliations, thus increasing workload without directly improving cooperation on how federal funds are managed.

Q.9 Do you have concerns about the quantities of ratepayer funds that would be collected for the RFFCA?

A. Yes. The funding level of the RFFCA would be assumption-driven and speculative. Mr. Cortés has sketched out a design for the RFFCA that includes parameters that would need to be determined by PREB, likely with inputs from the operators.

Specifically, Mr. Cortés proposes that the "Liquidity Gap Provision" be calculated as the product of a) the total combined monthly spending rate from all FEMA-obligated projects multiplied by b) the average federal reimbursement period in months. Mr. Cortés proposes that the calculation be based on an average federal reimbursement lag of 80 days across all projects. However, Mr. Cortés's own report states that "[t]he actual age of individual RFRs will vary based on type (e.g. FAL/FAE vs. Contract expenses), complexity, magnitude,

[43] For example, the FOMB's October 20, 2025 letter to PREPA, LUMA, and Genera identified ongoing issues of data transparency, inconsistent transfers, and poor coordination among PREPA, LUMA, Genera, and other entities. *See* October 20 FOMB Letter, pp. 1-3.

accuracy of RFI responses, and cost analysis requirements."[44] Assuming a constant liquidity gap ignores project-specific variability.

Mr. Cortés proposes that the "Funding Uncertainty Provision" be calculated as the sum, across all "Critical and At-Risk" projects that are "essential for reliability but are not yet obligated by FEMA," of a) the individual project cost multiplied by b) that project's "probability of FEMA denial."[45] Prejudging the probability of FEMA denying a project is inherently speculative. Who would come up with this probability, how would it be determined, and how would it be updated over time as circumstances change?

Finally, Mr. Cortés proposes that the "Cost-Share Provision" be calculated as ten percent of total costs for all federally funded projects "that will require their 10% non-federal match during the period," where "evidence shows a timing gap" between when the match is paid and when HUD CDBG-DR Non-Federal Match Program funds will arrive.[46] However, Mr. Cortés acknowledges that $400 million of HUD CDBG-DR funding remains available. Forcing ratepayers to finance interim obligations unnecessarily duplicates existing funding, particularly given the available liquidity sources discussed above, and leaves ratepayers exposed to repayment delays or inaccuracies.

In total, the RFFCA aggregates three assumption-driven and speculative variables into a single account, which lacks a clear prioritization or sequencing of use. This framework treats any liquidity constraints, which funding already exists to mitigate, as a ratepayer problem, shifting the burden to consumers.

[44] Cortés Report, Appendix B, B-1.
[45] Cortés Report, pp. 18-19.
[46] Cortés Report, pp. 18-19.

Q.10 Do you have a rough estimate for the initial funding level of the RFFCA?

A. Yes. The Cortés Report includes some illustrative values for the parameters used in the proposed RFFCA formula. Using expected values of FEMA-obligated projects and current projects under formulation in conjunction with the illustrative parameter values, I estimate the total funding level that would be required for the RFFCA starting in fiscal year 2027.[47] I provide a full description of my method in **Appendix A.** As seen in **Table 1,** I calculate a $400.4 million total funding level for the RFFCA using Mr. Cortés's assumptions, which is roughly 20% less than the $500 million already in LUMA's FFCIA, and far less than the sum of potentially available liquidity across all sources discussed above (which, illustratively assuming all are available, would exceed $2.5 billion). Again, this result leads me to question the need for the RFFCA.

At the same time, the forecasted rate rider required to fund the RFFCA would add 2.58 ¢/kWh to customer bills in FY2027. For context, a 2.58 ¢/kWh rider would add about $10/month ($124/year) in additional electricity expense for an illustrative household that uses an average of 400kWh per month.

Table 1: **FY 2027 Estimate of the RFFCA Funding Level based on Cortés Report Illustrative Assumptions[48]**

(in US$ millions)	
Liquidity Gap Provision (LGP)	$228.4
Funding Uncertainty Provision (FUP)	$54.2
Cost-Share Provision (CSP)	$117.8
Estimated Total RFFCA Funding Level	**$400.4**
Forecasted Rate Rider (¢/kWh)	2.58 ¢/kWh

[47] These values are necessarily somewhat speculative and imprecise, because both the definition of the underlying federally funded project list and the definition of the design parameters are not fully specified in the Cortés report.
[48] For a full description of sources and methodology, please see **Appendix A**.

Q.11 Do you have concerns about misaligned incentives created by the design of the RFFCA?

A. Yes. The design of the RFFCA is prone to issues of moral hazard, meaning the risk that a party will behave inefficiently because it does not bear the full cost of such behavior. In effect, the RFFCA would provide LUMA, Genera, and PREPA money upfront, which disincentivizes them to seek other sources of working capital or timely reimbursements, given that such reimbursements will eventually be returned to customers. What's more, the input parameters to the funding level of the RFFCA are often variables under LUMA's, Genera, and/or PREPA's control. Therefore, PREB must be careful not to create a design where the operators are rewarded for poor performance or providing inaccurate inputs.

For example, the "Liquidity Gap Provision" increases with the reimbursement lag period. Putting together timely reimbursement packages (receipts, paperwork, etc.) for the WCA program is one of the responsibilities of LUMA, Genera, and PREPA. Thus, if they are tardy on seeking reimbursements, they would perversely receive *more* upfront funds under this provision, creating a disincentive to getting paid quickly. Any allocation to this provision must exclude delays that are within the control of LUMA, Genera, and PREPA.

Likewise, the "Funding Uncertainty Provision" increases with the probability of FEMA denial. Thus, the more speculative the projects that LUMA, Genera, and PREPA propose to FEMA (or the more uncertain they represent such projects to be), the *more* they can collect under this provision, which is a perverse and illogical outcome. The Energy Bureau should incentivize them to submit projects that are likely to be approved.

The "Cost-Share Provision" has the same issue as the Liquidity Gap Provision in that it disincentivizes submission of timely reimbursement packages for non-federal match funding

that would ultimately be paid by HUD. Any allocation to this provision must exclude delays that are within the control of LUMA, PREPA, and Genera.

As designed, the RFFCA is meant to be a temporary stopgap and funds are meant to eventually be returned to customers. If such a program is put in place, it must have strict controls and oversight so that PREPA and the private operators do not intentionally or unintentionally misuse its funds or delay in seeking reimbursements.

V. USING NFCs TO ACCELERATE FAASt PROJECTS

Q.12 What is Mr. Cortés's proposal for parallel use of NFCs and federal funding?

A. Mr. Cortés has proposed use of NFCs and federal funding in parallel to accelerate critical FAASt projects, but only under the Energy Bureau's close supervision.[49] Mr. Cortés testifies that sometimes NFCs are needed to support federally funded projects, and the Energy Bureau could consider these situations on a case-by-case basis.

Q.13 What concerns do you have about the use of NFCs and federal funding in parallel?

A. A limited use of non-federal funding in conjunction with federal funding may be appropriate, but only when there is a demonstrated, immediate reliability or safety need, and a clear expectation of full federal reimbursement. Energy Bureau oversight and project-level reviews should ensure that such use of non-federal funds remains narrow in scope. LUMA and Genera should still prioritize projects with immediate reliability impact first as well as considering executability; they cannot use the logic of complementarity everywhere, including on non-critical projects.

Q.14 Does this complete your testimony?

A. Yes.

[49] Cortés Report, p. 13.

RESUMEN DE: TESTIMONIO DE REFUTACIÓN DE ANTHONY HURLEY

Los puntos clave de mi testimonio de refutación son los siguientes:

En la Sección II, proveo una breve descripción de las posiciones en el Informe de Cortés al que estoy respondiendo, incluida la revisión integral propuesta de los proyectos no financiados por el gobierno federal de LUMA y Genera, la creación de una Cuenta de Capital Restringida de Fondos Federales y el uso paralelo de fondos no federales con programas de capital financiados con fondos federales.

En la Sección III, explico que, si bien es necesaria una revisión exhaustiva de los proyectos de capital propuestos no financiados por el gobierno federal para la elegibilidad de fondos federales, esta revisión también debe requerir un modelo de confiabilidad, una priorización adecuada y una demostración de ejecutabilidad para garantizar un uso prudente de los fondos.

En la Sección IV, me refiero a la recomendación del Sr. Cortés de establecer una nueva Cuenta de Capital Restringida de Fondos Federales financiada por los contribuyentes. Explico que dicha cuenta es innecesaria dado que los saldos sustanciales ya disponibles en la Cuenta de Mejoras de Capital Financiada con Fondos Federales de LUMA, en efectivo no restringido en la AEE y de otros recursos del Estado Libre Asociado, duplicarían los mecanismos de liquidez existentes, como los Anticipos de capital de trabajo de FEMA, y podrían crear problemas de riesgo moral al desincentivar a la AEE y sus operadores a buscar reembolsos oportunos o administrar el flujo de efectivo, todo a expensas de los contribuyentes.

En la Sección V, discuto el uso limitado de fondos no federales para acelerar los proyectos de la Estrategia de Adjudicaciones Aceleradas de FEMA financiados por el gobierno federal, enfatizando que dicho uso debe ocurrir solo en casos estrechos y bien justificados bajo la estricta supervisión de la Oficina de Energía.

Appendix A – Illustrative Estimation of the Restricted Federally Funded Capital Account ("RFFCA") for FY 2027

This appendix supplements Section IV of my Rebuttal Testimony (October 27, 2025) by providing a detailed description of the illustrative modeling I used to estimate the potential range of the funding level for the Restricted Federally Funded Capital Account ("RFFCA") in FY 2027. The analysis applies the structure of Mr. Cortés's RFFCA funding formula, using currently available project lists and illustrative parameter values. The purpose of this exercise is to assess the potential magnitude of the RFFCA under illustrative assumptions and limited data, not to forecast actual accounting funding requirements. I do not endorse the illustrative parameter values, which are in large part based on the assumptions presented in the Cortés Report.

I. RFFCA FRAMEWORK

The illustrative model follows the same structural framework proposed by Mr. Cortés described in Section IV of my Rebuttal Testimony:[1]

$$\boldsymbol{RFFCA_{Total} = (LGP + FUP + CSP)}$$

My analysis retains Mr. Cortés's framework and parameter definitions, applying his logic and available data to approximate the potential size of the RFFCA under his illustrative assumptions.

II. INPUTS AND ASSUMPTIONS

Because project-level information remains limited, this exercise relies on publicly available data on the Puerto Rico Energy Bureau dockets. The purpose is to illustrate an estimated RFFCA amount under Mr. Cortés's framework, not to validate nor endorse them.

[1] Mr. Cortés has defined each of the RFFCA components as: Liquidity Gap Provision ("LGP"): "covers the temporary cash-flow shortages during the federal reimbursement cycle"; Funding Uncertainty Provision ("FUP"): "covers the risk of FEMA declining to fund a critical project"; Cost-Share Provision ("CSP"): "acts as a short-term bridge for the 10% non-federal cost-share." *See* Hearing Examiner's Order Submitting Expert Report of Energy Bureau Consultants: PREB Consultants Exhibit 65, Federal Funding Expert Report of Guímel Cortés, Case No. NEPR-AP-2023-0003, October 10, 2025, (hereafter, "Cortés Report"), p. 17, available at https://energia.pr.gov/wp-content/uploads/sites/7/2025/10/20251010-AP20230003-HE-Order-Expert-Report-65-65-01.pdf.

A. Documents Used

1. *LUMA Revenue Requirement Schedules (tab "D-1 Constrained"), as of July 3, 2025*[2]

    - LUMA's revenue requirement includes predictions of the total "FY2027 Federal Funded CapEx" for the utility as a whole, including federally funded spending related to LUMA, Genera, and PREPA activities.

    - I used this expected cost as a proxy for Mr. Cortés's definition of "Bucket A (FEMA Obligated)" projects, which he says are "All projects that FEMA has already approved and committed funds to."[3] This cost feeds into both Mr. Cortés's Buckets A and C. Bucket A forms the basis of the LGP calculation, while Bucket C forms the basis of the CSP calculation.[4]

2. *Consolidated Project Plan for PREPA, LUMA, and Genera (tab "FAASt - Obligations Summary") as of October 15, 2025*[5]

    - I used the sum of all "Selected Projects under Formulation" in the Consolidated Project Plan a proxy for Mr. Cortés's definition of "Bucket B (Critical & At-Risk)" projects, which he says are "All projects that are essential for reliability but are not yet obligated by FEMA."[6] This cost feeds into Buckets B and C. Bucket B forms the basis of the FUP calculation, while Bucket C forms the basis of the CSP calculation.[7]

    - Because the plan includes all potential federally funded projects (not only those that are determined to be "essential for reliability"), it provides a broader but conservative estimate of pending FEMA obligations. As the totals are cumulative and lack the annual detail

[2] Motion Submitting Rate Review Petition: LUMA Revenue Requirement Schedules (7.03.25).xlsx, Case No. NEPR-AP-2023-0003 Annexes made public by Order of July 3, 2025, *In Re: Puerto Rico Electric Power Authority Rate Review*, tab "D-1-Constrained." In the alternative scenario in tab "D-1 Optimal," the Federal Funded CapEx figures for FY 2026, FY 2027, and FY 2028 each include a "HoldCo Capex" budget of $261 million, $435 million, and $280 million, respectively—amounts identical to those listed under the "Customer Experience" category. The purpose of this duplication remains unclear.

[3] Cortés Report, p. 18.

[4] Cortés Report, pp. 17-19.

[5] For this testimony, I rely on the most recent Consolidated Project Plan filed on October 15, 2025. Its total values differ slightly from the August 8, 2025 version used in my September 8, 2025 Answering Testimony. *See* Motion Resubmitting Corrected Exhibit 2 of the October 14, 2025, Motion in Compliance with Resolution and Order of October 3, 2025: Exhibit 2, Case No. NEPR-MI-2021-0002, tab "FAASt – Obligations Summary," cell D13, available at https://energia.pr.gov/wp-content/uploads/sites/7/2025/10/20251015-MI20210002-Corrected-Exhibit-2-Motion-Resubmitting.xlsx.

[6] Cortés Report, p. 18.

[7] Cortés Report, pp. 17-19.

required for Cortés's framework[8], the model assumes 1/10 of the total multi-year value represents FY 2027 activity.

3. LUMA Rate Design Schedules (tab "2027 Forecast") as of July 3, 2025[9]

- This document includes the FY 2027 projected electricity consumption of 15,526 GWh, which was used in the model as the denominator to convert total RFFCA requirements into an illustrative rate-rider value, per Mr. Cortés's framework.

B. Key Assumptions and Parameters

This analysis applies Mr. Cortés's illustrative parameters only to demonstrate the potential scale of the RFFCA and does not endorse their accuracy. Additional simplifying assumptions are made where data are limited. These parameters are summarized below for reference:[10]

[8] According to Mr. Cortés' proposal, the RFFCA's funding requirement will be determined on an annual basis. Customers will pay for the RFFCA through a rider that is subject to reconciliation during the next annual examination. *See* Cortés Report, pp. 17-19.
[9] Motion Submitting Rate Review Petition: LUMA - Rate Design Schedules FY2027 (7.03.25).xlsx, Case No. NEPR-AP-2023-0003 Annex I.A (LUMA) made public by Order of July 3, 2025, tab "2027 Forecast," cell E2.
[10] Cortés Report, pp. 18-19.

Table A-1

Assumptions and Parameters Supporting the FY 2027 Illustrative Estimation of the RFFCA

Parameters	Description	Illustrative Values	Rationale	Interpretation
Estimated Monthly Burn Rate	Average monthly project spending as a share of annual costs.	8.33%	Mr. Cortés recommends estimating a monthly "burn rate" for each project. Because this data is not available, this analysis illustratively assumes even spending over the year.	Shows how quickly projects spend their funds. For example, a $120M project would spend about $10M per month under this assumption.
Average Federal Reimbursement Period	Average time between submitting costs and receiving FEMA reimbursement.	80 days (~2.67 months)	Based on Mr. Cortés's estimate from DRS data.	Reflects the time projects must wait for reimbursement. A longer lag increases short-term financing needs.
Replenishment Dispersion Factor	Share of total project costs financed at any time, reflecting staggered spending and reimbursements.	0.5	Based on Mr. Cortés's illustrative assumption, showing that funding needs are spread across the year as projects draw funds at different times.	Shows how much of total costs are active at one time. For example, 0.5 means about half of annual spending is ongoing or unreimbursed. • **LGP:** scales cash needed to bridge reimbursement lags. • **CSP:** adjusts for staggered cost-share payments.
Estimated Factor for Annual Projects under Formulation	Approximate annual share of the multi-year "under formulation" portfolio.	10%	Mr. Cortés recommends estimating an annual project cost for the under-formulation portfolio. Because FAASt data only show total values, the model illustratively assumes the annual project cost to be 10% of the total cost, consistent with the 10-year horizon of LUMA's long-term investment plan.	Converts multi-year project totals into a one-year estimate. For example, $500M total implies $50M modeled for FY 2027.
Probability of FEMA Denial	Likelihood that FEMA funding is delayed or denied.	20%	Based on Mr. Cortés's illustrative assumption of potential delay or ineligibility.	Captures uncertainty in FEMA obligations.

III. ESTIMATED RESULTS

- As mentioned in my Rebuttal Testimony, the estimated RFFCA funding requirement is approximately $400.4 million, implying a rate rider paid by customers of 2.58 ¢/kWh.

- For context, a 2.58 ¢/kWh rider would add about $10/month ($124/year) in additional electricity expense for an illustrative household that uses an average of 400kWh per month.

- The detailed parameterization and intermediate computations are shown in **Table A-2** below.

Table A-2
FY 2027 Illustrative Estimation of the RFFCA based on Cortés Assumptions

Assumptions for Prioritized Project Categories		
Bucket A (FEMA Obligated)		
Est. Monthly Burn Rate (% of annual cost)		8.33%
Avg. Federal Reimbursement Period (days)		80
Avg. Federal Reimbursement Period (months = days ÷ 30)		2.67
Replenishment Dispersion Factor		0.5
Bucket B (Critical & At-Risk)		
Est. Factor for Annual Projects under Formulation		10%
Probability of FEMA Denial		20%
Bucket C (Needs Cost-Share)		
Est. Factor for Annual Projects under Formulation		10%
Replenishment Dispersion Factor		0.5
Forecasted Electricity Sales for the Year (kWh)		15,526,219,788
Calculations *(in US$ millions)*		
Liquidity Gap Provision (LGP)		
Annual Spend Obligated	[A]	$2,055.5
Estimated Burn Rate (% of annual per month)	[B]	8.33%
Avg. Monthly Burn Rate	[C]=[A]×[B]	$171.3
Avg. Federal Reimbursement Period (months)	[D]	2.67
Replenishment Dispersion Factor	[E]	0.5
Total Liquidity Gap Provision	[F]=[C]×[D]×[E]	$228.4
Funding Uncertainty Provision (FUP)		
Selected Projects under Formulation	[G]	$3,011.6
Federal Funding Portion	[H]	90%
Accumulated Federally Funded Selected Projects under Formulation	[I]=[G]×[H]	$2,710.5
Est. Factor for Annual Projects under Formulation	[J]	10%
Est. Annual Project under Formulation Cost	[K]=[I]×[J]	$271.0
Probability of FEMA Denial	[L]	20%
Total Funding Uncertainty Provision	[M]=[K]×[L]	$54.2
Cost-Share Provision (CSP)		
Annual Spend Obligated	[N]	$2,055.5
Selected Projects under Formulation	[O]	$3,011.6
Est. Factor for Annual Projects under Formulation	[P]	10%
Est. Annual Project under Formulation Cost	[Q]=[O]×[P]	$301.2
Total Annual Project Cost	[R]=[N]+[Q]	$2,356.6
Local Cost Share Obligation	[S]	10%
Replenishment Dispersion Factor	[T]	0.5
Total Cost-Share Provision	[U]=[R]×[S]×[T]	$117.8
$RFFCA_{Total}$ = (LGP+FUP+CSP)	**[V]=[F]+[M]+[U]**	**$400.4**
Forecasted Rate Rider (¢/kWh)		2.58 ¢/kWh