

**GOVERNMENT OF PUERTO RICO
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: Motion to Strike Expert Report of K.
Bailey and H. Judd**

MOTION TO STRIKE EXPERT REPORT OF K. BAILEY AND H. JUDD¹

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC (“ManagementCo”), and LUMA Energy ServCo, LLC (“ServCo”), (jointly “LUMA”), and respectfully state and request the following:

1. On October 10, 2024, the Hearing Examiner issued an Order Submitting Expert Reports of Energy Bureau Consultants in which the Hearing Examiner marked for identification, to be admitted into evidence subject to objections, the PREB Consultants Exhibit 63, title “Report on Integration of Renewable Energy and Battery Storage in Case No. NEPR-AP-2023-0003,” by Kathryn Bailey and Harold Judd, dated October 10, 2025 (“Ex. 63 Report”).²

2. For the reasons stated below, LUMA respectfully objects to the inclusion in the record of this proceeding of the Ex. 63 Report.

¹ On May 9, 2025, this Energy Bureau issued a Resolution and Order, requiring that all substantive English-language filings be accompanied by concise Spanish summaries to enhance public accessibility and participation. *See also* Energy Bureau Resolution and Order of June 4, 2025 (clarifying that full translations are optional but summaries are mandatory). In compliance with the Energy Bureau's standing directives regarding accessibility and ensuring citizen participation, LUMA requests leave to submit the corresponding Spanish-language summaries on or before November 5, 2025.

² On October 17, 2025, the Hearing Examiner issued an Order Summarizing Results of October 16 Conference (“October 17th Order”) in which, among others, the Hearing Examiner established the new deadline of October 25, 2025 at 5 pm to submit objections to already-filed testimonies.

3. In the Ex. 63 Report, the Energy Bureau Consultants raise the need for the transmission system's design, planning and investments to be directed at a system that will be 100% renewable by 2050³. They recommend incorporating renewable energy integration into transmission rebuilds and propose that transmission system planning: be tied to the 25-year transition to renewables; be based on credible projections of where renewable projects are more likely to be built; be integrated with generation and storage planning; provide for the design of substations to accommodate future growth; identify where storage can provide the greatest system value; provide for regular updating; and include stakeholder engagement. *See id.*, pp. 7, 8, 10, 11-12. According to the Energy Bureau Consultants, these elements “ensure that transmission investments are sized for long-term needs, sequenced to enable staged renewable buildout, and routed along corridors that can support future expansions without repeated reconstruction”. *See id.*, p. 11.

4. With respect to funding, the Energy Bureau Consultants argue that it would be more efficient to have the transmission upgrades be funded by customer rates guided by a long term plan, than having these funded by the independent power producers on a project by project basis as it is currently done. *See id.*, pp. 1, 8-9. However, they recognize that, “[t]oday in Puerto Rico, **upfront customer funding is not practical**, primarily because PREPA has no access to external financing that would allow the Energy Bureau to spread the capital investments over a multi-decade period”. *See id.*, p. 8. Instead, they recommend the Energy Bureau to look for a “middle ground”, while remarking that “LUMA and Genera should complete the projects required by the PSP to continue system remediation, while planning for a comprehensive program that meets renewables-ready transmission needs by 2050”. *See id.*, p. 8.

³ This, in accordance with the mandate set forth under Act 17-209 of achieving 100% renewable generation by 2050.

5. The “PSP” refers to the two-year Electric System Priority Stabilization Plan approved by the Energy Bureau in Case No. NEPR-MI-2024-0005, In re: Electric System Priority Stabilization Plan (“PSP Docket”) which requires near-term transmission rebuilds immediately to improve safety and reliability, as well as other improvements to the electric system, including generation resources. *See* Resolution and Order, Re: Establishment of the Electric System Priority Stabilization Two-Year Plan, Case No. NEPR-MI-2024-0005, March 28, 2025 (“PSP Order”). In the PSP Order, the Energy Bureau directed LUMA to develop a comprehensive Transmission Plan and submit it to the Energy Bureau by April 30, 2026. *See id.*, p. 9 and Attachment A, pp. 19-20. The Energy Bureau also ordered that the Transmission Plan be filed as stand-alone document and not as part of the Integrated Resource Plan (“IRP”), clarifying that the findings of this plan may be referenced in the IRP for context. *See* Resolution and Order, Re: Reporting Directives and Fuel Security Contingency Plan, Case No. NEPR-MI-2024-0005, July 16, 2025, pp. 4-5.

6. Relatedly, the Energy Bureau Consultants note that the “PSP Order has already established a roadmap for 2026 and 2027 for transmission investments” and that “[f]or that reason **the current impracticality of raising customer rates or additional non-federal capital from external sources, [they] recommend against more renewable integration investments beyond those already authorized.** Renewable-ready upgrades should instead be prioritized as soon as possible to ensure that investments beyond those identified in the PSP align with Puerto Rico’s long-term transition to 100% renewables”. *See id.*, p. 12 (emphasis added).

7. The Energy Bureau Consultants then recommend that the Energy Bureau require LUMA to prepare a supplemental Renewable Integrated Transmission Plan (“RITP”), which would complement the Transmission Plan that LUMA will submit to the Energy Bureau in April 2026 in the PSP Docket. *See id.*, p. 12.

8. The Energy Bureau Consultants also discuss the multiple benefits to the power system provided by battery energy storage systems to support both generation and transmission as the system transitions to 100% renewables. *See id.*, pp. 13-16. They recommend that coordinated long-term planning be conducted in the deployment of batteries considering timing, location and scale of storage deployment, as well as how generation, transmission and operations interact across the power system. *See id.*, pp. 15-17. They also recommend that the Energy Bureau require that the RITP include a comprehensive roadmap for battery storage deployment. *See id.*, p. 17.

9. The Energy Bureau Consultants' only currently actionable recommendation in the Ex. 63 Report is to require LUMA to prepare the RITP to supplement the Transmission Plan that LUMA shall file in April 2025 in the PSP Docket. This, they argue, will provide a "transparent framework for decision-making regarding the prudence of **future investments**". *See id.*, p. 18 (emphasis added). The Energy Bureau Consultants also indicate that "[a]lthough current investments focus on restoring service and improving reliability for the near term," they recommend "that **future rate adjustments** be guided by a clear understanding of what renewables integration will require." *See id.*, p. 18 (emphasis added); *see also id.*, (recommending that developing a Renewable Integrated Transmission Plan "will provide a transparent framework for decision-making and give the Energy Bureau the information it needs to evaluate the prudence of future investments . . .").

10. It arises from the discussion and recommendations of the Ex. 63 Report, that the Energy Bureau Consultants are not recommending new renewables investments beyond those already authorized; rather, they are advocating for future investments to be determined based on a long-term transition plan that is yet to be developed and that would complement a plan to be

submitted in a separate proceeding; the PSP Docket. These investments would thus be addressed in future rate adjustment proceedings.

11. The Ex. 63 Report does not contain proposals regarding the rates to be set in this proceeding. LUMA respectfully submits that said Report is more appropriate for consideration in the PSP Docket and/or the docket considering the IRP, which address different aspects of electric system planning.

12. As mentioned, the PSP Docket contemplates the filing of a Transmission Plan in April of next year. The IRP, in turn, is being developed by LUMA in Case No. NEPR-AP-2024-0003, In re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan (“IRP Docket”). This document must consider long-term transmission planning in accordance with the Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority, Regulation 9021.⁴ In accordance with the schedule approved by the Energy Bureau, most of the IRP was filed on October 17, 2025. The remaining parts will be filed on November 17, 2025. Once the IRP is determined to be in compliance with Regulation 9021, an adjudicative process will commence, including opportunity for intervention, technical hearings, discovery, hearings and other filings

⁴ The IRP must consider “all the reasonable resources to satisfy the demand for electricity services during a twenty (20)-year planning period, taking into account both supply-and demand-side electric power resources” and include, among others, “a careful and detailed study of a range of future load forecasts, present generation resources, present demand resources, current investments in electricity conservation technologies, existing transmission and distribution facilities, and the relevant forecast and scenario analyses in support of PREPA's selected resource plan”. See Regulation 9021, Section 1.03. A resource plan refers to a “selection of supply-, demand-side, and transmission resources that best serves PREPA’s needs under a given forecast scenario”. See *id.*, Section 1.08 (B)(36). A resource plan refers to a “selection of supply-, demand-side, and transmission resources that best serves PREPA’s needs under a given forecast scenario”. See *id.*, Section 1.08 (B)(36). With respect to transmission planning, the IRP must incorporate transmission and distribution system planning, including a description of the transmission system, transmission constraints and critical contingencies, planned transmission facilities, and a transmission system analysis, as well as the implications of the transmission system with respect to the preferred resource plan. See Regulation 9021, Sections 2.02(D) and 2.03(J).

and pleadings. *See* Regulation 9021, Article III. Hence, the IRP process is anticipated to span several months.

13. Given the timelines of those other proceedings, the RITP that the Energy Bureau Consultants proposed, would be subject to a development time frame that would extends beyond the time frame of this proceeding pursuant to which a final order is to be issued by April, 2026. Furthermore, the transmission planning to be considered in the proposed RITP occurs outside the relevant of the rates to be approved in this proceeding.

14. As recognized in the Ex. 63 Report, various near-term renewable energy resource and battery storage projects have already been approved and the funding sources have been determined.⁵ LUMA submits that these additions and investments will be occurring within the next three years and beyond. Therefore, planning for other investments to be considered in the RITP that the Energy Bureau Consultants are proposing, would extend beyond the three-year duration of the rates to be established in this case.

15. Pursuant to the Puerto Rico Rules of Evidence, that may apply in a supplemental manner in adjudicative proceedings such as this one, subject to the Energy Bureau's discretion, relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without such evidence. This includes evidence that may be used to impeach or uphold the credibility of a witness or deponent." Rule 401 of the Puerto Rico Rules of Evidence, 32 LPRA

⁵ The Ex. 63 Reports mentions that the Energy Bureau approved long-term contracts for 645 MW of battery energy storage systems under Tranches 1, 2, and 4; that the PSP requires LUMA to deploy four 25 MW battery storage systems at key substations to provide fast frequency response and voltage regulation; that the PSP also requires Genera to deploy 430 MW of battery storage to support generation at six power plant sites; and that LUMA is managing the Accelerated Storage Addition Program for additional battery integration. *See* Ex. 63 Report, p. 14.

Ap. VI.⁶ Furthermore, the Energy Bureau may limit or exclude evidence taking into consideration factors such as (i) the risk of undue prejudice; (ii) the risk of confusion; (iii) the unnecessary delay of the proceedings; and (iv) the unnecessary introduction of cumulative evidence *vis á vis* its probative value. *See*, Rule 403 of the Puerto Rico Rules of Evidence, 32 LPRA Ap. VI (2025) (emphasis added).⁷ Ex. 63 Report will serve to introduce evidence on the record with little to no probative value to the revenue requirement and rate design proposals that are presented for consideration in this proceeding. As such, the Ex. 63 Report introduces transmission planning and policy-setting proposals that are not relevant to this proceeding and are best suited to be discussed in other Energy Bureau proceedings, such as the IRP process and the PSP Docket.

WHEREFORE, LUMA respectfully requests that this Energy Bureau strike from the record the Ex. 63 Report and grant LUMA leave to file the Spanish-language summary of this Motion by November 5, 2025.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 31st day of October, 2025.

WE HEREBY CERTIFY that this Motion was filed using was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Notice will be notified to Hearing Examiner, Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record. To wit, to the **Puerto Rico Electric Power Authority**, through: Mirelis Valle-Cancel, mvalle@gmlex.net; Juan González, jgonzalez@gmlex.net; Alexis G. Rivera Medina, arivera@gmlex.net; Juan Martínez, jmartinez@gmlex.net; and Natalia Zayas Godoy, nzayas@gmlex.net; and to **Genera PR, LLC**, through: Jorge Fernández-Reboredo, jfr@sbgbllaw.com; Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com; Maraliz Vázquez-Marrero, mvazquez@vvlawpr.com; ratecase@genera-pr.com; regulatory@genera-pr.com; and

⁶ Available at <https://poderjudicial.pr/Documentos/Leyes-Reglamentos/English/Rules-of-Evidence-as-amended.pdf>.

⁷ As per Section 2.01 of *the Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings*, Regulation No. 8543 of the Puerto Rico Energy Bureau, the Rules of Evidence may apply, in a supplemental manner to any [adjudicative proceeding] before the Energy Bureau when, in the exercise of its discretion to handle cases before it, the Energy Bureau determines it by way of an order.” LUMA hereby requests that the Energy Bureau apply the principles set forth in Rules of Evidence 403.

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