

**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: Request to Partially Reconsider
and Vacate Hearing Examiner's October
17th Order**

**REQUEST TO PARTIALLY RECONSIDER AND VACATE HEARING EXAMINER'S
OCTOBER 17TH ORDER**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

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

I. Introduction

1. Pursuant to Section 3.15 of Act 38-2017, as amended, known as the *Uniform Administrative Procedure Act of the Government of Puerto Rico* (“LPAU”, per its Spanish-language acronym), LUMA hereby requests that the Commissioners of this Honorable Puerto Rico Energy Bureau (“Energy Bureau”), assembled as a whole, partially reconsider and vacate an Order issued by Hearing Examiner, Mr. Scott Hempling, on October 17, 2025, insofar as it authorizes the participation of counsel for an intervenor, Institute of Competitiveness and Economic Sustainability (“ICSE”) filed, Mr. Fernando Agrait, as a panelist during the upcoming evidentiary hearing scheduled in the captioned rate review proceeding.

2. As LUMA expounds upon below, the Hearing Examiner’s authorization – here impugned – collapses the essential distinction between advocacy and evidence, creates an uneven and prejudicial procedural posture by granting an intervenor’s attorney a witness platform

untethered to prefiled testimony or the record, and risks converting an adjudicative rate review into a forum for generalized policy commentary.

II. Procedural Background

3. On July 3, 2025, LUMA filed its *Motion Submitting Rate Review Petition* with this Honorable Puerto Rico Energy Bureau (“Energy Bureau”), thereby formally initiating the captioned adjudicative proceeding aimed at establishing new electric power service rates. Said petition was accompanied by prefiled testimonies, workpapers containing analyses, facts, calculations, and supporting schedules.

4. On July 7, 2025, ICSE filed a *Formal Request for Intervention* in the captioned proceeding, following the Energy Bureau’s July 3, 2025 Resolution denying intervention “at [that] time” for lack of a formal petition under the Energy Bureau’s Regulation 8543¹ and the LPAU. In sum, and invoking a liberal construal of intervention under Section 3.5 of LPAU as well as Act 57-2014’s² mandate for citizen participation, ICSE asserted that its institutional interest in competitive, affordable, and transparent energy regulation was not adequately represented by existing parties, that this rate review proceeding is the exclusive forum to protect its interests given developments in the Puerto Rico Electric Power Authority (“PREPA”)’s Title III proceedings, and that its participation will aid the record through its prior Energy Bureau and Title III experience, specialized expertise, and stakeholder coordination.

5. On August 19, 2025, this Energy Bureau issued a new Resolution, containing its determination surrounding the formal requests for intervention filed by Wal-Mart Puerto Rico,

¹ *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures* (Regulation 8543).

² *Puerto Rico Energy Transformation and Relief Act*, 22 LPRA § 1051 *et seq.* (2025).

Inc.; the Solar and Energy Storage Association of Puerto Rico; Mr. Víctor Luis González; and finally, ICSE (“August 19th Order”). In what is here pertinent, the Energy Bureau granted ICSE full intervenor status, and held that ICSE’s institutional interests in competitive, transparent, and balanced regulation may be adversely affected by this rate review proceeding; that those interests were not adequately represented by existing parties; and that ICSE’s institutional memory and expertise from prior Energy Bureau and Title III proceedings will help develop a more complete record without delaying the case. *See* August 19th Order, at p. 4.

6. After several procedural events not relevant here, on September 9, 2025, the Honorable Hearing Examiner, Scott Hempling, issued a directive *Ordering CEO Testimony on Conflicts of Interest* (“September 9th Order”). Therein, the Hearing Examiner required the CEOs of both LUMA and Genera PR, LLC (“Genera”) to file “Supplemental Testimony on Conflicts” by September 22, 2025.³ *See* Exhibit 2.

7. On September 16, 2025, the Hearing Examiner notified an email in the above-captioned proceeding, whereby he circulated a list of proposed panels for the upcoming evidentiary hearing. Amongst the proposed panels were the two following: i) a panel labeled *Conflicts of interest between profit and cost*; and ii) another panel labeled *Cooperation among PREPA, LUMA, Genera*. *See* Exhibit 3 and 3.1.

8. On September 22, 2025, LUMA filed LUMA CEO, Mr. Juan Saca’s Supplemental Testimony on Conflicts, pursuant to the Hearing Examiner’s September 9th Order.

³ Specifically, the Order directed each CEO to address: (1) whether the company has any conflict between its self-interest and the public interest as defined by the statutes granting the Energy Bureau jurisdiction; (2) the scope of the CEO’s own discretion versus any authorization or influence from corporate ownership; and (3) for each acknowledged conflict, the procedures and guardrails in place to prevent actions detrimental to Puerto Rico consumers.

9. On October 7, 2025, all applicants and various intervenors met informally to discuss alternatives and respective stances regarding the allowance of witnesses who have not yet filed written testimony to participate in panels during the evidentiary hearing. On October 12, 2025, counsel for the Puerto Rico Electric Power Authority (“PREPA”) shared the product of said discussions with the Hearing Examiner and all participants via email. In sum, LUMA maintained the following stance: any person wishing to be included in an evidentiary hearing panel must provide timely and complete written testimony.

10. On October 14, 2025, the Hearing Examiner issued an *Order on Panel Structure* (“October 14th Order”). See Exhibit 4. In response to the abovereferenced discussions, the Hearing Examiner determined that no additional written direct testimony was warranted because “there is no current evidentiary need” beyond what Energy Bureau consultants are seeking through requests for information. The Hearing Examiner explained that the purpose of nonfiling witnesses is limited to supplying details that a same-company filing witness may not have readily available, and not to introduce new filed testimony. He further reasoned that the goal was to create the most comprehensive, informative record so the tribunal can fulfill its statutory duty to make the best public-interest decision. See October 14th Order, at p. 1.

11. Accompanying the October 14th Order was a then-current version of the Hearing Examiner’s proposed panel roster, as informed by the different parties’ respective witness and non-witness inputs. See Exhibit 4.1. Moreover, in the October 14th Order, the Hearing Examiner provided as follows with regards to the composition of the *conflicts of interest panel*:

For this panel I intend to have only the three CEOs. On this issue, what matters the most is culture, as created and guided by leadership. **I would also like participation by ICSE, because I see that organization as having a unique public-interest perspective.**

October 14th Order, at p. 2 (Emphasis added).

12. On October 15, 2025, ICSE filed *ICSE's Motion Regarding Panel Dispute*. ICSE focused on LUMA's conditional counterproposal that would allow non-witness consultants to appear on panels only if these non-witnesses committed to filing or adopting existing testimony. ICSE characterized this demand as a misconstruction of the PREPA-LUMA principal-agent relationship, and argued that PREPA, as principal, retains statutory and contractual authority to review, approve, and object to LUMA's testimonies to ensure just and reasonable rates. ICSE argued that treating LUMA's filings as insulated from PREPA's oversight would invert the statutory hierarchy.

13. On October 16, 2025 the Hearing Examiner issued *an Order Setting Agenda for Conference of October 16, 2025*. See Exhibit 5. As an appendix to said order, the Hearing Examiner circulated an updated panel roster reflecting the following composition:

Conflicts of interest between profit and cost

Genera: Winnie Irizarry Velazquez, CEO

LUMA: Juan Saca

PREPA: Mary C. Zapata – PREPA's Executive Director

ICSE: ?

Cooperation among PREPA, LUMA, Genera

Genera: Winnie Irizarry Velazquez, CEO

Genera: Ivan Báez, Vice-President of Public & Government Affairs

LUMA: Alejandro Figueroa

LUMA: Juan Saca

PREPA: PREPA: Mary C. Zapata – PREPA's Executive Director

Juan C. Adrover - PREPA's Comptroller

ICSE: ?

14. On that same day, October 16, 2025, a Virtual Technical Conference was held in the captioned proceeding. During said conference, counsel for LUMA raised concerns with regards to allowing ICSE's counsel, Mr. Fernando Agrait, to appear on two panels. LUMA sought clarity

on whether Mr. Agrait would act as a fact witness or advocate and requested that ICSE submit a prefiled proffer of topics that Mr. Agrait would discuss in each panel.

15. During the October 16th Technical Conference, the Hearing Examiner agreed that LUMA's concerns were fair and directed for LUMA and ICSE counsel to meet and confer to establish clear guardrails as a condition of Mr. Agrait's panel participation. The Hearing Examiner expressly held that there would be no new facts and no additional written testimony or prehearing filings, instructing Mr. Agrait to work solely from the existing record and to share any topic outline informally with LUMA's counsel. Mr. Agrait agreed to these constraints, and the Hearing Examiner directed the parties to report back after meeting and conferring.⁴

16. On October 17, 2025, the Hearing Examiner issued an *Order Summarizing Results of October 16 Conference* ("October 17th Order"). See Exhibit 6. In relevant part, he provided as follows:

Cooperation panel, conflicts panel: **Mr. Agrait 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.

October 17th Order, at p. 2 (Emphasis added).

17. In anticipation of a meeting scheduled between counsel for LUMA and Mr. Agrait, on October 23, 2025, Mr. Agrait shared a document entitled "*2025.10.23 Memo Lcda. Mercado*" with counsel for LUMA. See Exhibit 7. Therein, Mr. Agrait enclosed "working notes from a presentation [he] gave on October 10, 2024, at the Puerto Rico Manufacturers Association forum titled *Emergencias energéticas y supervivencias económicas del sector industrial.*" Mr. Agrait

⁴ See https://www.youtube.com/watch?v=keSYC_3or-4, starting at 1:11:08.

provided that said notes “provide the conceptual framework for ICSE’s position.” Lastly, Mr. Agrait included “a list of publicly available documents and press coverage that provide insights on necessary policy considerations”.

18. In compliance with the Hearing Examiner’s directives, counsel for LUMA and Mr. Agrait met and conferred on October 24, 2025.

19. On October 29, 2025, the Hearing Examiner issued a new *Order on Various Prehearing Matters* (“October 29th Order”). See Exhibit 8. Appended to said order was a revised version of panel roster which included Mr. Agrait as a panelist on *Conflicts of interest between profit and cost*; and *Cooperation among PREPA, LUMA, Genera*:

Conflicts of interest between profit and cost

Genera: Winnie Irizarry Velazquez, CEO

LUMA: Juan Saca

PREPA: Mary C. Zapata –Executive Director

ICSE: Fernando Agrait

Cooperation among PREPA, LUMA, Genera

Genera: Winnie Irizarry Velazquez, CEO

Genera: Ivan Báez, Vice-President of Public & Government Affairs

LUMA: Alejandro Figueroa

LUMA: Juan Saca

PREPA: PREPA: Mary C. Zapata – Executive Director

Juan C. Adrover - Comptroller

ICSE: Fernando Agrait

See Exhibit 8.1.

Additionally, together with the October 29th Order, the Hearing Examiner shared a document titled “Panel Agendas”, containing a draft of the topics agenda for each panel.⁵ See

⁵ The here relevant agendas (subject to edits) read as follows:

VIII. LUMA’s and Genera’s potential conflicts of interest

- a) Can overbudgeting assist utility financial success?
 - i) capital expenditures
 - ii) operating expenses

-
- b) What are the owners' interests? In what ways do the owners influence the CEOs' decisions?
 - i) Executive compensation
 - ii) NFE's financial situation
 - c) Is there a clear line between costs covered by the fixed fee and costs recovered as passthrough costs?
 - d) Are there any conflicts relating to the statutory requirement of 100% renewable energy by 2050?
 - i) transmission planning
 - ii) the interconnection process
 - e) Is the use of affiliates appropriate?
 - i) LUMA's affiliate's involvement in transmission and distribution infrastructure
 - ii) LUMA's affiliate's training facility
 - iii) Genera and NFE: Is there a bias toward fuel-switching?
 - iv) Genera and NFE: Performance metrics vs. fixed fee
 - f) Is the use of seconded employees appropriate?
 - g) FOMB and P3A: What are their roles in, and past contributions to, concerns about conflicts? What is the Energy Bureau's distinct role?
 - h) Frequent changes in high-level personnel: What are the reasons and the effects?

IX. Inter-utility cooperation

- a) Forecasting demand, consumption, customers
- b) Planning new facilities
- c) Addressing the 2050 deadlines for 100% renewables
- d) Attracting and retain business customers
- e) Normal daily operations
- f) Emergencies
- g) Federal funds
- h) Supplying and replenishing the OMA accounts

Exhibit 8.2. The Hearing Examiner invited parties to submit their respective requests for clarifications, additions and subtractions.

20. Notwithstanding all of the above, and for the reasons set forth below, LUMA is seeking the Energy Bureau's reconsideration and vacatur of the Hearing Examiner's October 17th Order as it pertains to Mr. Agrait's participation in two panels in the upcoming evidentiary hearing.⁶

III. Request for Reconsideration

21. The Hearing Examiner's October 17th Order should be reconsidered and vacated insofar as it authorizes Mr. Agrait – counsel of record for intervenor ICSE – to sit as a participant on two evidentiary panels absent prefiled testimony. Mr. Agrait appears in this proceeding as an attorney-advocate, not as a fact or expert witness. The Energy Bureau's adjudicative process, like any other, maintains a fundamental distinction between advocacy and evidence. Collapsing that distinction by allowing an advocate to occupy a witness's seat invites role confusion, undermines the integrity of the evidentiary hearing, and confers a *de facto*, preferential opportunity not available to other parties whose counsel are properly limited to advocacy, examination, and briefing. The October 17th Order, creates an uneven playing field and contravenes the orderly presentation of evidence by witness panelists who have indeed submitted written testimony – be it direct, answering, rebuttal or surrebuttal – and are subject to examination on that testimony.

22. Permitting an intervenor's attorney to sit on evidentiary panels would blur the line between advocacy and testimony in a manner that prejudices other parties and risks impairing the

i) Other legal disputes under the OMA

⁶ The objections stated herein apply in full force even if ICSE's co-counsel, Mr. José Pou, purports to appear as a panelist, substituting Mr. Agrait. *See ICSE's Comments on Proposed Panels*, filed on November 5, 2025.

fairness of the proceeding. Counsel are officers of the tribunal. They examine witnesses and argue. Witnesses, by contrast, attest to facts or expert opinions subject to cross-examination. Allowing counsel for one intervenor to operate in both capacities during the same evidentiary phase confers a singular platform to advocate under the guise of testimony, while other parties' counsel remain confined to the ordinary rules. This asymmetry is not merely cosmetic, but rather risks confusing the trier of fact, complicating the scope of proper questioning, and eroding the procedural safeguards that attach to witness testimony.

23. Even viewed purely as a procedural accommodation, the October 17th Order carves out a dangerous concession to counsel for ICSE. No prefiled testimony exists for Mr. Agrait. **There is currently nothing on the record, sponsored Mr. Agrait, to strike.** Without prefiled testimony, LUMA and other parties cannot formulate defined, issue-specific objections, or cross-examination outlines that are responsive to a concrete evidentiary proffer.

24. Importantly, moreover, Mr. Agrait's October 23 Memorandum confirms that Mr. Agrait's hypothetical/anticipated input is not evidentiary and is largely directed to broad public policy "thinking" and "conceptual framework," not to facts germane to the record of this rate review proceeding. Likewise, Mr. Agrait's October 23 Memorandum merely compiles public statements, news commentary and procedural developments, and articulates governance critiques of Puerto Rico's energy institutions, privatization models, and implementation risks. None of this constitutes prefiled testimony tied to the cost-of-service, revenue requirement, or other rate-case issues for which this adjudication is convened. Allowing counsel to offer policy commentary from the witness table (panel) would improperly shift the evidentiary hearing into a forum for policy deliberation divorced from the statutory scope of a rate review.

25. Inviting policy deliberation through Mr. Agrait's panel participation also risks straying beyond the Energy Bureau's jurisdictional remit. *See* PR Laws Ann. Tit. 22 § 1054c (2025), 22 LPRA § 1054c (2025). To the extent that, as emphasized in Mr. Agrait's memorandum, systemic policy reforms, legislative priorities, or governance restructuring are at issue, those matters are properly addressed by the Legislature, or even through recommendations to and dialogue with the rate review petitioners/applicants for implementation consistent with governing law and operating agreements. A rate review proceeding is not the proper vehicle to adjudicate or develop a quasi-legislative record on generalized public policy. Introducing such policy discourse into evidentiary panels would dilute the Energy Bureau's fact-finding and consequent rate setting function, distract from the statutory standards governing just and reasonable rates, and invite error by conflating adjudicative facts with legislative policy judgments.

26. Alternatively, LUMA posits that the Hearing Examiner's concession for Mr. Agrait's participation in the identified evidentiary panels is needlessly cumulative and would risk confusing the issues and delaying the proceedings, considering that the predetermined subject are to be comprehensively addressed by the corporate officers from each of the applicants who are slated to participate and who have in fact submitted prefiled testimony. It is those officers, and not Mr. Agrait, who possess the operational authority, factual knowledge, and decision-making responsibility necessary to speak to conflicts, inter-utility coordination, information flows, and governance structures and constraints within their respective organizations. The Hearing Examiner himself underscored that executive-level practices are central to these issues, and he initially contemplated a panel composed of only the corporate leaders. Adding an intervenor's attorney – who is neither a fact witness nor an expert with prefiled opinions – to these panels will not improve the Energy Bureau's access to relevant evidence, but rather inject policy commentary untethered

to record facts, while the executives best positioned to provide concrete, record-based testimony remain available for questioning.

27. Finally, LUMA submits that this Honorable Energy Bureau should exercise its discretion under Rule 403 of the Rules of Evidence of Puerto Rico to exclude or limit Mr. Agrait's proposed panel participation. Rule 403 authorizes the exclusion of testimony where its probative value is substantially outweighed by the danger of undue prejudice, the risk of confusion of the issues, undue delay, or needless presentation of cumulative evidence. 32 LPRA Ap. VI, R. 403. Here, the probative value is minimal because the proposed contribution is expressly non-factual, policy-oriented, and untethered to prefiled testimonies or record evidence. The risks, by contrast, are substantial. To wit: undue prejudice by granting one intervenor's attorney a dual role (advocate and witness); confusion of the issues as policy arguments displace adjudicative facts and data relevant to rates; avoidable delay as parties attempt to respond to undefined, non-record policy commentary; and cumulative presentation insofar as ICSE's policy perspectives may be adequately reflected in post-hearing briefing. Therefore, on balance, Rule 403 strongly favors exclusion.

28. For all of these reasons, the Energy Bureau should reconsider and vacate the portion of the October 17th Order authorizing Mr. Agrait's participation on the evidentiary panels. If, notwithstanding the foregoing, the Energy Bureau's Commissioners were inclined to allow any panel participation by Mr. Agrait, it should, at minimum, require a timely, comprehensive prefiled written proffer that delineates the precise, record-based opinions to be offered, and impose strict guardrails precluding policy advocacy, extra-record materials, or the introduction of new facts – thereby preserving the Energy Bureau's adjudicative function, minimizing prejudice, and avoiding confusion or delay.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned; partially **vacate and/or reconsider** the order the Hearing Examiner's October 17th Order; **disallow** Mr. Agrait's participation in the evidentiary hearing's panels; and **grant** such other and further relief as deemed just and proper.

RESPECTFULLY SUBMITTED.⁷

In San Juan, Puerto Rico, this 6th day of November, 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@sbgblaw.com; Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com; Maralíz Vázquez-Marrero, mvazquez@vvlawpr.com; ratecase@genera-pr.com; regulatory@genera-pr.com; and legal@genera-pr.com; **Co-counsel for Oficina Independiente de Protección al Consumidor**, hrivera@jrsp.pr.gov; contratistas@jrsp.pr.gov; pvazquez.oipc@avlawpr.com; **Co-counsel for Instituto de Competitividad y Sustentabilidad Económica**, jpouroman@outlook.com; agraitfe@agraitlawpr.com; **Co-counsel for National Public Finance Guarantee Corporation**, epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; robert.berezin@weil.com; Gabriel.morgan@weil.com; Corey.Brady@weil.com; alexis.ramsey@weil.com; **Co-counsel for GoldenTree Asset Management LP**, lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; iglassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; **Co-counsel for Assured Guaranty, Inc.**, hburgos@cabprlaw.com; dperez@cabprlaw.com; mmcgill@gibsondunn.com; lshelfer@gibsondunn.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; thomas.curtin@cwt.com; **Co-counsel for Syncora Guarantee, Inc.**, escalera@reichardescalera.com; arizmendis@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; **Co-Counsel for the PREPA Ad Hoc Group**, dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; david.herman@dechert.com; michael.doluisio@dechert.com; stuart.steinberg@dechert.com; **Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica**, nancy@emmanuelli.law; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; **Official Committee of Unsecured Creditors of PREPA**, jcasillas@cstlawpr.com; jnieves@cstlawpr.com; **Solar and Energy Storage Association of Puerto Rico**, Cfl@mcvpr.com; apc@mcvpr.com; javrua@sesapr.org; mrios@arroyorioslaw.com; ccordero@arroyorioslaw.com; **Wal-Mart Puerto Rico, Inc.**, Cfl@mcvpr.com;

⁷ 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 is hereby submitting the corresponding Spanish-language summary of this Motion. See Exhibit 1.

apc@mcvpr.com; **Solar United Neighbors**, ramonluisnieves@rlnlegal.com; **Mr. Victor González**, victorluisgonzalez@yahoo.com; and **the Energy Bureau's Consultants**, Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; jorge@maxetaenergy.com; rafael@maxetaenergy.com; RSmithLA@aol.com; msdady@gmail.com; mcranston29@gmail.com; dawn.bisdorf@gmail.com; ahopkins@synapse-energy.com; clane@synapse-energy.com; guy@maxetaenergy.com; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; kbailey@acciongroup.com; hjudd@acciongroup.com; zachary.ming@ethree.com; PREBconsultants@acciongroup.com; carl.pechman@keylogic.com; bernard.neenan@keylogic.com; tara.hamilton@ethree.com; aryeh.goldparker@ethree.com; roger@maxetaenergy.com; Shadi@acciongroup.com; Gerard.Gil@ankura.com; Jorge.SanMiguel@ankura.com; Lucas.Porter@ankura.com; gerardo_cosme@solartekpr.net; jrinconlopez@guidehouse.com; kara.smith@weil.com; varoon.sachdev@whitecase.com; zack.schrieber@cwt.com; Isaac.Stevens@dechert.com; James.Moser@dechert.com; Kayla.Yoon@dechert.com; juan@londoneconomics.com; arriera@nuenergypr.com; ahopkins@synapse-energy.com.



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Exhibit 1

*Solicitud de Reconsideración Parcial de Orden emitida por el Oficial Examinador el 17 de octubre de 2025
presentada por LUMA Energy, LLC, and LUMA Energy ServCo, LLC*

LUMA Energy, LLC y LUMA Energy ServCo, LLC (conjuntamente, “LUMA”) le solicitan al Negociado de Energía de Puerto Rico que reconsidere y deje sin efecto la porción de la Orden del 17 de octubre del *Oficial Examinador*, que autoriza la participación del abogado de la parte interventora, Instituto de Competitividad y Sustentabilidad Económica (“ICSE”), el Lcdo. Fernando Agrait, como panelista/testigo en la vista evidenciaria del caso de epígrafe. En resumen, LUMA sostiene que esta autorización anula la distinción esencial entre abogacía y evidencia, crea un trato procesal desigual y arriesga convertir la vista evidenciaria en un foro de política pública ajeno al alcance de una revisión tarifaria.

Permitir que el representante legal de un interventor participe como testigo panelista, sin previamente haber presentado testimonio, colapsa la línea entre abogacía y prueba y perjudica la igualdad procesal.

Segundo, la aportación anticipada del Lcdo. Agrait es fundamentalmente de política pública, y no está vinculada con los temas técnicos del caso tarifario. LUMA advierte que esta intervención desviaría la vista evidenciaria hacia deliberaciones de política general que están fuera de jurisdicción del Negociado Energía.

Tercero, LUMA destaca que durante la vista evidenciaria participarán los oficiales corporativos con autoridad operacional, conocimiento fáctico y testimonios previamente radicados.

LUMA arguye que el añadir al abogado de un interventor – que no es testigo de hechos ni perito con opiniones impugnables – resulta innecesariamente cumulativo, propende a la confusión de los asuntos y puede demorar la solución justa, rápida y económica del caso de epígrafe.

**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
Revising Procedural Schedule, Ordering Cost
Information, and Ordering CEO Testimony on
Conflicts of Interest

**Hearing Examiner's Order Revising Procedural Schedule, Ordering Cost
Information, and Ordering CEO Testimony on Conflicts of Interest**

Revised procedural schedule

The attached procedural schedule, shared with the parties in draft form before the conference of September 4, 2025, replaces the procedural schedule attached to my Order of May 2, 2025.

Discovery deadlines: A previous order of mine stated that discovery continues through the end of the evidentiary hearing. I am not eliminating that feature. But I am adjusting it as follows: **Friday, Nov. 7, 2025**, is the last day for discovery questions without my approval. If you want discovery after that day, you must submit a motion to me. In deciding the motion, I will take into account the respondent's practical ability to respond given the pressures of the hearing. I don't expect to see either (a) discovery requests that the requestor could have asked earlier, or (b) a respondent's unsupported assertions that a response is impractical. If I deem a request important to the Energy Bureau, I expect both sides to cooperate with me in finding a way to satisfy it.

One clarification of the above: Before filing a motion with me, seek agreement on the discovery without me. Submit the motion only if agreement fails. And if agreement fails, I will be asking why.

Applicants' surrebuttals due October 30: Please organize the material by topics. Within a topic, address the intervenors' and PREB experts' submittals. Say only what is necessary to respond to those submittals. Do not offer evidence that belonged in your July 3 submission. Remember that the intervenors and the PREB consultants will have only 12 days to review this material. Apply the Golden Rule.

Discovery about the cost of “Professional and Technical Services”

My discovery Order yesterday, September 8, 2025, rejected Bondholders’ request for details about the makeup of a previous version of this cost category—a version that was constrained by 2017 rate levels. The Order explained that what matters to the Energy Bureau is the reasonableness of this category’s total proposed cost. What is relevant to that reasonableness is not the 2017-confined items but the prospective items.

If LUMA has not already provided details on the total items in this category and their costs, LUMA must provide those details as a response to NPFGC-of-LUMA-SUPPORT-2. LUMA must submit that response by **September 11, 2025**, preferably sooner. I am shortening the normal response period because I assume that LUMA would not have requested the amount that it did request without having the backup readily available.

LUMA’s and Genera’s possible conflicts of interest

In partial preparation for the conference of September 4, 2025, my Order of September 3, 2025, had this paragraph:

Conflicts of interest: It is human nature, and business nature, to seek advantage at others’ expense. If this were not true, we would not need supermarket checkout counters to prevent theft and tax auditors to prevent cheating. And we would let utilities set their own rates. The question is not whether one has a conflict of interest; the question is whether one is sufficiently self-aware, and honest, to identify the conflicts, and then to install and heed alert systems that prevent one from acting on the conflicts.

During the September 4 conference, I asked representatives of LUMA and Genera whether their companies had any conflicts. Each representative denied any conflict. LUMA’s representative asserted, as I understood him, that LUMA’s profit interest in serving Puerto Rico was covered fully by the OMA’s fixed fee and incentive fee. My recollection is that Genera’s representative offered no additional explanation for her denial.

I find the two representatives’ responses unsatisfying, because they don’t account for these facts, about which my consulting colleagues have informed me (and which LUMA and Genera are welcome to correct if they are wrong):

- As T&D operator, LUMA influences or controls entry for new renewable projects. It is a subsidiary of Quanta, a competitor in Puerto Rico’s market for construction and ownership of renewable projects.
- Genera operates Puerto Rico’s legacy generators. Genera’s parent, NFE, is a primary supplier of liquefied natural gas (LNG) to Puerto Rico, including to Genera.

- LUMA's and Genera's parent companies engage in the business of supplying and modernizing infrastructure for distribution and transmission (LUMA) and generation (Genera). They therefore have a profit interest in Puerto Rico energy solutions that involve infrastructure.
- LUMA uses "seconded" employees of its parent companies, Quanta and ATCO.
- The amount of ratepayer funds that each company seeks for various performance-improvement activities can increase profitability by (a) reducing the possibility of performance penalties, (b) increasing the possibility of receiving any contractual "incentive fees," and (c) reducing the possibility that the Puerto Rico Government will seek to terminate their contracts.

Given my dissatisfaction with the denials from the two companies' representatives, I require prefiled testimony from each company's CEO, to be submitted no later than **September 22, 2025**. Label the testimony "Supplemental Testimony on Conflicts." This testimony shall—

- address this question: "Does my company have any conflict between its self-interest and the public interest, as that public interest is defined by statutes that grant jurisdiction to the Energy Bureau?"—and in answering that question, address at least the five factors listed above;
- address this question: "Over what matters do I, as CEO, have complete discretion; and over what matters must I get authorization from, or do I receive influence from, executives or board members of my company's corporate ownership?"; and
- for each conflict that the CEO acknowledges, describe the procedures in place that the CEO thinks prevent anyone from acting on the conflict to the detriment of Puerto Rico electricity consumers.

Caution: The answer to the question "Do you have conflicts?" cannot be "No, because we have guardrails in place." If you have guardrails in place, it means you think you have conflicts. A guardrail's existence doesn't remove a conflict's presence. I am looking not only for conflicts, but for candor about conflicts.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on September 9, 2025. I also certify that on September 9, 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; 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; ratecase@genera-pr.com; jfr@sbgblaw.com; hriviera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; javrua@sesapr.org; Brett.ingerman@us.dlapiper.com; brett.solberg@us.dlapiper.com; agraitfe@agraitlawpr.com; jpouroman@outlook.com; epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; Robert.berezin@weil.com; Gabriel.morgan@weil.com; corey.brady@weil.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; zack.schrieber@cwt.com; thomas.curtin@cwt.com; escalera@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com; Isaac.Stevens@dechert.com; James.Moser@dechert.com; Kayla.Yoon@dechert.com; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; juan@londoneconomics.com; mmcgill@gibsondunn.com; LShelfer@gibsondunn.com; jcasillas@cstlawpr.com; jnieves@cstlawpr.com; arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com.

I sign this in San Juan, Puerto Rico, on September 9, 2025.



Sonia Seda Gaztambide
Clerk

Revised Rate Case Schedule (September 8, 2025)
(italics indicate text changes from existing schedule)

Starting now	Participants submit requests to intervene in rate case
Thursday, May 1, 2025	Hearing Examiner begins approving rate case interventions (ongoing)
Wednesday, May 7, 2025	Technical conference on rate design
TBD	Technical conference on rate design (if necessary)
Friday, May 16, 2025	Hearing Examiner circulates draft rate design filing requirements
Friday, May 23, 2025	Participants submit comments on draft rate design filing requirements
TBD	Technical conference on rate design filing requirements (if necessary)
Friday, May 30, 2025	Order establishing rate design filing requirements*
Thursday, July 3, 2025	Applicants file complete formal application by noon, consisting of revenue requirement materials, rate design materials, permanent rates, provisional rates, amendment to the FY 2025 budget, FY2026 Constrained Budget, FY 2026 Optimal Budget, and all associated prefiled testimony
Thursday, July 3, 2025	PREB ratifies Hearing Examiner's prior approvals of rate case interventions
Thursday, July 3, 2025	Discovery opens. (All discovery is rolling discovery, as described in Hearing Examiner's Order of April 25, and continues through the end of the evidentiary hearing.)
<i>Thursday, July 31, 2025</i>	PREB approves provisional rates
Tuesday, August 19, 2025	Determination of completeness of July 3 application
<i>Monday, Sept. 8, 2025</i>	Intervenors' answering testimony on revenue requirement and rate design; plus any testimony of PREPA, LUMA, or Genera responding to one of the other two companies on revenue requirement and rate design
<i>Monday, Oct. 6, 2025</i>	PREB consultants file expert reports on revenue requirement and rate design
<i>Thursday, Oct. 23, 2025</i>	Intervenors' rebuttal to PREB consultants' expert reports on revenue requirement and rate design

<i>To be determined</i>	Prehearing conference to organize evidentiary hearing on revenue requirement and rate design
<i>Thursday, Oct. 30, 2025</i>	Applicants' surrebuttals to all intervenor testimony on revenue requirement and rate design, and to PREB consultants' expert reports on revenue requirement and rate design
<i>Friday, Nov. 7, 2025</i>	<i>Last day for discovery questions without explicit Hearing Examiner approval</i>
<i>Wednesday, Nov. 12, 2025</i>	Start of evidentiary hearing on revenue requirement. <i>No hearings 26-28 November.</i>
Friday, December 12, 2025	<i>Possible</i> end of evidentiary hearing on revenue requirement*
TBD	Public hearing
TBD	Public comment deadline
Monday, December 15, 2025	<i>Completion of revenue requirement if necessary, start of rate design</i>
Friday, December 19, 2025	End of evidentiary hearing on rate design*
Friday, January 16, 2026	Initial briefs on revenue requirement and rate design*
Monday, February 2, 2026	Reply briefs on revenue requirement and rate design*
<i>2/16/2026 to 4/16/2026</i>	Final order on revenue requirement and rate design (180-240 days after <i>August 19, 2025</i> determination of completeness)

*Estimated date

AlbinoLopez, Jan

From: Scott Hempling <shempling@scotthemplinglaw.com>
Sent: Tuesday, September 16, 2025 12:01 PM
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; Bolanos-Lugo, Katiuska; DelaRosa, Yahaira; Mercado, Margarita; Clarkin, Carolyn; Chambers, Andrea; regulatory@genera-pr.com; legal@genera-pr.com; mvazquez@vvlawpr.com; gvilanova@vvlawpr.com; ratecase@genera-pr.com; hriviera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; AlbinoLopez, Jan; Albanese, Rachel; varoon.sachdev@whitecase.com; javrva@sesapr.org; Ingerman, Brett; Solberg, Brett; agraitfe@agraitlawpr.com; jpouroman@outlook.com; epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; Robert.berezin@weil.com; Gabriel.morgan@weil.com; corey.brady@weil.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; zack.schrieber@cwt.com; thomas.curtin@cwt.com; escalera@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com; Isaac.Stevens@dechert.com; James.Moser@dechert.com; Kayla.Yoon@dechert.com; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; juan@londoneconomics.com; mmcgill@gibsondunn.com; LShelfer@gibsondunn.com; jnieves@cstlawpr.com; arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com

Subject: Rate case: Draft panel roster
Attachments: Panel roster SH 15 Sept.docx

Follow Up Flag: Follow up
Flag Status: Flagged

 EXTERNAL MESSAGE

Counsel for LUMA, PREPA, Genera, Bondholders, ICPO, ICSE, SESA, SUN, Walmart,

Attached please find a list of the panels I intend to have at the evidentiary hearing. Most of the items on the list you have seen before. Two, I think, are new: pension, and Emergency Reserve Account. The purpose of this email is to have you populate this list with people.

Each of you: **please redline this document by inserting the name of each of your witnesses** under the appropriate panel. For some of the panels, especially pension and Emergency Reserve Account, LUMA, PREPA, and Genera's current witnesses might not have addressed the subject. In those situations, you can list one of your current witnesses or identify a new person. I will decide if that new person may appear.

Rename your document simply by putting the party name at the beginning of the filename. No cover sheet, no pleading, just the document. Email only to me, not to 100 people. Once I receive the nine documents I will consolidate into a single document and send to all.

Please do this task by **Friday, 19 September.**

This task is the first step in the process by which I will create a panel schedule, so that all can have as much notice as possible on when they will appear. I cannot guarantee that the schedule will hold, but I will always aim to provide you as much information as possible as timely as possible.

Future steps in this process include asking for cross-examination time estimates.

Please be on the lookout for future emails from me relating to hearing logistics.

Scott Hempling, Attorney at Law LLC

shempling@scotthemplinglaw.com

301-754-3869

www.scotthemplinglaw.com

Zoom: <https://zoom.us/j/8444938186>

Panel Roster (SH 15 Sept)

Annual revenue requirement

Generation costs

Transmission costs

Distribution costs

Customer service costs

Overhead costs

Federal funds

Debt

Pensions

Emergency Reserve Account

Total revenue requirement; bad debt; reconciliation of permanent and provisional rates

Noncost matters

Budget process and budget flexibility

Recordkeeping for project costing (Uniform System of Accounts, activity-specific budget projections)

Practicability of various levels of rate increase

Conflicts of interest between profit and cost

Cooperation among PREPA, LUMA, Genera

Rate design

Single panel, covering load forecast, cost of service study, revenue allocation, rate design, and actual bills

**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 on Panel
Structure

Hearing Examiner's Order on Panel Structure

This Order presents my decisions on the panel dialogue recently held by the parties. Attached to this order is the October 13 email from Ms. Valle summarizing that dialogue's results. I thank Ms. Valle and all counsel for their efforts. This Order is subject to change based on what I hear from the parties during our conference this Thursday.

Accompanying this Order is my current version (Oct. 13) of the panel roster. Anything redlined or highlighted, I have questions.

No additional written direct testimony: There is no new specific information that I am currently seeking (other than, of course, what other Energy Bureau consultants are seeking through ROIs). There is, therefore, no current evidentiary need for new prefiled testimony. The main reason to have nonfiling witnesses available is to provide details that a same-company filing witness doesn't have at his or her fingertips. That need does not warrant any new filed testimony.

Misunderstanding of the panels' purpose: I understand that some of you view the panels' purpose as solely to "permit participants to cross examine witnesses on their affirmative, written evidence." That view misunderstands the panels' purpose—and possibly the purpose of administrative adjudication. Adjudication is a technique used by administrative agencies to help them make the best possible decisions. Though some parties might have adversarial interests, the purpose of administrative adjudication is not to resolve private disputes over those interests. That narrow purpose is the constitutionally limited purpose of civil litigation. Administrative adjudication has a broader purpose: to create the most comprehensive, informative record, so that the tribunal can fulfill its statutory duty to make the best public-interest decision..

The purpose of the panels, therefore, is not merely to enable parties to confront their adversaries. The purpose is also to help the Commissioners understand the facts and the options. The panel conversations might produce facts and insights not stated before. That is a good thing, not a bad thing. Even in civil litigation, questioning can produce new information and new insights. For our panels, whether those new items come from the mouth of a filing witness or a nonfiling witness is, to me, legally irrelevant. As I have said

before, what matters is not that surprises will happen, but rather how the tribunal deals with surprises when they occur. If a surprise warrants a response, I will elicit that response.

Federal funding: I did not grasp from Ms. Valle's email of 13 October what Ms. Díaz would contribute to the federal funding panel. One purpose of that panel is to help the Commissioners understand which projects are eligible for FEMA or DOE funding, and the probability and timing for that funding, the arrival of which would obviate a base-rate solution. Another purpose of that panel is to explore the formula and procedure presented in the report of PREB Consultant Guímel Cortés. Because that formula is new to all of us, we will benefit from creative good thinking on its pros and cons. On Thursday, Ms. Valle explain what Ms. Díaz's could contribute.

Pension: The main question for that panel is what if any amount the Energy Bureau should include in base rates to cover PREPA's pension responsibility. If Ms. Rivera has information on that topic, it will benefit the Energy Bureau. For that one topic, if she wants to offer written testimony, limited to five pages, by **October 23**, preferably sooner, I will allow it, with any rebuttal due on a date that I will set on October 24.

Emergency Reserve Account: This new idea first appeared in the Energy Bureau's order on provisional rates. Being new, this idea will benefit from a full airing in terms of structure, operation, and amount. Whether that airing comes from a filing witness or a nonfiling panelist does not matter to me. Moreover, the topic does not strike me as inherently adversarial.

Conflicts of interest: For this panel I intend to have only the three CEOs. On this issue, what matters the most is culture, as created and guided by leadership. I would also like participation by ICSE, because I see that organization as having a unique public-interest perspective.

Interutility cooperation: Again, I see this subject as a question of leadership. But I will allow also the individuals, one each, identified by each of the three utilities. I do not see a need for Mr. San Miguel.

Conclusion

Compared to having only prefiling witnesses, some of whose submissions are only very general, the presence of nonfiling panelists can help the Commissioners learn what they need to learn. Compared to having individual prefiling witness appear, one at a time, with weeks passing between witnesses addressing the same subject, the panel approach is emphatically better for all. I have used this approach in over a dozen separate proceedings (though only two were adjudicatory), never with any concern and controversy.

I ask all to focus on educating rather than point-scoring, and to trust that if you raise a fairness concern I will hear you out. Remember that we are here not only for our individual clients but also for the Commonwealth's residents.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on October 14, 2025. I also certify that on October 14, 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; katuska.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; ratecase@genera-pr.com; jfr@sbgblaw.com; hriviera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; alexis.ramsey@weil.com; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; javrua@sesapr.org; Brett.ingerman@us.dlapiper.com; brett.solberg@us.dlapiper.com; agraitfe@agraitlawpr.com; jpouroman@outlook.com; epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; Robert.berezin@weil.com; Gabriel.morgan@weil.com; corey.brady@weil.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; zack.schrieber@cwt.com; thomas.curtin@cwt.com; escalera@reichardescalera.com; riverac@reichardescalera.com;

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arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com.

I sign this in San Juan, Puerto Rico, on October 14, 2025.





Sonia Seda Gaztambide
Clerk



this is the email to append to the HE order today

From Scott Hempling <shempling@scotthemplinglaw.com>
Date Mon 2025-10-13 3:31 PM
To Sonia Seda <sseda@jrsp.pr.gov>

Dear Mr. Hempling,

All applicants and various intervenors met on October 7th to discuss alternatives to address PREPA’s request to allow witnesses who have not yet filed written testimony to participate in the panels.

PREPA circulated a proposal to the applicants and intervenors who participated in the October 7th conference to address this matter and subsequently exchanged communications with them. Below is PREPA’s proposal to allow witnesses who have not yet filed written testimony to participate in the panels, along with the applicants’ and intervenors’ respective positions on the proposal.

PREPA’s proposal to allow witnesses who have not yet filed written testimony to participate in the panels.	Applicants’ and Intervenors’ Position regarding PREPA’s Proposal	LUMA’s proposed compromise on this issue	PREPA’s position regarding LUMA’s proposed compromised
1. Identification of Witness: PREPA will identify the witness without pre-filed testimony for each panel. PREPA’s proposed witness	Mr. Cory Brady informed the bondholders had no objections to PREPA’s proposal.	The following is a direct quote from the email sent by LUMA’s counsel: With respect to PREPA, in light of the Hearing Examiner’s indication that	PREPA rejected LUMA’s proposed compromised.

without pre-filed testimony are the following:

- a. Suzette Díaz – PREPA’s advisor on federal funding, Ari Group, LLC
- b. Brenda Rivera – New PREPA ERS Administrator
- c. Lucas Porter - PREPA’s financial advisor, Ankura Consulting
- d. Jorge San Miguel - PREPA’s financial advisor, Ankura Consulting
- e. Gerard Gil - PREPA’s financial advisor, Ankura Consulting

2. Written testimony: Each identified witness will submit written-direct testimony about the information it anticipates will contribute to the panel it was assigned to. If the Hearing Examiner, within the deadlines specified below, identifies the specific topics or questions it wishes

Mr. Pedro Jimenez, on behalf of the Committee, raised no objection.

Thus far, Counsels for Genera have not notified the undersigned any objection.

Ms. Margarita Mercado, on behalf of LUMA, informed the following: “As a general matter, LUMA remains formally opposed to the presence of any witness on a panel who has not provided affirmative written testimony. The point of the panels is to permit participants to cross examine witnesses on their affirmative written evidence, not to present evidence in the first instance.” Notwithstanding,

he intends to permit limited additional utility witnesses to the extent they are needed to provide additional detail, LUMA suggests the following compromise.

LUMA will not object to the inclusion of Brenda Rivera and PREPA’s witnesses on the Emergency Reserve Account. However, each must provide timely and complete written testimony by October 24. Rebuttal testimony, if any, will be due two weeks later, November 7.

LUMA will not object to the inclusion of the three Ankura nonwitnesses (Porter, San Miguel, and Gil) without any further testimony submitted by them as long as PREPA commits in writing that they are being presented merely to support and clarify the testimony of PREPA’s Comptroller and

to address in the panel, the witness will address those topics and answer those questions in the written-direct testimony. The testimony will not make changes to the figures or budgetary requests proposed on July 3. 3. Deadline for written testimony: the witnesses written-direct testimony will be filed on or before October 24th. 4. Deadline for rebuttal testimony: applicants and intervenors will have until November 7th to object to the proposed witness's testimony or file any rebuttal testimony.	LUMA proposed a compromise. CEO as previously submitted, and that they adopt that testimony as their own. Further, to the extent that any of the nonwitnesses appear on the total revenue and/or budget panel(s), they will do so only to comment on PREPA's revenue requirement and PREPA's budget. PREPA will withdraw Suzette Diaz, and will not place any of the proposed nonwitnesses on the federal funds panel or rate design panels. Consistent with the letter and spirit of the T&D OMA, PREPA will confirm that none of PREPA's witnesses will oppose LUMA or any of LUMA's requests.
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Please advise if you have any questions.

Best regards,

Mirelis Valle Cancel
Of Counsel



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Tel: 787-274-7404
E-mail: mvalle@gmlex.net

**Panels as of Oct. 13, reflecting all prefiled tty to date plus PREB consultants
plus party-proposed individuals**

Generation costs

Genera: Vladimir Scutt, VP of Operations and Asset Management, Fuels
Genera: Joaquin Quinoy Ortiz, VP of Engineering, Construction and Maintenance¹
Victor González
ICPO: Engineer Gerardo Cosme Núñez
Bondholders: Anthony Hurley
Bondholders: Patrick Hogan
PREB consultant: Justo González

Transmission costs

LUMA: Pedro Meléndez
LUMA: Kevin Burgemeister
ICPO: Engineer Gerardo Cosme Núñez
Bondholders: Anthony Hurley
Bondholders: Patrick Hogan
PREB consultant: Roger Schiffman
PREB consultant: Kathryn Bailey

Distribution costs

LUMA: Pedro Meléndez
LUMA: Kevin Burgemeister
Victor González
ICPO: Engineer Gerardo Cosme Núñez
Bondholders: Anthony Hurley
PREB consultant: Roger Schiffman

Customer service costs

LUMA: Sarah Hanley

¹ Additional possible Genera contributors to the Generation panel:

Hector Vazquez Figueroa, Chief Information Officer
Ricardo Pallens Cruz, Vice-President EEHS & Regulatory
Jennifer Witeczek, Vice-President of Services
Kevin Futch, General Counsel
Jesus Cintron Rivera, Senior Project Manager of Federal Funds (nonwitness)

Overhead costs and “miscellaneous costs”

LUMA: Crystal Allen (IT, OT)
LUMA: Kevin Burgemeister (Fleet)²
Genera: Ricardo Pallens Cruz, Vice-President EEHS & Regulatory
Genera: Héctor Vazquez Figueroa, Chief Information Officer
PREPA: Mary C. Zapata, CEO
PREPA: Juan C. Adrover, Comptroller
Bondholders: Anthony Hurley

Federal funds

LUMA: Andrew Smith
LUMA: Pedro Meléndez
Genera: Maria Sánchez Brás
Genera: Ricardo Pallens Cruz³
PREPA: Mary C. Zapata, CEO
PREPA: Suzette Díaz (nonwitness)
Bondholders: Anthony Hurley
PREB consultant: Guímel Cortés

Debt

LUMA: Andrew Smith
LUMA: Alejandro Figueroa
Bondholders: Dr. Susan Tierney
Unsecured Creditors: Julia Frayer
PREB consultant: Ralph Smith

² Additional possible LUMA contributors to the Overhead and Miscellaneous panel:

Juan Rogers (Procurement) (nonwitness)
Ivonne Gómez (HR)
Lorenzo López (Corp. Comms/Advertisement)
Ángel Rotger (Legal, Land and Permits, and Compliance)
Michelle Fraley (Corporate Security and Emergency Preparedness)
Michael Granata (HSE)
Miguel A Sosa Alvarado (Facilities) (nonwitness)
Alejandro Figueroa (Regulatory)
Andrew Smith (Finance)

³ Additional possible Genera contributor to the Federal Funds panel:

Jesus Cintron Rivera, Senior Project Manager of Federal Funds (nonwitness)

Pensions

SREAEE: José Fernández

PREPA: Mary C. Zapata, CEO

PREPA: Oscar X. Ocasio González, CFO

PREPA: Brenda Rivera – New PREPA ERS Administrator (nonwitness)

PREPA: Lucas Porter - PREPA's financial advisor (nonwitness)

Emergency Reserve Account

LUMA: Alejandro Figueroa

Genera: María Sánchez Brás

Genera: Kevin Futch, General Counsel

PREPA: Juan C. Adrover - PREPA's Comptroller

PREPA: Gerard Gil – PREPA's financial advisor (nonwitness)

Total revenue requirement; bad debt; reconciliation of permanent and provisional rates

LUMA: Sam Shannon

LUMA: Andrew Smith

LUMA: Alejandro Figueroa

PREPA: Juan C. Adrover - PREPA's Comptroller

PREPA: Lucas Porter - PREPA's financial advisor (nonwitness)

Genera: María Sánchez Brás

Genera: Ricardo Pallens Cruz

ICPO: CPA Jaime Sanabria Hernández

PREB consultant: Ralph Smith

Budget process and budget flexibility

Genera: Maria Sánchez Brás

Genera: Jennifer Witeczek, Vice-President of Services

LUMA: Ed Balbis

LUMA: Branco Terzic

LUMA: Andrew Smith

PREPA: Juan C. Adrover - PREPA's Comptroller

PREPA: Lucas Porter - PREPA's financial advisor

Bondholders: Anthony Hurley

Bondholders: Patrick Hogan

Recordkeeping for project costing (Uniform System of Accounts, activity-specific budget projections)

Genera: María Sánchez Brás
Genera: Ricardo Pallens Cruz
LUMA: Andrew Smith
PREPA: Juan C. Adrover - PREPA's Comptroller
PREPA: Lucas Porter - PREPA's financial advisor
PREB consultant: Ralph Smith

Practicability of various levels of rate increase

Genera: Ricardo Pallens Cruz
LUMA: Andrew Smith
LUMA: Alejandro Figueroa
ICSE: Dr. Ramón Cao
Bondholders: Dr. Susan Tierney

Conflicts of interest between profit and cost

Genera: Winnie Irizarry Velazquez, CEO
LUMA: Juan Saca
PREPA: Mary C. Zapata – PREPA's Executive Director
ICSE: ?

Cooperation among PREPA, LUMA, Genera

Genera: Winnie Irizarry Velazquez, CEO
Genera: Ivan Báez, Vice-President of Public & Government Affairs
LUMA: Alejandro Figueroa
LUMA: Juan Saca
PREPA: PREPA: Mary C. Zapata – PREPA's Executive Director
Juan C. Adrover - PREPA's Comptroller
ICSE: ?

Rate design Single panel, covering load forecast, cost of service study, revenue allocation, rate design, and actual bills

Genera: Mr. Ricardo Pallens Cruz

LUMA: Sam Shannon

LUMA: Joseline Estrada (load forecast)

LUMA: Sarah Hanley (actual bills)

PREPA: Gerard Gil - PREPA's financial advisor (nonwitness)

PREPA: Lucas Porter – PREPA's financial advisor (nonwitness)

Victor Luis González

SESA: E. Kyle Datta

Walmart: Steve Chriss

SUN: Ahmad Faruqui

ICPO: Engineer Gerardo Cosme Núñez

ICSE: Dr. Ramón Cao

Bondholders: Dr. Susan Tierney

PREB consultant: Zachary Ming

**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 Setting
Agenda for Conference of October 16, 2025

**Hearing Examiner's Order Setting Agenda for
Conference of October 16, 2025**

Please find agenda below. Accompanying this Order are five Appendices, A through E.

I. Exhibits

See final version of *Appendix A* on instructions for exhibits.

II. Confidential materials

- A. Goal: Determine the extent to which we will need confidential sessions.
- B. Step 1: Compile full list of all items for which someone asserts confidentiality.
See *Appendix B*.
- C. Step 2: Confirm that *Appendix B* contains those items for which the PREB has not made a final decision, but rather has made only a conditional decision.
- D. Step 3: For the conditional items, attempt consensus on narrowing confidentiality claims.
- E. Step 4: Identify, for each panel, the specific question areas that are likely to trigger the need for a confidential session.
- F. Procedural solution: We will hold any necessary confidential session at the end of each panel, rather than have a single confidential session in late December addressing all panels.

III. Panels

- A. Rename “Customer service” to be “Customer Experience.” Customer service is a component of customer experience.
- B. Revenue decoupling will be in the rate design panel—possibly first.
- C. Scope of solar issues: Update on negotiations among LUMA, SESA, and SUN.
- D. QFs and avoided cost: Not relevant to a proceeding on base rates.
- E. Pension panel
 - 1. What does the PREB need to decide? Based on what evidence?
 - 2. Is the PREB legally required to include in rates whatever is the annual cost of the pension plan determined by PREPA?
 - 3. What does the \$370M represent: Merely current payments to retirees? Or backing up the pension?
 - 4. Where exactly does the \$370M go money go?
 - 5. PREPA: Why is CEO Zapata on the panel but CFO Ocasio is not, when only Mr. Ocasio testified about pensions?
- F. Debt panel
 - 1. PREPA’s preemption argument aside: On including debt in the revenue requirement: What is the PREB's statutory obligation and what is its discretion? Is PREP required to include some amount? Prohibited from including any amount? If neither, what discretion does PREB have?
 - 2. What is the institutional reason for why PREPA takes the position that it takes?
- G. Estimated Panel schedule (*Appendix C1*) and Panel roster (*Appendix C2*)

IV. Rebuttals to the PREB consultant report on generation

- A. The report is about 60 pages single-spaced, covering these four areas: Generation Adequacy, Generation Optimization, Corrective and Preventative Maintenance, and Labor Costs.
- B. To give all more time, I have tentatively scheduled the Generation panel for Week 2, starting **Nov. 17**. Doing so would give the rebuttal and surrebuttal authors more time, as follows:
 - 1. Intervenors' rebuttal on Generation (only rebuttal, no friendly support) due **Oct. 31** rather than Oct. 27.
 - 2. Applicants surrebuttal on Generation due **Nov. 10** rather than Nov. 3.

V. Hearing Logistics

- A. Likely room set-up (See *Appendix D*)
- B. Seating
- C. Official transcripts five days later
- D. Daily plan
 - 1. Each weekday 9-5; 15-minute break midmorning and midafternoon; 60-minute break for lunch.
 - 2. Saturdays and weekend evenings: Presently we likely will use the first Saturday (Nov. 15); but for other situations where necessary to remain on schedule, we will use weekday evenings, though Saturdays remain possible.
 - 3. Off days: Nov. 19, 26-28.
- E. Cross-examination

Counsel have different styles, which is fine. But our time is tight. Preparation saves time. For what it's worth, this article, at pp.21-31, has my views on preparation and delivery. I do not mean to impose these views on anyone.

<https://www.eba-net.org/felj/elj-36-1/>

VI. Post-hearing briefs

How do counsel feel about proposed orders rather than briefs? Each portion would be issue-specific. It would read like an order: explanation of the issue, objective summary of all the evidence, criteria for decision, application of the criteria to the facts, decision. All written objectively rather than argumentatively.

VII. The Energy Bureau's likely deliberations process (Appendix E)

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on October 16, 2025. I also certify that on October 16, 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; katuska.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; ratecase@genera-pr.com; jfr@sbgblaw.com; hriviera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; alexis.ramsey@weil.com; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgnq2021@gmail.com; jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; javrua@sesapr.org;

Brett.ingerman@us.dlapiper.com; brett.solberg@us.dlapiper.com;
 agraitfe@agraitlawpr.com; jpouroman@outlook.com; epo@amgprlaw.com;
 loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com;
 Robert.berezin@weil.com; Gabriel.morgan@weil.com; corey.brady@weil.com;
 lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com;
 ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com;
 jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com;
 hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com;
 mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com;
 zack.schrieber@cwt.com; thomas.curtin@cwt.com; escalera@reichardescalera.com;
 riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com;
 erickay@quinnemanuel.com; dmonserrate@msglawpr.com; fgierbolini@msglawpr.com;
 rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com;
 David.herman@dechert.com; Isaac.Stevens@dechert.com; James.Moser@dechert.com;
 michael.doluisio@dechert.com; Kayla.Yoon@dechert.com; Julia@londoneconomics.com;
 Brian@londoneconomics.com; luke@londoneconomics.com; juan@londoneconomics.com;
 mmcgill@gibsondunn.com; LShelfer@gibsondunn.com; jcasillas@cstlawpr.com;
 jnieves@cstlawpr.com; pedrojimenez@paulhastings.com; ericstolze@paulhastings.com;
 arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com.

I sign this in San Juan, Puerto Rico, on October 16, 2025.




 Sonia Seda Gaztambide
 Clerk

**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 on Rate
Case Procedures

Hearing Examiner's Order on Rate Case Procedures

Appendix A

Exhibits: Process for Numbering and Admitting

The approach described here avoids renumbering the 47 pieces of testimony already submitted, avoids time-consuming "marking for identification" before or during the hearing, and creates a clear platform organization for the parties and the Commissioners. It creates a file system that the Energy Bureau's appellate team can convert into the format required by the appellate courts. This document has four parts:

- Initiating the process
- Numbering all documentary evidence for identification
- Admitting or rejecting documentary evidence
- Using the Accion platform

This document is the same as that circulated to the parties in the September 29 order, except that new or revised passages are highlighted.

I. Initiating the process

My Order of October 1, 2025, deems all prefiled testimony and accompanying materials as presented for identification and proposed for admission. The process for assigning identification numbers is addressed in Part II below.

II. Numbering all documentary evidence for identification

- A. Per the Schedule in Part III.A.1 below, each party will upload all testimony and accompanying documents, in pdf or excel, into an Accion platform folder labeled “Marked for Identification.”
- B. *File names—use existing numbers:* Each document’s filename will state the presenting entity, followed by a number. To save time, work, and confusion, parties will use the numbering system initiated by the three utilities in their July 3 application for prefiled testimony and numbered accompanying documents. As was done in the application, each party’s first number will be the number that follows the last number of the preceding party. Therefore, here is what we have so far, as a result of the July 3 application:

LUMA 1.0 to LUMA 20.0

Genera 21 to Genera 30

PREPA 31 to PREPA 47
- C. The Accion platform requires parties to input the document numbers assigned by me. The platform accepts preassigned exhibit numbers only as numbers with two decimal places (e.g. 62.01). The platform does not accept characters or numbers beyond the second decimal. Contact KBailey@acciongroup.com or PMcRobbie@acciongroup.com to label exhibits beyond 2 decimals (e.g., 62.01a and 62.01b if needed).

In addition to the material the Applicants labeled as testimony and “exhibits” in the July 3 application, the three utilities included many unnumbered schedules, worksheets, and other documents. Here is the process for dealing with documents without a pre-assigned number, including unnumbered schedules submitted with the Applicants’ filing and documents parties may use during cross examination:

When uploading the document on the platform the party must check a box that says **No document number previously assigned**. The platform will automatically assign those documents a number, starting with 100.

Documents will be numbered sequentially as documents are uploaded. The party uploading the document must identify at least one sponsoring witness, and may indicate multiple witnesses associated with schedules that support multiple witnesses' testimony.

Example: LUMA uploads schedule A-1, in excel, and identifies Figueroa and Shannon as sponsoring witnesses. If that is the first document uploaded by a party (LUMA) checking the box **No document number previously assigned**, the platform will assign "LUMA Ex 100" to the document. If the Bondholders upload a document they plan to introduce, following LUMA's upload of LUMA Ex. 100, the platform will label it BH Ex. 101.

The platform will make a Master list of all uploaded documents in numerical order, available to all parties. The platform will provide parties the ability to sort documents marked for identification by party.

- D. Confidential exhibits: Label them clearly and include a Redacted version. Label as follows: LUMA 11.02 CONFIDENTIAL and LUMA 11.02 REDACTED.
- E. CEO testimony: The last July 3 "exhibit" was PREPA 47. So I am designating the CEO testimony due September 22 as LUMA 48 and Genera 49.
- F. I am designating intervenor documents as follows:
 - Bondholders: Hogan BH 50; Hurley BH 51; Tierney BH 52
 - ICPO Sanabria: ICPO 53
 - ICSE Cao: ICSE 54
 - SESA Datta: SESA 55.00 - to 55.02
 - SUN Faruqui: SUN 56
 - Walmart Chriss 57.0 - to 57.02
- G. The PREB Consultant expert reports are PREB 58.0 – PREB 65.
- H. The intervenors' rebuttal testimony numbers will begin with the number that follows the last PREB consultant number. Mr. Brady will convene intervenors after **October 10** (the new deadline for all PREB consultants' reports) to determine the numbers for this testimony. The Applicants' surrebuttal materials will begin with the number that follows the last intervenor rebuttal number.

LUMA's counsel will coordinate the surrebuttal numbering. All pre-filed testimony will be assigned a number less than 100.

- I. *If a witness's testimony quotes from an ROI:* Present the ROI (the entire question and answer, including supplemental responses and any follow-up questions and responses) for identification as evidence. To do so, the party has two options: (1) if there are only a few ROIs, append them to the testimony (that combined document then having a single exhibit number); or (2) if there are more than a few ROIs, or if they are lengthy, create a separate numbered document that contains all the ROIs that the witness cites.

Example: If Bondholder witness Tierney (BH 52.00, per above) cites multiple ROIs in her testimony, Bondholders will create a document that contains all ROIs used to support Tierney's testimony, and label it as BH 52.01.

Note: The only documents that anyone should mark for identification are materials that a party (or a PREB consultant) wants in evidence. So if in the past few months a party replaced Document X with Document Y (e.g., because Document X had an error), only Document Y needs to be marked because the party is presenting only Document Y for admission. An example is Revised Schedule O-1. Label the revised schedule with the date the revision was submitted in the PREB case file. e.g. LUMA Ex. 20.04 (7/11/25). (If an opposing party wants erroneous Document X in evidence, they can ask the Hearing Examiner to admit it.)

III. Admitting or rejecting exhibits

A. Before the evidentiary hearing

1. Our current plan is to have the Accion platform available by **October 7, 2025**, to receive documents to be marked for identification. For materials submitted through **October 10**, parties must upload them no later than **October 22**. For later-filed materials, parties must upload them **within 24 hours of submitting** the document to the case file.

The Accion platform will produce a master list of all uploaded materials marked for identification.

2. **Objections:** See the Order of October 1 for deadlines. If necessary I will hold a conference to hear arguments. Then I will issue an order admitting or rejecting those disputed items. A party wishing to make an offer of proof of a rejected item must do so within three 3 days of my order.

B. During the hearing

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.

Example: If the last document uploaded was PREPA 149, and if LUMA uploads a document the night before cross-examining a witness, the document will be numbered LUMA Ex. 150..

IV. Using the Accion platform**A. The Accion platform will have five folders:**

Marked for Identification

Admitted as Evidence

Rejected but not subject to offer of proof

Rejected and subject to offer of proof

Official Notice

B. Accion platform functions

1. On the deadline that I established above, all parties will upload their labeled documents in pdf or excel into the folder on the Accion Platform labeled “Marked for Identification” and provide the information required in a-d below to populate the master list.

The Accion platform will produce and continually update a master list of documents. The master list of documentary evidence will include:

- a. Documentary Evidence Number, e.g. LUMA 1.0
- b. Description, e.g. Direct Testimony, Schedule A-1, or ROIs

- c. Sponsoring Witness, e.g. Alejandro Figueroa
 - d. Date document was filed in NEPR-AP-2023-0003, e.g., July 3, 2025
 - e. Date document was deemed Marked for Identification, e.g., upload date
 - f. Status: Admitted, Rejected but not subject to offer of proof, Rejected subject to offer of proof
 - g. [Pointer to Ruling Document (e.g., "See Order of," "See Transcript p. 123, ll. 5-15")] [This item is still under discussion.]
- 2. Someone authorized by the Hearing Examiner, will use the platform to mark the status of each document in the Marked for Identification folder (e.g. admitted or rejected). The platform will sort the documents into the appropriate folders. If documents are rejected and subject to offer of proof, the platform will reflect the status as "proffered." Documents rejected and subject to offer of proof will remain in a folder for the appellate record. The person authorized by the Hearing Examiner will use the platform to mark documents admitted or rejected during the hearing on the day the Hearing Examiner rules on the document's admission.
 - 3. At the end of hearing, the Hearing Examiner will set a deadline by which all counsel must confirm the accuracy of (a) Admitted as Evidence and (b) Rejected and Subject to Offer of Proof folders.
 - 4. I will use the same number assigned to a document—whether by me or through the Accion platform—as its Exhibit number if it becomes evidence. Accion will generate an **Admitted as Evidence** list showing all numbers from 1 through the last number marked for identification. It will label any document numbers not admitted as evidence as **NOT USED**.

Appendix B: Confidentiality Assertions

Party claiming Confidentiality	Document	Date Filed	Information for Which Confidential Treatment is Requested
LUMA	PC-of-LUMA-COST_ALL-13	26-Aug-25	Map of LUMA Energy Transmission System
LUMA	PC-of-LUMA-NONPHYS_OPS-38	22-Aug-25	LUMA-PREPA Insurance Program with premiums. TRADE SECRET
LUMA	PC-of-LUMA-NONPHYS_OPS-38	24-Sep-25	LUMA-PREPA Insurance Program with premiums. Includes limits, deductibles and last time shopped TRADE SECRET
LUMA	PC-of-LUMA-DST-28	17-Aug-25	FEMA detailed scope of work for AMI
LUMA	NPFGC-of-LUMA-CAPEX-18	20-Aug-25	Long Term Investment Plan Unconstrained aka Ex 2.05
LUMA	NPFGC-of-LUMA-CAPEX-18	20-Aug-25	Long Term Investment Plan Constrained aka Ex 2.06
LUMA	PC-of-LUMA-TRS- 5	20-Aug-25	Prioritized list of substations
LUMA	PREPA-of-LUMA-PROV- 8	26-Jul-25	High priority and non-controversial items to be collected through provisional rates
LUMA	PREPA-of-LUMA-PROV- 8	26-Jul-25	Number of accounts and amounts for Payment plans, Severance plans, Disputed accounts, Accounts with objections, Pending balaance certifications, TRADE SECRET
LUMA	PC-of-LUMA-OTH_OPEX- 27	26-Aug-25	Inventory Burden Policy
GENERA	PC-of-GENERA-NONPHYS_OPS-35	24-Sep-25	Insurance Costs TRADE SECRET
GENERA	PC-of-GENERA-NONPHYS_OPS-35	24-Sep-25	Certificate of Insurance & Waiver of Commercially Unavailable; Includes costs TRADE SECRET
Bondholders (NPFGC)	LUMA-of-NPFGC-CAPEX- 40	5-Oct-25	Response to request to identify flaws in LUMA's model on reliability benefits
Bondholders	LUMA-of-NPFGC-CAPEX- 40	5-Oct-25	Comparison of LUMA Historical Reliability to Capital Spending
LUMA	NPFGC-of-LUMA-CAPEX-10	9-Sep-25	Information on reliability improvements/outages
Bondholders	LUMA-of-NPFGC-FEMA-16	5-Oct-25	Hurley assignments for IEM in Puerto Rico
Bondholders	LUMA-of-NPFGC-ACCTPAY-24	6-Oct-25	Consulting Agreement
Bondholders	LUMA-of-NPFGC-ACCTPAY-24	6-Oct-25	Consulting Agreement
LUMA	PREPA-of-LUMA-COST_ALL-18	18-Sep-25	Secondment Agreement between LUMA and ATCO Infrastructure
LUMA	Ex 2.05	18-Aug-25	LTIP Unconstrained (CAPEX-18)
LUMA	Ex 2.06	18-Aug-25	LTIP Constrained (CAPEX-18)
LUMA	Ex. 11.0	3-Jul-25	Direct Testimony Crystal Allen IT-OT
LUMA	Ex 11.02	3-Jul-25	IT-OT Cyber Security Program FY 26
LUMA	Ex 5.03	3-Jul-25	PBIT1 OT Telecom Systems & Networks
LUMA	Ex 13.01	3-Jul-25	PBUT18 Substation Physical Security FY26
LUMA	Ex 13.02	3-Jul-25	PBUT19 Regional Operations Physical Security FY 26
LUMA	Ex 13.03	3-Jul-25	Motion Submitting Responses to November 8 ROI and Request for Confidential Treatment
LUMA	Ex 13.03	3-Jul-25	Security Incidents
LUMA	Ex 13.03	3-Jul-25	Physical Security Plan
LUMA	Ex 13.03	3-Jul-25	Summary of Investigations in the Aricebo Region 2024

Panel Name	Hours Estimate (low)	Hours Estimate (high)	Likely Date Range*			
T &D	12	24	N12-15			
Generation	12	18	N17-19			
Customer experience	8	10	N19-21			
Overhead & misc	12	18	N18-21			
Federal funds	8	12	N20-21, 24-25			
Budget	6	8	D1-5			
Practicability	4	8	D1-5			
Conflicts	4	6	D1-5			
Inter-utility cooperation	4	8	D1-5			
Debt	4	6	D8-12			
ARR	5	8	D8-12			
Recordkeeping	6	8	D8-12			
Pensions	4	6	D8-12, 15			
Rate design	12	18	D15-19			
Totals	101	158				
*N=Nov.; D=Dec.		Days	Hours @ 6/day			
		24	144			

Panels as of Oct. **136**, reflecting all prefiled tty to date plus PREB consultants
plus party-proposed individuals

Formatiert: Einzug: Links: 1,27 cm

Generation costs

Genera: Vladimir Scutt, VP of Operations and Asset Management, Fuels
 Genera: Joaquin Quinoy Ortiz, VP of Engineering, Construction and Maintenance¹
 Victor González
 ICPO: Engineer Gerardo Cosme Núñez
 Bondholders: Anthony Hurley
 Bondholders: Patrick Hogan
 PREB consultant: Justo González

Transmission costs

LUMA: Pedro Meléndez
 LUMA: Kevin Burgemeister
 ICPO: Engineer Gerardo Cosme Núñez
 Bondholders: Anthony Hurley
 Bondholders: Patrick Hogan
 PREB consultant: Roger Schiffman
PREB consultant: Kathryn Bailey

Distribution costs

LUMA: Pedro Meléndez
 LUMA: Kevin Burgemeister
 Victor González
 ICPO: Engineer Gerardo Cosme Núñez
 Bondholders: Anthony Hurley
 PREB consultant: Roger Schiffman

Customer service costs

LUMA: Sarah Hanley

¹ Additional possible Genera contributors to the Generation panel:

Hector Vazquez Figueroa, Chief Information Officer
 Ricardo Pallens Cruz, Vice-President EEHS & Regulatory
 Jennifer Witczek, Vice-President of Services
 Kevin Futch, General Counsel
Jesus Cintron Rivera, Senior Project Manager of Federal Funds (nonwitness)

Overhead costs and “miscellaneous costs”

LUMA: Crystal Allen (IT, OT)
 LUMA: Kevin Burgemeister (Fleet)²
 Genera: Ricardo Pallens Cruz, Vice-President EEHS & Regulatory
 Genera: Héctor Vazquez Figueroa, Chief Information Officer
PREPA: Mary C. Zapata, CEO
PREPA: Juan C. Adrover, Comptroller
 Bondholders: Anthony Hurley

Federal funds

LUMA: Andrew Smith
 LUMA: Pedro Meléndez
 Genera: Maria Sánchez Brás
 Genera: Ricardo Pallens Cruz³
PREPA: Mary C. Zapata, CEO
PREPA: Suzette Díaz, (nonwitness)
 Bondholders: Anthony Hurley
 PREB consultant: Guímel Cortés

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Debt

LUMA: Andrew Smith
 LUMA: Alejandro Figueroa
 Bondholders: Dr. Susan Tierney
Unsecured Creditors: Julia Frayer
PREB consultant: Ralph Smith

² Additional possible LUMA contributors to the Overhead and Miscellaneous panel:

Juan Rogers (Procurement) (nonwitness)
 Ivonne Gómez (HR)
 Lorenzo López (Corp. Comms/Advertisement)
 Ángel Rotger (Legal, Land and Permits, and Compliance)
 Michelle Fraley (Corporate Security and Emergency Preparedness)
 Michael Granata (HSE)
Miguel A Sosa Alvarado (Facilities) (nonwitness)
 Alejandro Figueroa (Regulatory)
 Andrew Smith (Finance)

³ Additional possible Genera contributor to the Federal Funds panel:

Jesus Cintron Rivera, Senior Project Manager of Federal Funds (nonwitness)

Pensions

SREAEE: José Fernández

PREPA: Mary C. Zapata, CEOPREPA: Oscar X. Ocasio González, CFOPREPA: Brenda Rivera – New PREPA ERS Administrator (nonwitness)PREPA: Lucas Porter – PREPA's financial advisor (nonwitness)

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Emergency Reserve Account

LUMA: Alejandro Figueroa

Genera: María Sánchez Brás

Genera: Kevin Futch, General Counsel

PREPA: Juan C. Adrover – PREPA's ComptrollerPREPA: Gerard Gil – PREPA's financial advisor (nonwitness)

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Total revenue requirement; bad debt; reconciliation of permanent and provisional rates

LUMA: Sam Shannon

LUMA: Andrew Smith

LUMA: Alejandro Figueroa

PREPA: Juan C. Adrover – PREPA's ComptrollerPREPA: Lucas Porter – PREPA's financial advisor (nonwitness)

Genera: María Sánchez Brás

Genera: Ricardo Pallens Cruz

ICPO: CPA Jaime Sanabria Hernández

PREB consultant: Ralph Smith

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Budget process and budget flexibility

Genera: Maria Sánchez Brás

Genera: Jennifer Witeczek, Vice-President of Services

LUMA: Ed Balbis

LUMA: Branco Terzic

LUMA: Andrew Smith

PREPA: Juan C. Adrover – PREPA's ComptrollerPREPA: Lucas Porter – PREPA's financial advisor

Bondholders: Anthony Hurley

Bondholders: Patrick Hogan

Recordkeeping for project costing (Uniform System of Accounts, activity-specific budget projections)

Genera: María Sánchez Brás

Genera: Ricardo Pallens Cruz

LUMA: Andrew Smith

PREPA: Juan C. Adrover - PREPA's Comptroller

PREPA: Lucas Porter - PREPA's financial advisor

PREB consultant: Ralph Smith

Practicability of various levels of rate increase

Genera: Ricardo Pallens Cruz

LUMA: Andrew Smith

LUMA: Alejandro Figueroa

ICSE: Dr. Ramón Cao

Bondholders: Dr. Susan Tierney

Conflicts of interest between profit and cost

Genera: Winnie Irizarry Velazquez, CEO

LUMA: Juan Saca

PREPA: Mary C. Zapata – PREPA's Executive Director

ICSE: ?

Cooperation among PREPA, LUMA, Genera

Genera: Winnie Irizarry Velazquez, CEO

Genera: Ivan Báez, Vice-President of Public & Government Affairs

LUMA: Alejandro Figueroa

LUMA: Juan Saca

PREPA: PREPA: Mary C. Zapata – PREPA's Executive Director

Juan C. Adrover - PREPA's Comptroller

ICSE: ?

Rate design Single panel, covering load forecast, cost of service study, revenue allocation, rate design, and actual bills

Genera: Mr. Ricardo Pallens Cruz

LUMA: Sam Shannon

LUMA: Joseline Estrada (load forecast)

LUMA: Sarah Hanley (actual bills)

PREPA: Gerard Gil - PREPA's financial advisor (nonwitness)

PREPA: Lucas Porter - PREPA's financial advisor (nonwitness)

Victor Luis González

SESA: E. Kyle Datta

Walmart: Steve Chriss

SUN: Ahmad Faruqui

ICPO: Engineer Gerardo Cosme Núñez

ICSE: Dr. Ramón Cao

Bondholders: Dr. Susan Tierney

PREB consultant: Zachary Ming

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Commissioners

Clerks

Cross-Examiner

HE

Counsel

Counsel

Counsel

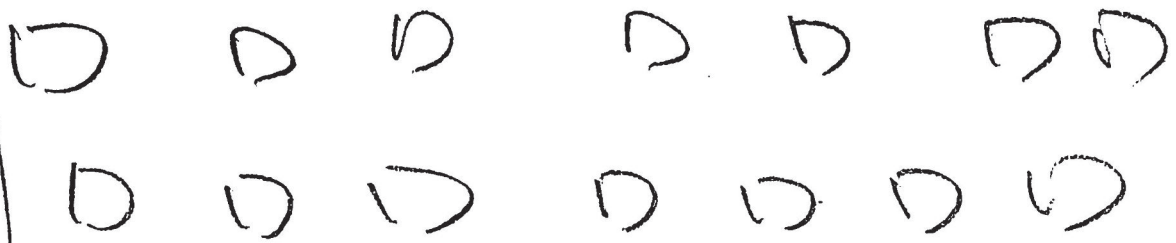
Counsel

Counsel

Counsel

Counsel

Chair for Public



Appendix E: Tentative plan for constructing the FY26 final order on rates

This document describes a procedure that I am considering for the post-hearing deliberations over FY26 rates. I welcome questions and comments. Most importantly I want to know if there are any legal concerns. After hearing from the parties, I will issue a Hearing Examiner order establishing the process described here..

Summary: During January 2026, the Energy Bureau will make its decisions about cost subtractions and additions, relative to the applicants' Constrained Budget. When I have received internal notice of those decisions, I will state them in a Hearing Examiner order. Those decisions, at that time, will be unofficial and nonbinding. Not until April will the Energy Bureau issue the final Resolution and Order that triggers appeal rights. The reason for my stating the revenue requirement decisions publicly, in late January or early February, is so that LUMA can calculate the base-rate revenue requirement. With that base revenue requirement known, the Energy Bureau can use it in February to conduct its internal deliberations on revenue allocation and rate design.

This approach gives the Energy Bureau ample time to deliberate the issues, draft the extensive final Resolution and Order, and have that R&O state the precise rates that customers will pay, all in time to meet the statutory deadline of 240 days after the August 19, 2025, decision on completeness.

The procedure for determining the revenue requirement

During January, the Commissioners will conduct their private deliberations to determine the annual revenue requirement for electric service for at least FY26.

By early February 2026, I will issue a Hearing Examiner order. That order will identify additions to or subtractions from the three utilities' proposed combined revenue requirement. That Order will reflect the deliberations conducted by the Commissioners in January, but it will not contain any explanations. Since it will not be an Energy Bureau order, it will have no legal effect on rates and will not trigger any appellate rights. As well, the order will not create any procedural right for anyone to contest the numbers.

The order will direct LUMA to calculate, explain, and report publicly to the Energy Bureau, the new revenue requirement that would arise from the listed additions and subtractions.

With the revised revenue requirement presented by LUMA, the Energy Bureau will proceed to conduct its private deliberations on rate design, thereby determining how each customer will pay its share of the new revenue requirement.

No later than the 240th day after the August 19, 2025, Energy Bureau Order determining completeness, the Energy Bureau will issue a final, appealable decision on rates. That decision will describe the revenue requirement, the basis for all of the changes

from what the utilities filed on July 3, 2025, all elements of cost allocation, revenue allocation, and rate design, and the explanations of those elements.

At some point between early February and late April, Luma will prepare and propose an amendment to the existing approved FY26 budget. That amended budget will reflect the revenue requirement that emerged from the additions and subtractions that my Hearing Examiner Order listed in early February. My February Order will require that proposed budget amendment to be fully consistent with the additions and subtractions in that Order. The public will have an opportunity to comment on the proposed budget amendment. After reviewing those comments, the Energy Bureau will adopt an Amended Budget for FY26 consistent with the FY26 revenue requirement established by the Energy Bureau in its final order.

The procedure for determining the rate design

Once the Commissioners know the actual new revenue requirement for FY26, they will deliberate internally the options for rate design. They will determine all the methodologies and principles necessary for LUMA to calculate the actual rates for all customer categories. We then would follow a procedure similar to that described above for revenue requirement. That is, I would issue a Hearing Order stating all these methodologies, and directing LUMA to calculate the rates and report back publicly.

Explanation

I believe that this procedure is the most efficient way to ensure that the individual cost additions and cost subtractions determined by the Energy Bureau get reflected in a revenue requirement on a schedule that allows the Energy Bureau to conduct its deliberations on rate design, and to draft the extensive final order, by the 240th day after the August 19, 2025, determination of completeness. I find Act 57 unclear as to whether the final order issued by the 240th day must state the precise rates; or whether instead it could state only the Energy Bureau's policy decisions on additions and subtractions, then leave the calculation and publication of actual rates to a post-240th-day compliance filing. I do not want to take the risk that a reviewing court will find the Day-240 Order insufficient and therefore of no legal effect, forcing a statutory default to the rates proposed by the utilities on July 3.

To assess the feasibility of this approach in terms of mechanics and timing, I discussed it with LUMA representatives on October 14, 2025. The conversation involved solely the question of feasibility, without discussion of substance. I welcome questions and comments.

**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

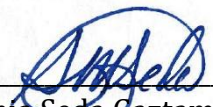
CERTIFICATION

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;

ratecase@genera-pr.com; jfr@sbgblaw.com; hriviera@jrsp.pr.gov;
 gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com;
 Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidhouse.com;
 Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com;
 Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; alexis.ramsey@weil.com;
 kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law;
 monica@emmanuelli.law; cristian@emmanuelli.law; luis@emmanuelli.law;
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 varoon.sachdev@whitecase.com; javrua@sesapr.org; Brett.ingerman@us.dlapiper.com;
 brett.solberg@us.dlapiper.com; agraitfe@agraitlawpr.com; jpouroman@outlook.com;
 epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com;
 matt.barr@weil.com; Robert.berezin@weil.com; Gabriel.morgan@weil.com;
 corey.brady@weil.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com;
 gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com;
 tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com;
 jgreen@whitecase.com; hburgos@cabprlaw.com; dperez@cabprlaw.com;
 howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com;
 bill.natbony@cwt.com; zack.schrieber@cwt.com; thomas.curtin@cwt.com;
 escalera@reichardescalera.com; riverac@reichardescalera.com;
 susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com;
 dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com;
 eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com;
 Isaac.Stevens@dechert.com; James.Moser@dechert.com; michael.doluisio@dechert.com;
 Kayla.Yoon@dechert.com; Julia@londoneconomics.com; Brian@londoneconomics.com;
 luke@londoneconomics.com; juan@londoneconomics.com; mmcgill@gibsondunn.com;
 LShelfer@gibsondunn.com; jcasillas@cstlawpr.com; jnieves@cstlawpr.com;
 pedrojimenez@paulhastings.com; ericstolze@paulhastings.com;
 arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com.

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




 Sonia Seda Gaztambide
 Clerk

FERNANDO E. AGRAIT

Abogado-Notario

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Oficina 414
701 Avenida Ponce de León
San Juan, Puerto Rico 00907

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Fax. 787-724-0353
agraitfe@agraitlawpr.com

MEMO

TO: Mrs. Margarita Mercado

FROM: Fernando E. Agrait

ABOUT: Panels on Interutility Cooperation & Panel on Conflicts of Interest

Date: October 23, 2025

1. I received your email. I am available to meet and confer tomorrow, October 24, 2025, at 11:00 AM.

2. Although Mr. Hempling indicated that I should not write anything on the matter, I am enclosing my working notes from a presentation I gave on October 10, 2024, at the Puerto Rico Manufacturers Association forum titled *Emergencias energéticas y supervivencias económicas del sector industrial*. These are included in their original language (Spanish). These notes from public statements I have made provide the conceptual framework for ICSE's position.

3. Lastly, I include a list of publicly available documents and press coverage that provide insights on necessary policy considerations.

Notas sobre ponencia de Emergencia energética

(10 de octubre de 2024)

Vamos al tema. El diccionario de la Real Academia de la Lengua Española define emergencia de la siguiente forma: “suceso o situación **imprevistos** que requieren una acción inmediata”.

Así que comienzo con informarles que Puerto Rico no tienen una emergencia, pues no hay nada imprevisto en nuestra situación actual.

La Ley 57 es de hace 10 años.

La Ley 17 es de hace 5 años.

La Ley Promesa es de 2016.

La Junta Fiscal de 2017.

Las leyes de APP y las que privatizan la AEE son de 2009 y 2018, respectivamente.

En cada una de esas fechas, esto es, desde hace más de 10 años, ya sabíamos todos cuál era la situación de nuestro sistema eléctrico. No hay nada imprevisto.

Lo que sí tenemos en Puerto Rico en cuanto a materia energética, ya que no es una emergencia, es un desastre. Es un desastre en cuanto a la falta de voluntad, falta de seriedad, falta de compromiso en los valores y mandatos de la Ley 17-2019. Hay una falta de voluntad política para resolver nuestros problemas y para cumplir con la Ley. Me temo que los “jugadores” gubernamentales en el fondo no creen en los mandatos de la Ley 17. Articulan que sí, pero en la realidad no creen en esta.

Además, y creo es lo más importante, dicho en inglés “There is nobody in charge”.

La fragmentación de entidades gubernamentales hace imposible que haya alguien “a cargo”. Esa fragmentación y vamos a decirlo como se llama, la politización superficial del problema, lleva a buscar soluciones que vengan de afuera, (ej. el Congreso de los Estados Unidos), y de no de la voluntad, el trabajo y la seriedad de los propios responsables que somos los puertorriqueños.

(Importantes elementos a señalar):

- 1) La AEE tiene una historia reciente de alta politización que ha impedido el reclutamiento de los mejores recursos de personal y evita la toma de decisiones difíciles que en ocasiones hay que tomar, como aumento en las tarifas.
- 2) Tenemos un debate superficial sobre privatización sí o no. El tema no es, privatización sino el tema, es identificar **modelos productivos**.
- 3) Hay un desfase entre lo que se dice y lo que se hace. Los “tranches” de fincas fotovoltaicas, (utility size) no ha funcionado ni remotamente con la agilidad que se requiere o esperaba. En la raíz está la decisión de la AEE y la Junta Fiscal de predeterminedar el precio que se podía cobrar para la energía limpia. Se llegó a decir, por la AEE, que era un “Bond Determined Market Price”. El resultado es que tuvieron que aumentar en 35% el precio a que aspiraban originalmente. ¿O creemos en el mercado libre, o no creemos?
- 4) Por primera vez hay dinero (**fondos federales**), la falta de dinero no es el problema. El problema es la falta de capacidad y destreza de utilizar los fondos, con la rapidez y eficiencia requerida. La incapacidad de tramitar los reembolsos o los adelantos de fondos federales disponibles, está causando un serio problema de flujo de caja a la AEE y agotando las reservas.
- 5) Hay una ausencia —incluido en el Plan Fiscal y en el Plan de Ajuste de Deuda de la AEE propuesto ante la Corte del Título III de PROMESA— de evaluar con seriedad los “implementation risks” en una encomienda tan compleja, como arreglar nuestro desastre de energía.

(Responsabilidad sobre ejecución):

No debemos perder de vista que la responsabilidad del sistema eléctrico es de la AEE, por la Ley 83-1941, y lo que AEE hace es subcontratar a LUMA/Genera. La autoridad y, por tanto, el deber legal es de la AEE, no de LUMA/Genera.

Esta situación se complica porque la “supervisión” de LUMA/Genera está fraccionada y el resultado es que nadie está a cargo. Ni la AEE, ni la AAPP, ni AAFAF, ni COR3... En fin, repetimos, “nadie está a cargo”. Por tanto, la responsabilidad tiene que recaer en cuanto a la ejecución ejecutiva en el Gobernador.¹ Es el que tiene que ejercer la coordinación y la acción de la rama ejecutiva. La falta de personal cualificado, técnico, profesional en las entidades “supervisoras” hace que *de facto* no exista tal supervisión y LUMA/Genera estén “por la libre”.

Este es el segundo grave problema que plantean las leyes 29 y 120. Bajo el esquema de alianzas público-privadas, realmente nadie está a cargo de “manejar” el contrato que se otorga. No solo jurídicamente, sino en términos prácticos nadie tiene establecido las estructuras de supervisión y control de los contratos otorgados. Señalar que hay ausencia de gerencia del contrato de LUMA/Genera, no es una mera expresión. El propio Gobernador [Pierluisi Urrutia] lo llamó “pasarse el balón”, entre las diferentes entidades públicas.

Tenemos, que los activos son de la AEE. Originalmente, iban a ser vendidos pero se cambió para los contratos de O&M para no perjudicar los fondos FEMA (*issue de titularidad pública*), pero el resto del modelo no se alteró, creando una situación al menos incómoda e ineficiente.

LUMA y Genera no son independientes, son meros brazos, agentes, mandatarios de la AEE y a esta responden por ley. El contrato con la AAPP no altera estos hechos.

La pretensión LUMA/Genera de que son independientes los lleva a un modelo de adversario/conflicto con su propio principal, que es la AEE, y con su regulador, que es el NEPR.

Por otro lado, LUMA ante los Tribunales, para no pagar arbitrios de construcción a los municipios alega, correctamente, que actúa a nombre, por y para la AEE.

¹ Pedro Pierluisi Urrutia.

Como son meros agentes, no son “operadores privados” a quien el estado le tiene que garantizar un rendimiento razonable en su inversión. No hay tal inversión para los activos, el capital es de la AEE.

(Estructuras internas de la AEE):

Se requiere de una reestructuración completa de la Junta de Directores de la AEE para que sea realmente independiente, no política, profesional y comprometida con los valores, principios y mandatos de la política pública codificada por la Legislatura en la Ley 17-2019. La inacción de la AEE ante el colapso de esta misma y LUMA, demuestran el serio problema de gobernanza que actualmente tiene la AEE. No debe pasarse por alto que todo el andamiaje de la política pública energética vigente ha sido una respuesta al colapso de la corporación pública.

La pregunta es, ¿Dónde está la Junta de Directores de la AEE? ¿Dónde está el Director Ejecutivo de la AEE ² en su función de principal de la AEE en cuanto a supervisar sus agentes? No hay que enmendar la ley, como pidió el Director.

(Amplitud de delegaciones; consideraciones constitucionales):

Me preocupa que la delegación a LUMA es infinitamente más amplia que un mero contrato de “operación y mantenimiento” de la Red. Ello incluye delegaciones —que pueden no satisfacer los estándares constitucionales aplicables— que transfieren a LUMA responsabilidades de política pública que la Ley 83-1941 claramente fija en la propia AEE y que la Ley 17-2019 impone como política pública.

Las leyes que regulan y enmarcan a la AEE pueden autorizar contrataciones, privatizaciones y cesiones de funciones de la AEE. Lo que no pueden hacer es liberar a la AEE, en particular a su Junta de Directores, de cumplir con sus funciones públicas, con

² Ahora Zar de Energía.

sus obligaciones públicas y el cumplimiento con las leyes que les aplican, que además de las señaladas incluye las leyes del Contralor y de Ética Gubernamental.

Si la AEE vende, esto es, se desprende de un activo, el control de ese activo ya no está en manos de la AEE y menos bajo el control de su Junta de Directores.

Si por el contrario lo que hace la AEE es “contratar”, subcontratar, arrendar, o de alguna otra forma ceder la “administración” y operaciones de un activo de la AEE, las responsabilidades de la Junta de Directores continúan en la medida que, repito, sigue siendo un activo de la AEE y la operación —aunque cedidos, privatizados, subcontratados— sigue siendo una operación de la AEE. Sigue siendo una actividad pública, satisfaciendo un interés público.

(Estándares de supervisión; AAPP):

¿Cómo ejerce su rol de supervisión la AAPP? ¿Lo ejerce de verdad? Entendemos que hay una gran diferencia entre “supervisar” “el contrato” de P3 y “supervisar” “la operación de LUMA”.

Recordemos que la propia Ley 29 indica:

“Esa Alianza debe estar revestida de un alto interés público, de manera que el Estado no renuncia a su responsabilidad de proteger dicho interés, ni a los derechos de recibir un servicio eficiente, ni a la titularidad de los activos públicos incluidos en el Contrato de Alianza.”

Añade:

“En el marco de estas premisas, las Alianzas Público-Privadas permiten el desarrollo de proyectos y la prestación de algunos servicios de manera más eficiente y menos costosa, delegando los riesgos inherentes en dicho desarrollo o servicio a la parte mejor capacitada para medir y manejar los mismos. Asimismo, las Alianzas le permiten al Gobierno viabilizar proyectos de infraestructura cuando los fondos necesarios para promulgar un proyecto no están disponibles al erario.”

List of documents (PREB filed documents pertain exclusively to this Rate Review Proceeding)

1. Public expressions of PREPA's Executive Director: *Cargo para pensiones de la AEE será provisional hasta reestructuración de la deuda* of July 9, 2025 (<https://www.metro.pr/noticias/2025/07/09/cargo-para-pensiones-de-la-aee-sera-provisional-hasta-reestructuracion-de-la-deuda/>)
2. PREPA's Motion to Amend Rate Application and Objection to LUMA's Requested Provisional Rate Rider Amount of July 11, 2025.
3. Counsel to LUMA's email of July 11, 2025 by Mrs. Andrea Chambers (which starts with "Motion to Reject Filing or, in the Alternative, Strike from the Record").
4. Order on LUMA's Objections to ROI #PREPA-of-LUMA-8 of July 18, 2025.
5. LUMA's Response to PREPA's Objections to LUMA's Requested Provisional Rate Rider Amount of July 29, 2025.
6. Column by Fernando Agrait, *A defender los poderes tarifarios del Negociado de Energía* of September 25, 2025 (<https://www.elnuevodia.com/opinion/punto-de-vista/a-defender-los-poderes-tarifarios-del-negociado-de-energia/>)
7. FOMB's Letter of October 20, 2025, Liquidity Situation, Stabilization and Restoration of Puerto Rico's Energy Grid (<https://drive.google.com/file/d/1S3PsuEmCl-Dxhix-AQLQS7IMVZwMBwKA/view>)

**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 on
Various Prehearing Matters

Hearing Examiner's Order on Various Prehearing Matters

This Order addresses the following topics:

- Panels
- Optimal Budget or Constrained Budget?
- Mr. Balbis's efficiencies
- Rulings on motions
- Post-hearing submissions
- Objections to exhibits
- Exhibit numbering

At the end of this Order is a summary of remaining deadlines (not counting those created by this Order).

Panels

Accompanying this Order is a revised panel schedule, a revised panel roster, and agendas for the 14 panels.

Panel schedule: The panel schedule—

- eliminates the debt panel;
- retains the pension panel;
- renames the customer service panel as Customer Experience;
- expands a panel to address, together, the Emergency Response Plan and the Emergency Reserve Account; and

- changes the sequence to accommodate the schedules of Energy Bureau consultants who will be asking questions.

The estimated hours total is now 122, giving us a 22-hour cushion (6-hour days x 24 days = 144) before we have to use evenings or Saturdays.

Panel roster: I supplemented the panel roster to ensure that every witness who filed testimony is either on a panel or is listed in a footnote to be available to a panel. Every filing witness must appear to be sworn, even if not crossed.

Panel agendas: Accompanying this Order is a draft of the topics agenda for each panel. Please email (copying all parties, but not PREB consultants) requests for clarifications, additions and subtractions by this **Monday, November 3, at 5pm Atlantic**. Easiest for me is if you redline the document or insert marginal comments.

Explanations and comments on panels follow.

Transmission and Distribution: This panel includes all the categories listed in LUMA's Ex. 2.06, except for the Customer Experience category, which will have its own panel.

Customer Experience: This panel will cover all the costs that LUMA's Exhibit 2.06 associates with this category. This subject is broader than the "Customer Service" topic listed on the preceding draft schedule. If LUMA or other parties want to add panelists to the currently listed Sarah Hanley, email me the names by this Monday, November 3, at 5pm Atlantic. No argument in emails please. Make clear whether proposed panelist has already submitted direct testimony or will be submitting surrebuttal testimony.

Emergency Response Plan: Because I have added Emergency Response Plan to Emergency Reserve Account, I assume that LUMA and others might want to add people. Again email me by **Monday, November 3, at 5pm Atlantic**.

Footnotes identifying "additional possible contributors": These people will not be panelists but will be available, at the party's option. At present, I do not require their attendance.

Debt: As of today, there will be no debt panel. All parties may address, in their post-hearing submissions, these questions:

- Considering Commonwealth law and federal law, does the Energy Bureau have authority to include a debt amount in rates?
- If that authority exists, what amount should go into rates; and by what method and procedure should reconciliation of the current amount with the Title III-determined amount occur?

- Authority to include a nonzero amount aside, should the Energy Bureau create now a rider for recovery of amounts determined now or later? If so, what form should that rider take?

The elimination of the debt panel does not change this fact: Because some witnesses have discussed debt, I must make them available for cross on that subject. If you wish to cross someone on debt, alert me today or tomorrow. (I already have the list from Unsecured Creditors.) State who you are, whom you wish to cross, and the estimated time you need. I will either allow this cross when the person appears for their other panel; or I will recreate the debt panel as the procedural opportunity for the cross-examination.

I agree with ICSE (Motion of Oct. 27) that including debt in rates affects practicability. Of course, that fact applies equally to every cost of providing electric service. Singling out debt as a special target to satisfy practicability concerns is arbitrary and capricious. To the extent that practicability panelists want to discuss the role of particular costs in determining rates that will actually produce what the electric system needs, they can; every cost is on the table.

Optimal Budget or Constrained Budget?

LUMA: Please confirm my understanding that the official proposal of the applicants—the proposal that the Energy Bureau must by statute act upon by approving, rejecting or approving with modifications—is the Constrained Budget. If my understanding is correct, please be sure that Dr. Terzic is prepared to explain the apparent contradiction between that LUMA position and his recommendation (Ex. 19.0 at 16-17) that the Energy Bureau “focus on a close review of the Optimal Budget.”

Mr. Balbis’s efficiencies

LUMA has withdrawn Mr. Balbis’s testimony on net-metering but not his testimony on efficiencies. The efficiency testimony’s evidentiary value was unclear to me. If LUMA wishes to retain this material, I ask LUMA to have Mr. Balbis prepared to explain what proposition in the Energy Bureau’s final order would need, or could use, this testimony as evidentiary support. If LUMA decides to remove this passage, please signal that decision by email soon so that parties and Energy Bureau consultants don’t prepare questions unnecessarily. In that situation, await instructions from Kate Bailey on how to proceed formally.

Rulings on motions

Solar issues: I grant the joint motions of October 21 and 23 identifying sections of testimony that parties are withdrawing. I also accept the revised, redlined versions of the relevant testimonial submissions.

Substitutions: I grant the motions of PREPA, LUMA, and Genera that substitute witnesses.

Post-hearing submissions

Parties can file a proposed order or a brief, not both. I see no difference in the purpose of each, which is to help the tribunal make a decision that serves the public interest.

One commenter favored brief over order because a brief gives the writer “a more robust narrative form.” An order that uses law, facts, and logical reasoning has ample room for robustness. In an order, the writer reasons rather than argues, explains rather than advocates. Argument uses volume-words—adjectives and adverbs. Reasoning uses tools that require no adjectives or adverbs. Similarly, another commenter favored briefs to allow for “advocacy and argument.” When the Commissioners deliberate the issues and draft the decision, they won’t be advocating and arguing; they will be thinking and reasoning: setting out facts and law, identifying the criteria that guide their discretion, and then reaching logical conclusions.

By proposed order, I did not mean a mere listing of proposed findings of fact and law. I meant a fully written-out explanation, for each chosen topic (no one need address all topics), of all the evidence, law, and policy; all the reasoning and explanations necessary to justify the results to the parties, the public, and the courts. It is exactly what one would have in a useful brief—a brief from which the writer removed the adjectives and adverbs, the atmospheric appeals to emotion, the nonfactual phrases, the repetitive string-cites, and the truth-clouding applications of inapplicable case law.

Examples of useful pleadings are those routinely submitted by the Bondholders and by ICSE. All structure and muscle, no fat.

Objections to exhibits

My Orders of October 1 and October 22 established dates for filing objections to documents marked for identification. Today, I establish **November 5** as the date for objections to Intervenor rebuttal filed on October 31, and **November 13** as the date for objections to Applicant surrebuttal filed on November 10 on the PREB Consultant generation report. Remember to submit objections as formal pleadings.

Here then is the current schedule:

Document	Filed	Objections Due
Marked for Identification	through October 27	October 31
Intervenor Rebuttal	October 27	November 3
Applicant Surrebuttal	October 30	November 5
Intervenor Rebuttal on generation	October 31	November 5
Applicant Surrebuttal	November 3	November 7
Applicant Surrebuttal	November 10	November 13

EPRI and Sargent & Lundy: PREB Consultant Justo González (generation costs) cited studies by the Electric Power Research Institute and Sargent & Lundy. Given the authors' absence from this proceeding, I expect that one or more parties will seek a ruling on whether and how these documents can go into evidence, and whether and how the Energy Bureau can rely on those documents in its decision. Submit your position—a joint position if possible—by this **Monday, November 3, at 5pm Atlantic**. Try to propose something thoughtful and surgical. Cover your client's interests but think about the Energy Bureau's needs.

Exhibit numbering

My October 1 Order required that that rebuttal testimony numbers begin with the number following the last PREB consultant number. So the rebuttal filed this week should have been:

Hurley Rebuttal 66
 Tierney Rebuttal 67
 Faruqui Rebuttal 68
 Datta Rebuttal 69.

Therefore:

- Bondholders need to upload their rebuttal testimony to the Accion platform using those numbers.
- Accion needs to renumber the Faruqui rebuttal testimony, uploaded as SUN Ex. 56.01, as SUN Ex. 68.

Kate Bailey will contact SESA about renumbering the Datta rebuttal testimony.

Applicants should coordinate numbering any surrebuttal testimony beginning with Ex. 70.

All: Remember please to submit all testimony to the Energy Bureau case file NEPR-AP-2023-0003, using the standard motion practice.

Be notified and published.



Scott Hempling
Hearing Examiner

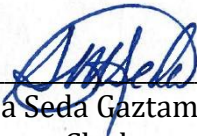
CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on October 29, 2025. I also certify that on October 29, 2025, I have proceeded with the filing of the Order, and a copy was notified by electronic mail to: mvalle@gmlex.net; alexis.rivera@prepa.pr.gov; 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; 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; ratecase@genera-pr.com; jfr@sbgblaw.com; hrivera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidhouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; alexis.ramsey@weil.com; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; luis@emmanuelli.law; jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; javrua@sesapr.org; Brett.ingerman@us.dlapiper.com; brett.solberg@us.dlapiper.com; agraitfe@agraitlawpr.com; jpouroman@outlook.com; epo@amgprlaw.com; loliver@amgprlaw.com; acasellas@amgprlaw.com; matt.barr@weil.com; Robert.berezin@weil.com; Gabriel.morgan@weil.com; corey.brady@weil.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; zack.schrieber@cwt.com; thomas.curtin@cwt.com; escalera@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com;

dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com;
eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com;
Isaac.Stevens@dechert.com; James.Moser@dechert.com; michael.doluisio@dechert.com;
Kayla.Yoon@dechert.com; Julia@londoneconomics.com; Brian@londoneconomics.com;
luke@londoneconomics.com; juan@londoneconomics.com; mmcgrill@gibsondunn.com;
LShelfer@gibsondunn.com; jcasillas@cstlawpr.com; jnieves@cstlawpr.com;
pedrojimenez@paulhastings.com; ericstolze@paulhastings.com;
arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com;.

I sign this in San Juan, Puerto Rico, on October 29, 2025.





Sonia Seda Gaztambide
Clerk

Summary of remaining deadlines

This table consolidates all remaining rebuttal and surrebuttal filing dates, objection dates, and other tasks assigned in prior orders.

Deadlines	Date
Applicants' surrebuttal on debt, rate design, decoupling	30-Oct
Intervenor Rebuttal on generation	31-Oct
Objections to Exhibits marked for ID by October 27	31-Oct
Objections to Intervenor Rebuttal filed October 27	3-Nov
Applicants' remaining surrebuttal except generation	3-Nov
Final list of attorneys wishing to cross remotely	3-Nov
Parties' list of documents requested for Administrative Notice	3-Nov
Objections to Applicant Surrebuttal filed October 30 and Intervenor Rebuttal filed October 31	5-Nov
Final list of witnesses no one wants to cross	7-Nov
Objections to Applicant surrebuttal filed November 3	7-Nov
Applicants surrebuttal on generation	10-Nov
Objections to Applicant Surrebuttal filed November 10	13-Nov

**Panels, panelists and optional attendees¹ as of Oct. 25,
reflecting all prefiled testimony to date, plus PREB consultants,
plus party-proposed individuals**

Transmission costs

LUMA: Pedro Meléndez
LUMA: Kevin Burgemeister
ICPO: Engineer Gerardo Cosme Núñez (if he files rebuttal)
Bondholders: Anthony Hurley
Bondholders: Patrick Hogan
PREB consultant: Kathryn Bailey
PREB consultant: Harry Judd

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Distribution costs²

LUMA: Pedro Meléndez
LUMA: Kevin Burgemeister
Victor González
ICPO: Engineer Gerardo Cosme Núñez (if he files rebuttal)
Bondholders: Anthony Hurley
PREB consultant: Roger Schiffman

Generation costs

Genera: Vladimir Scutt, VP of Operations and Asset Management, Fuels
Genera: Joaquin Quinoy Ortiz, VP of Engineering, Construction and Maintenance³
Genera: Del Rio Vélez, Fuels Department
Victor González
ICPO: Engineer Gerardo Cosme Núñez (if he files rebuttal)
Bondholders: Anthony Hurley
Bondholders: Patrick Hogan
PREB consultant: Justo González

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¹ Optional attendees are listed in the footnotes, which describe them as "additional possible contributors" These people will not be panelists but will be available, at the party's option. I do not require their attendance.

² The panel schedule combines the Transmission Cost and Distribution cost panels because the hours breakdown between them is unclear. My intention is to handle those topics separately, except where overlap is unavoidable or efficient.

³ Additional possible Genera contributors to the Generation panel:

Hector Vazquez Figueroa, Chief Information Officer
Ricardo Pallens Cruz, Vice-President EEHS & Regulatory

Customer Experience costs

LUMA: Sarah Hanley

LUMA: XX

Other?

Multi-utility cost areas

LUMA: Crystal Allen (IT, OT)

LUMA: Kevin Burgemeister (Fleet)⁴

Genera: Ricardo Pallens Cruz, Vice-President EEHS & Regulatory

Genera: Héctor Vazquez Figueroa, Chief Information Officer

PREPA: Mary C. Zapata, CEO

PREPA: Juan C. Adrover, Comptroller⁵

Bondholders: Anthony Hurley

Federal funds

LUMA: Andrew Smith

LUMA: Pedro Meléndez

Genera: Maria Sánchez Brás

Genera: Ricardo Pallens Cruz⁶

PREPA: Mary C. Zapata, CEO

PREPA: Suzette Díaz (nonwitness)

Bondholders: Anthony Hurley

PREB consultant: Guímel Cortés

Jennifer Witeczek, Vice-President of Services

Kevin Futch, General Counsel

Jesus Cintron Rivera, Senior Project Manager of Federal Funds (nonwitness)

⁴ Additional possible LUMA contributors to the Multi-utility cost areas panel:Juan Rogers (Procurement) ~~(nonwitness)~~

Ivonne Gómez (HR)

Lorenzo López (Corp. Comms/Advertisement)

Ángel Rotger (Legal, Land and Permits, and Compliance)

Michelle Fraley (Corporate Security and Emergency Preparedness)

Michael Granata (HSE)

Miguel A Sosa Alvarado (Facilities) (nonwitness)

Alejandro Figueroa (Regulatory)

Andrew Smith (Finance)

Latorre/Alvarado⁵ Additional possible PREPA contributor: Felix Hernández⁶ Additional possible Genera contributor to the Federal Funds panel:

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Emergency Response Plan, Emergency Reserve Account

▲ LUMA: Alejandro Figueroa

▲ LUMA: Fraley

Genera: María Sánchez Brás

Genera: Kevin Futch, General Counsel

PREPA: Juan C. Adrover - Comptroller

PREPA: Gerard Gil –financial advisor (nonwitness)

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Budget process and budget flexibility

▲ Genera: Maria Sánchez Brás

Genera: Jennifer Witeczek, Vice-President of Services

▲ LUMA: Ed Balbis

LUMA: Branco Terzic

LUMA: Andrew Smith

PREPA: Juan C. Adrover –Comptroller

PREPA: Lucas Porter - financial advisor

Bondholders: Anthony Hurley

Bondholders: Patrick Hogan

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Conflicts of interest between profit and cost

▲ Genera: Winnie Irizarry Velazquez, CEO

LUMA: Juan Saca

PREPA: Mary C. Zapata –Executive Director

ICSE: Fernando Agrait

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Cooperation among PREPA, LUMA, Genera

Genera: Winnie Irizarry Velazquez, CEO

Genera: Ivan Báez, Vice-President of Public & Government Affairs

▲ LUMA: Alejandro Figueroa

LUMA: Juan Saca

PREPA: PREPA: Mary C. Zapata – Executive Director

Juan C. Adrover - Comptroller

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Jesus Cintron Rivera, Senior Project Manager of Federal Funds (nonwitness)

ICSE: Fernando Agrait

Total revenue requirement; bad debt; reconciliation of permanent and provisional rates

LUMA: Sam Shannon
 LUMA: Andrew Smith
 LUMA: Alejandro Figueroa
 PREPA: Juan C. Adrover - Comptroller
 PREPA: Lucas Porter - financial advisor (nonwitness)
 Genera: María Sánchez Brás
 Genera: Ricardo Pallens Cruz
 ICPO: CPA Jaime Sanabria Hernández
 PREB consultants: Ralph Smith, Mark Dady

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Recordkeeping for project costing (Uniform System of Accounts, activity-specific budget projections)

Genera: María Sánchez Brás
 Genera: Ricardo Pallens Cruz
 LUMA: Andrew Smith
 PREPA: Juan C. Adrover - PREPA's Comptroller
 PREPA: Lucas Porter - PREPA's financial advisor
 PREB consultant: Ralph Smith

Pensions

SREAEE: José Fernández
 PREPA: Mary C. Zapata, CEO
 PREPA: Juan C. Adrover, Comptroller
 PREPA: Brenda Rivera -PREPA ERS Administrator (nonwitness)
 PREPA: Lucas Porter - financial advisor (nonwitness)

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Practicability of various levels of rate increase

Genera: Ricardo Pallens Cruz
 LUMA: Andrew Smith
 LUMA: Alejandro Figueroa
 ICSE: Dr. Ramón Cao
 Bondholders: Dr. Susan Tierney

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Rate design: Single panel, covering load forecast, cost of service study, revenue allocation, rate design, and actual bills⁷

▲ Genera: Mr. Ricardo Pallens Cruz

LUMA: Sam Shannon

▲ LUMA: Joseline Estrada (load forecast)

Victor Luis González

SESA: E. Kyle Datta

Walmart: Steve Chriss

SUN: Ahmad Faruqui

ICPO: Engineer Gerardo Cosme Núñez (if he submits rebuttal)

ICSE: Dr. Ramón Cao

Bondholders: Dr. Susan Tierney

PREB consultant: Zachary Ming

[PREB consultant: Asa Hopkins](#)

[PREB consultant: Melissa Whited](#)

[PREB consultant: Courtney Lane](#)

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⁷ Additional possible contributors:

LUMA: Sarah Hanley (actual bills)

PREPA: Gerard Gil - financial advisor (nonwitness)

PREPA: Lucas Porter –financial advisor (nonwitness)

**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

**Panel Agendas
Draft 29 October**

- 1 Transmission and Distribution**
- 2 Generation**
- 3 Federal funds**
- 4 Budget process**
- 5 Customer experience**
- 6 Multi-utility cost areas**
- 7 Emergency Response Plan, Emergency Reserve
Account**
- 8 LUMA's and Genera's potential conflicts of interest**
- 9 Inter-utility cooperation**
- 10 Revenue requirement and related issues**
- 11 Recordkeeping**
- 12 Pensions**
- 13 Practicability**
- 14 Rate design**

I. Transmission and Distribution

A. Vegetation management

1. Island-Wide Reset Program (FAASt \$1.2bn)
2. O&M Program
3. Labor Cost
4. Funding sources
5. Consistency with PSP

B. Transmission

1. Assessment of transmission lines (O&M)
2. Transmission pole and tower replacement
3. Transmission line rebuild
4. Integration of renewables
 - a. Adjust FAASt repairs to enable interconnection of new generation
 - b. Ensure compatibility of conductor capacity with renewable integration
 - c. Recover cost through PPCA or through base rates?

C. Substation

1. Substation reliability
2. Substation rebuild
3. Substation physical security
4. Battery energy storage

5. Substation contingency capability
 - a. Costa Sur Switchyard
 - b. Other

D. Distribution

1. Distribution grid reliability
2. Distribution pole and conductor repair)
3. Distribution automation
4. Distribution streetlighting
5. Distribution line rebuild
6. Distribution lines assessment
7. Meter infrastructure (replacing with AMI; maintaining legacy meters)
8. Standardized Metering & Meter Shop Setup
9. EV charging infrastructure
10. Distribution: New business connections

E. Energy Control Center and buildings

1. Buildup of backup facilities [FAASt]
2. Energy Management System/ADMS/DERM upgrades
 - a. Description of each component
 - (1) EMS replacement and hardening (primary and backup control centers, high availability architecture, cybersecurity uplift)

- (2) ADMS acquisition and enablement (e.g., network model management, switching management, and advanced applications such as FLISR/VVO where applicable)
 - (3) Communications and monitoring standards for renewables and DERs, plus forecasting and situational awareness tools.
 - (4) Integration across EMS, ADMS, OMS, DERMS, AMI/MDM, CIS, GIS and other head-end systems to enable feeder-level and municipality-level reliability analytics (better SAIFI/SAIDI).
- b. Timing for implementing each component
- c. Relative roles of FEMA funding and base-rate funding
- 3. Facilities Development and Implementation
- 4. Physical security
- 5. Building repair

F. Enabling

- 1. T&D Fleet
- 2. Tools repair and management
- 3. Health, Safety, Quality, and Environment (HSEQ) and technical Training
- 4. Project Management Software and Tools
- 5. Asset Data Integrity
- 6. Workflow Processes & Tracking
- 7. Materials management
- 8. Lands & Permit Processes and Management
- 9. Compliance & Studies

10. Microgrid, Phasor Measurement Units (PMU), and Battery Energy Storage Installations and Integration
11. GIS
12. Safety equipment

G. Support services

1. Electric Vehicle Implementation Support
2. Update to Third Party Use, Audit, Contract and Billing Procedures
3. Land Records Management
4. Critical Financial Systems
5. Update to Third Party Use, Audit, Contract and Billing Procedures
6. Public Safety
7. Waste Management

H. T&D general operating costs

1. Labor: Salaries, Wages and Benefits, retiree medical
2. Non-Labor
3. Legal Services
4. Communications Expenses
5. Professional and Technical Outsourced Services
6. Allocation between federal and nonfederal

I. Executability

1. Staffing Increases

2. Materials and Equipment
3. A&E Permits
4. General Administrative
5. Federal Funding Management

J. Revenue-generating activities

1. Electricity customers
 - a. bill inserts
 - b. customer billing
 - c. customer revenue collection
2. Third-Party Attachments
3. PREPA Networks

II. Generation

A. Generation Adequacy

1. temporary generation solutions
2. Deployment of 430MW of utility scale BESS
3. Deployment of flexible generation (peakers)
4. Distributed energy resources alternative
5. Hydroelectric facilities
6. Blackstart capabilities: Aguirre and Costa Sur Power Plants

B. Generation Optimization

1. Programs to Transition to the FEMA Critical Parts Replacement Program
2. Programs to transition from the Constrained Budget in FY26 to a potential Optimal Budget by FY28
3. Aguirre combined cycle programs that may be suitable for consolidation

C. Corrective and Preventive Maintenance

1. Programs that should not move forward
2. Programs to move to state revolving funds
3. Programs that could potentially move to the FEMA Critical Parts Replacement Program
4. NME Programs not requested by Genera but recommended for inclusion
5. Aguirre Combined Cycle
6. Cambalache Plant

D. Plant retirement and conversion

1. Gas conversion of San Juan Units 7, 8, 9, and 10
2. Decommissioning Program

E. Labor Operations & Maintenance

F. Storage

III. Federal funds

- A. In situations in which the revenue requirement assumes that federal funds for a project will be available, but then the funds are not available, what are the options—and their advantages and disadvantages?
 - 1. Eliminate the project
 - 2. Delay the project
 - 3. Seek emergency rate increase to fund the project
 - 4. Fund the project by deferring or eliminating spending on nonfederal activities
 - 5. Create in advance a customer funded account, subject to replenishment, to address these situations: PREB consultant Guímel Cortés's proposed formula for determining base-rate amounts
- B. Seeking and managing federal funds: Improvements to the process
- C. Concerning the funds available to apply for and manage FEMA grants:
 - 1. Are the three individual utilities using those funds efficiently?
 - 2. Are the three utilities cooperating efficiently?

IV. Budget process

- A. Is Energy Bureau adjudication of budgets necessary?
 - 1. The relationship between (a) the P3A budget process and (b) the Energy Bureau's budget process and ratemaking process
 - 2. The relevance and usefulness of analogizing to "generally accepted best practices of utility regulation in the United States" (Balbis)
- B. To what extent should Energy Bureau-approved budgets bind actual spending?
- C. Prospectively, when should budget approvals occur and how should the budget-approval process relate to the ratemaking process?
- D. Should PREB modify the budget reporting requirement to be three quarterly reports (rather than four) plus an annual report?

V. Customer experience

- A. Customer service and customer information
- B. Call center operation and staffing
- C. Modernize Customer Service Technology
- D. Voice of the Customer
- E. Billing Accuracy & Back Office (including customer payment processing)
- F. Billed revenue collection (including revenue management and protection)
- G. Loss Recovery Program
- H. Meter reading and billing
- I. AMI customer information
- J. Retail wheeling

VI. Multi-utility cost areas

A. Communications and compliance

1. Advertising and marketing
2. Bill inserts, education, web communication
3. Strategic affairs
4. Compliance with statutory and regulatory requirements

B. Workers and contractors

1. Vendor contract management and oversight
2. Workflow processes
3. Workforce management
4. Quality assurance
5. O&M audit

C. Professional and technical outsourced services

1. Nonlegal services
2. Legal and procurement services

D. Materials and equipment

1. Inventory management (materials and supplies)
2. Safety equipment
3. Tools (repair and management)
4. Vehicles

E. Miscellaneous overhead

1. Process development and governance functions
2. Facilities development and implementation
3. Corporate services
4. Waste management
5. Insurance
6. Utilities and rents

F. Information technology

1. IT capex (Inc. LUMA OT Telecom and Genera IT/OT Projects)
2. IT OT asset management
3. IT OT collaboration & analytics
4. IT OT enablement program
5. IT service agreements
6. IT OT cybersecurity program

G. Cybersecurity

VII. Emergency Response Plan, Emergency Reserve Account

- A. **Are LUMA's, Genera's and PREPA's Optimal Budgets the correct level of dollars?** What are the adverse effects of subtracting from the Optimal?
- B. **Funding is required for all items below.** Which of these items were not covered in the budgets and discussions on T&D, generation, and multiutility cost areas?
1. for LUMA and Genera materials and equipment to enable rapid emergency response (e.g., portable generation for securing or maintaining water supply systems, for example, electric supply for well pumps.)
 2. for PREPA to develop and maintain emergency response plans for its operating hydroelectric facilities.
 3. for LUMA to comply with PREB orders on targeted vegetation management ahead of hurricane season, including how municipalities are being employed, the associated costs, and how these efforts could result in quantifiable cost-savings refer to Memorandum of Collaboration with municipalities (LUMA's December 16 2023 motion in NEPR-MI-2019-0006),
 4. for LUMA to comply with granular Estimated Time of Restoration (ETR) as established in the Annex A-Major Outage Restoration (e.g., global, regional, municipality, local, individual customer),
 5. for LUMA to reduce event response times—specifically for software tools that support system restoration during and after emergencies, and for maintaining pre-positioned emergency contracts to enable rapid mobilization of crews, materials, and equipment during storms or other major events,
 6. for LUMA to improve emergency response capabilities, including tools, systems, and prearranged contracts for rapid deployment during major events.
 7. for PREPA to maintain Mutual Aid Assistance agreements in a ready-to-execute status, ensuring immediate deployment of external support following a major disruption

8. for LUMA to coordinate and mobilize external support from other utilities, contractors, and public agencies for large-scale service restoration
9. for PREPA to review the ERPs of the Independent Power Producers (e.g., EcoElctrica, AES, and renewable generation),
10. for LUMA to maintain and verify the accuracy of critical customer lists and communication protocols during emergencies.
11. for Genera to ensure onsite blackstart capability and maintain operational readiness for plant restarts after outages.
12. for Genera to maintain sufficient tank storage capacity prior to the hurricane season.
13. for LUMA, Genera, and PREPA to conduct ongoing training, drills, and simulations to strengthen emergency preparedness and coordination.
14. for LUMA to ensure that the Life Preserving Equipment (“LPE”) Customers list is accurate and that these customers are contacted throughout the emergency
15. for LUMA to ensure adequate call center staffing and customer communication capacity during major outage events.

C. Is there unnecessary duplication among the three utilities?

1. For example, should there be three separate emergency operations centers, rather than one centralized center? See August 16, 2023 Resolution and Order and LUMA’s October 23, 2023 motion in NEPR-MI-2019-0006)?
2. Other possible duplication

D. Treatment of OMA accounts and the new Emergency Reserve Account

1. What are the pros and cons of continuing the three-utility Emergency Reserve Account created by the provisional-rate order of July 31, 2025? To avoid duplication between the ERA and the existing LUMA OMA Outage Event Reserve Account (and the Genera counterpart), could the ERA be, as part of its mission, the source funds for the OMA accounts of LUMA and Genera?

2. Assume an ERA that supports the existing OMA accounts: What are the pros and cons of funding the account with an initial amount in base rates (based on a prediction of likely emergency costs), and then providing for adjusters should actual emergency costs exceed the predicted level?
 - a. What facts should become the basis for the base-rate amount? Past years' emergency amounts, adjusted to reflect predictions?
 - b. What are the mechanisms for adding to that base-rate amount, where an emergency causes costs that exceed the base-rate amount? Would there be a surcharge imposed via a rider? Or some other mechanism?
 - c. What costs should be eligible for recovery from the ERA? To reduce confusion, should eligible costs include all costs that qualify under the LUMA and Genera OMA accounts, plus other types of costs?
 - d. What would be the process by which—
 - (1) a utility would seek funds from the original base-rate amount?
 - (2) the PREB would replenish the amount in the ERA?
 - (3) the PREB would add to the ERA funds above the initial base-rate amount?
 - (4) the PREB would grant permission to spend money from the account?
 - (5) the utilities' spending from the ERA be audited?
 - e. On this topic, see Part IX of the Smith-Dady report (PREB Exhibit 62.0), as well as Exhibit 62.05, which is a Florida Commission Order establishing a storm-cost rider.
3. If the intent of ERA-plus-rider amounts is to fund and replenish the LUMA and Genera OMA accounts, how does PREB ensure that PREPA does in fact fund and replenish those accounts, given that OMA is a

contract rather than an Energy Bureau rule? Does PREB have the statutory authority to order PREPA to comply with this feature of the OMA, on the grounds that a PREPA failure to fund and replenish the OMA accounts would create the risk of inadequate service—a subject that is within the Energy Bureau’s exclusive domain?

4. Is there any need for a separate major-storms reserve account?

VIII. LUMA's and Genera's potential conflicts of interest

- A. Can overbudgeting assist utility financial success?
 - 1. capital expenditures
 - 2. operating expenses
- B. What are the owners' interests? In what ways do the owners influence the CEOs' decisions?
 - 1. Executive compensation
 - 2. NFE's financial situation
- C. Is there a clear line between costs covered by the fixed fee and costs recovered as passthrough costs?
- D. Are there any conflicts relating to the statutory requirement of 100% renewable energy by 2050?
 - 1. transmission planning
 - 2. the interconnection process
- E. Is the use of affiliates appropriate?
 - 1. LUMA's affiliate's involvement in transmission and distribution infrastructure
 - 2. LUMA's affiliate's training facility
 - 3. Genera and NFE: Is there a bias toward fuel-switching?
 - 4. Genera and NFE: Performance metrics vs. fixed fee
- F. Is the use of seconded employees appropriate?
- G. FOMB and P3A: What are their roles in, and past contributions to, concerns about conflicts? What is the Energy Bureau's distinct role?
- H. Frequent changes in high-level personnel: What are the reasons and the effects?

IX. Inter-utility cooperation

- A. Forecasting demand, consumption, customers
- B. Planning new facilities
- C. Addressing the 2050 deadlines for 100% renewables
- D. Attracting and retain business customers
- E. Normal daily operations
- F. Emergencies
- G. Federal funds
- H. Supplying and replenishing the OMA accounts
- I. Other legal disputes under the OMA

X. Revenue requirement and related issues

- A. Process for determining final revenue requirement for FY26
- B. Process for determining final revenue requirement for FY27
- C. Process for reconciling permanent revenue requirement for FY26 with the provisional rate established on July 31, 2025 (the sum of the default FY26 revenue requirement plus the pension rider plus the provisional-rate rider amount)
- D. Calculation of bad debt
- E. Irrigation District
- F. Fuel and Purchased Power Adjustors
 - 1. Updating process
 - 2. Inclusion of uncollectible amount

XI. Recordkeeping

- A. USoA: For budgeting and rate-setting after FY26, the Energy Bureau expects the three utilities to develop recordkeeping systems that not only follow the FERC Uniform System of Accounts (USoA), but also allow benefit-cost analysis of all proposed expenditures.
- B. Projects and activities related to electric service: Budgeted amounts, actual amounts, connection to metrics, outcomes
- C. Activities relating to pursuing federal funds: Budgeted amounts, actual amounts, outcomes
- D. Maintenance practices

XII. Pensions

A. Background on entity structure and PREPA liability

1. 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?
2. What is PREPA's current estimate of the unfunded pension plan liability? What is the basis for this estimate?
3. 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?
4. Concerning causes of, and customer responsibility for, the existing pension liability:
 - a. 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?
 - b. 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?

B. Energy Bureau's authority

1. Is PREPA ERS unfunded liability a "pre-petition claim" subject to Title III court compromise? Or is it instead a current operating expense?
2. 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?

3. 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?
4. Does the automatic stay in some way restrain the PREB from including these amounts in rates?
5. 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?

C. PREPA’s discretion to modify pensions

1. Is PREPA adding new beneficiaries to the existing defined benefits plan?
2. Is PREPA adding benefits to the existing defined benefits plan?
3. 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?
4. Does PREPA have the legal authority to cease adding beneficiaries and cease adding benefits to existing beneficiaries? Specifically:
 - a. 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)?
 - b. What is PREPA’s legal discretion, under Puerto Rico law and PROMESA, to unilaterally modify the ongoing benefit accruals of current active employees?

D. Cost composition and financial projections

1. What are the components of the \$307 million?
 - a. Which portion is attributable to existing commitments to former employees?

- b. Which portion is attributable to existing commitments to current employees?
 - c. Which portion is administrative costs—and what are the components of those administrative costs?
- 2. 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?
- 3. 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?
- 4. Concerning mobility transfers (former PREPA employees who have moved to LUMA or Genera): What is the effect on the pension liability? For example:
 - a. 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?
 - b. 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:
 - (1) What is the amount of funding that PREPA is now missing?
 - (2) What is PREPA doing to fill that gap?
 - (3) Is that gap the legal responsibility of PREPA? Or is it the legal responsibility of PREPA ERS?

E. Administrative efficiency

- 1. What information does PREPA have about what actions PREPA ERS is taking in terms of cost-reduction measures, operational reforms, and/or efficiency initiatives?

2. What actions is PREPA taking to ensure that PREPA ERS is carrying all possible cost-reduction measures, operational reforms, and or efficiency initiatives?

F. Alternative funding sources, mitigation, and contingency planning

1. What alternative funding sources beyond electric ratepayers has PREPA evaluated and pursued?
2. Has PREPA ERS has considered integrating its pensioners into Puerto Rico's public pension framework? That framework includes these three main systems:
 - a. Employees Retirement System (ERS)
 - b. Teachers Retirement System (TRS)
 - c. Judicial Employees Retirement System (JRS)
3. 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?
4. 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?

XIII. Practicability: Will the proposed rate increase produce the necessary revenues?

- A. What are appropriate assumptions about how price elasticity of demand will affect revenue?
- B. What should be the assumptions for customer conservation, programmatic energy efficiency, customer departure, and adoption of distributed generation alternatives to purchases from PREPA?
- C. Should the Energy Bureau consider a a wallet-share cap on the rates? What are the possible amounts? What are the pros and cons? How does the Energy Bureau reconcile the conflict between a wallet-share cap and the statutory requirement to set rates that will produce the revenues necessary to ensure adequate, safe service?
- D. What would a revenue decoupling mechanism affect practicability?
 - 1. For example: If price elasticity is greater than expected, and the revenue decoupling mechanism raises rates to compensate, what happens?
 - 2. Should there be an annual rate increase cap on the effects of the revenue decoupling mechanism? Would a cap be consistent with the statutes?
- E. What other measures might PREB to address practicability?
 - 1. Adjustments to final revenues to limit near-term rate increase
 - 2. Triggers for additional review if actual revenues fall below pre-determined threshold of expected revenues

XIV. Rate design

A. Forecasts

1. Consumption
2. Demand
3. Customer count
4. Billing determinants

B. Cost of service methodology

1. Functionalization
2. Classification
3. Allocation

C. Revenue allocation

D. Rate design for this proceeding

1. customer charge
2. demand charge
3. consumption charge

E. Rate design efforts after this proceeding

F. Revenue decoupling

1. Setting the revenue target
 - a. Should the target be established on a per-class or systemwide basis?
 - b. Should the target be set on a per-customer basis as well?

- c. Should any classes be excluded?
 - d. What cost components should be included?
- 2. Adjustment options
 - a. How frequently should adjustments occur?
 - b. Should adjustment be one-way or bidirectional?
 - c. Should there be a cap on annual adjustments?
 - d. Should the actual sales (and revenues) be weather-normalized before comparing to the target?
 - e. Should lost sales related to power outages be excluded from the decoupling mechanism?
 - f. Should the Energy Bureau make the decoupling adjustments via a rider? If there were a cap on an adjustment, what would be the recovery period for amounts that exceed the cap?
- 3. Adoption process, monitoring, and evaluation
 - a. Post-order implementation: What is required from LUMA?
 - b. What should be opportunities for parties to review and comment?
 - c. Annual filings: What should be required in the filings, and how should the review occur?
 - d. When should the Energy Bureau review the entire mechanism? Based on what criteria?