

**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 November 7 Conference

Hearing Examiner's Order Setting Agenda for November 7 Conference

The attached agenda attempts to capture all outstanding questions of which I am aware. Please bring to the conference **today at 2pm Atlantic** any remaining questions requiring my attention.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on November 7, 2025. I also certify that on November 7, 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; hriviera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanueli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com;

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I sign this in San Juan, Puerto Rico, on November 7, 2025.




Sonia Seda Gaztambide
Clerk

I. Panels

A. Panel roster

1. Additions
2. Subtractions

B. Panel agenda

1. *Retail wheeling*: Under Customer Experience
2. *Legacy debt*
 - a. Handle cross during ARR panel, except cross Tierney on debt in the Practicability panel. (SREAEE: That solution cover the five that you want to cross: (i) Andrew Smith; (ii) Alejandro Figueroa; (iii) Susan Tierney, Ph.D.; (iv) Ralph C. Smith; (v) Mark S. Dady.)
 - b. Legal issue: What is the PREB's discretion? What is its obligation?
3. *Federal Funds*: The "federal funds" issue arises in multiple places. Whether a particular activity should be funded by federal funds rather than base rates gets addressed in the substantive panel that address that activity. So the availability of federal funds for specific vegetation management activities will occur in the T&D panel. The federal funds panel, in contrast, will address two things: (a) the three utilities' effectiveness in attracting federal funds, and (b) Guimel Cortes's proposed formula for reflecting in base rates the timing and uncertainties associated with federal funds. That is one reason why the T&D and the Generation panels are very long 24 and 18 hours, respectively; whereas the Federal Funds panel is shorter at 6 hours.
4. *PREPA Networks*: The question is whether and how to reflect in base rates that entity's costs and revenues.
5. *Emergency Response Plan, Emergency Reserve Account*: The focus is, for all costs, on costs for FY26, FY27, and later to some extent. Sometimes past costs are relevant to determining future costs.
6. *Efficiencies debate between Balbis and Sanabria*: Added to the Budgets panel. Though it goes more logically with Multiutility, I don't want to ask Balbis to visit twice; and I assume that Sanabria is local.

7. *Emergency Operations Center*

LUMA said that this topic was discussed in In Re: Planes de Autoridad de Energía Eléctrica de Puerto Rico para Atender Emergencias, Case No. NEPR-MI-2019-0006. LUMA refers to a three-utility joint report explaining why a joint Emergency Operations Center is not beneficial (October 23, 2023). LUMA "understands that the issue has already been addressed in that proceeding."

Here are thoughts from PREB consultants:

- a. Before we can assess costs, we must first establish need. The current framework seems to assume the need for three separate Emergency Operations Centers (EOCs), one each for LUMA, Genera, and PREPA, even though there is only one electric utility system.
- b. It is understandable that LUMA and Genera may require distinct EOC functions, given their differing operational responsibilities (T&D vs. generation). However, it remains unclear why PREPA would need to incur costs to activate and staff an EOC of its own.
- c. To clarify this, we should determine whether PREPA incurred EOC-related costs during prior major events:
 - (1) Hurricane Fiona (2022)
 - (2) Tropical Storm Franklin (2023)
 - (3) Hurricane Ernesto (2024)
 - (4) Hurricane Erin (2025)
- d. If PREPA did incur such costs, we need to understand:
 - (1) What activities those expenditures supported,
 - (2) How those efforts differed from the EOC functions already performed by LUMA and/or Genera,
 - (3) Whether any of these costs were reimbursed or are eligible for reimbursement with federal funds, and
 - (4) Whether the costs associated with activating and staffing each of the three EOCs (PREPA, LUMA, and Genera) would generally qualify for federal disaster recovery reimbursement under FEMA or other applicable programs.

- e. LUMA is correct that the broader policy question, whether to establish a joint or coordinated EOC, was addressed in Case No. MI-2019-0006. That proceeding focused on organizational coordination and the conceptual merits of a single versus separate EOC framework.
 - f. What remains unresolved, and distinct in this rate case context, is the cost dimension:
 - (1) Which entities are incurring EOC-related costs,
 - (2) Whether those costs are necessary and non-duplicative, and
 - (3) Whether they are being properly funded (ratepayer vs. federal reimbursement).
 - g. In other words, the prior proceeding addressed what model should exist, while the present one must address who pays and whether those costs are justified.
8. *Misc. panel point:* Sometimes I added a subtopic because a party requested it, even though I didn't know what precisely it covered. What they had in mind might get covered in an already listed subtopic, but I didn't want to risk losing the point.
- C. *Agrait:* No panel participation. I will question him and other counsel on various topics. No order necessary?
- D. *Final panel agenda:* Monday AM. No major changes, some minor changes.
- E. *Remember panelists' purpose:* A panelist's sole purpose, and obligation, is to be present to be questioned--by PREB and by cross-examining counsel. There is no right to be on a particular panel. There is no right to speak as a panelist. There is no right to equal time. There is no right to add information to what already is in the record. There is only an obligation to be cross-examined.
- F. *Panelist closing statements:* If we stay on schedule, I will consider inviting one panelist from each party to make brief closing comments--no repetition, no new information. Merely about something they did not get a chance to say.

II. Objections

A. LUMA to PREPA 5 Nov. re FTI scoping report

I require PREPA to produce the latest version of the FTI Scoping Report, as requested by LUMA by way of LUMA-of-PREPA-SUPPORT-9(c) today. If PREPA does not have possession, PREPA should take all feasible actions to persuade the entity that has possession to provide it. This obligation is a continuing obligation.

B. OIPC OBJECTION TO LUMA'S ANSWER TO ROI OIPC-of-LUMA-FIN-83 (Question No. 2)

"On October 31, 2025, the OIPC sent a good-faith communication via email to counsel for LUMA regarding its deficient response to ROI OIPC-of-LUMA-FIN-83, specifically Question No. 2, which requests a quantitative breakdown of how LUMA's confirmed layoffs affect operating and proposed budgets by department for FY2026FY2028. LUMA's counsel replied indicating that they would evaluate the matter with their client and provide a response. Five days have passed since that communication, and the OIPC has yet to receive the requested information."

C. Justo González's inclusion of EPRI, Sargent & Lundy reports as exhibits: Joint Motion

D. Any need for an order on anything else?

III. Cross-examination

A. Witness testimony that does not match their panel assignments: Counsel must have opportunity to cross. Can counsel provide list of these situations, so I can determine when than cross will happen?

B. Rotation of questions: (a) within subtopic; (b) within specific panelists

C. Cross ex requests and time estimates

D. Questioning protocol, please: Exhibit (pause), page (pause), line (pause), question.

- E. Exhibits during cross
 - 1. Use during hearing
 - 2. "Late-filed" exhibits
- F. Witnesses no one wants to cross: deadline today
- G. Remote questioning by counsel for Unsecured: permitted

IV. Exhibits and ROIs

- A. For all exhibits that have not received an objection: I am admitting them now conditionally, subject to
 - 1. my review at the time that someone seeks to use them at hearing;
 - 2. the PREB's review in its final order, in situations where a party cites them in post-hearing submissions.
- B. Consultants' ROIs: Same treatment as exhibits. I am admitting them conditionally. Objections due 15 Nov., per my Order of Nov. 3.

V. Pro hac vice

Local counsel for PREB, Rafael Sosa, informs me that Puerto Rico Supreme Court rule 12(f) requires the sponsoring attorney to be present at all proceedings. That same rule grants the forum the discretion to excuse the sponsoring attorney.

I exercise that discretion by excusing local counsel from mandatory presence at the evidentiary hearings. Local counsel are of course welcome to attend.

My decision is solely about (a) giving nonlocal counsel permission to proceed without local counsel's presence, and (b) giving local counsel permission to be absent. What local and nonlocal do with that permission is for them to decide, based on their professional judgment and their understanding of their obligations to their clients.

VI. Administrative notice

- A. Current status of requests
- B. Accion location
- C. Nov. 8 noon deadline
- D. Case law offerings
- E. No need to seek admin notice for official orders
- F. Decisionmaking plan

VII. Logistics

- A. Electronic display of exhibits via Teams and Accion
- B. Panelists will see a big screen (located behind counsel). Possibly there will be two laptops on which the panelists can see exhibits
- C. Wifi available
- D. Power strips available
- E. Live-streamed on YouTube, recordings
- F. All counsel must have laptops to see exhibits, via Teams
- G. Seating: 24 table spots (3 spots per table); 25-30 audience chairs. How many table spots does each party need?
- H. Dress: Business casual
- I. Transcripts
- J. Building entry

VIII. Next order

If necessary will be Saturday by email, official Monday AM