

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

NEPR

Received:

Nov 12, 2025

9:24 PM

IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

**PREPA'S INFORMATIVE MOTION ABOUT COR3 PANELIST TO TESTIFY ON THE
SUBJECT OF FEDERAL FUNDING**

TO THE HEARING EXAMINER,

COMES NOW, the Puerto Rico Electric Power Authority ("PREPA"), through its undersigned legal counsel, and, very respectfully, states and prays as follows:

1. On October 29, 2025, the Hearing Examiner issued the "Hearing Examiner's Order on Various Prehearing Matters," notifying the draft topic agendas for each panel to be presented during the evidentiary hearings of the rate case. In that Order, the Hearing Examiner directed the stakeholders as follows:

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.

2. On November 3, 2025, PREPA submitted via email its *Objections, Comments and Request for Clarification* to the draft topic agendas identified in the October 29th Order. Among PREPA's comments were the following:

1. Federal funds:

- While a specific panel has been designated to address Federal Funds, the subject also appears within other panels. PREPA's panelists for the Federal Funds panel may have relevant information to contribute whenever the topic of federal funds arises. Accordingly, PREPA respectfully requests that the discussion of federal funds be confined to the Federal Funds panel, or, alternatively, that its Federal Funds panelists be permitted to participate in any other panels where the topic of federal funds will be addressed.
- The proposed agenda for the Federal Funds panel does not include any question or topic addressing LUMA's failure to secure available federal funds. To establish just and reasonable rates, the use of available federal funds must be prioritized, and the Energy Bureau should implement measures to ensure improvement in LUMA's reimbursement rate and its proper utilization of the Working Capital Account (WCA). The discussion in the Federal Funds panel should start there.

3. On November 7, 2025, the Hearing Examiner held the last prehearing conference in the case ("November 7th Hearing"). Prior to the hearing, the Hearing Examiner circulated the hearing's agenda ("November 7th Agenda") clarifying how the topic of federal funds would be addressed during the evidentiary hearings:

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. During the November 7th Hearing, PREPA informed that it intended to designate as a panelist a representative from the Central Office for Recovery,

Reconstruction and Resiliency ("COR3"), the Government of Puerto Rico office responsible for managing, coordinating, and overseeing the disbursement of federal disaster-recovery funds, to appear on every panel where federal funds are discussed, to guarantee that all discussion regarding federal funds is accurate. PREPA emphasized that COR3 is the most appropriate source to provide information regarding the federal funds involved in this case.

5. As anticipated, PREPA hereby informs that it is designating María L. Marín Colón, Chief Infrastructure and Recovery Operations Officer at COR3, to appear as a PREPA witness on the following panels: T&D, Generation and Federal Funds.

6. For the T&D Panel, PREPA informs that Ms. Marín Colón will be available to appear on **Monday, November 17, 2025**. Due to professional commitments, Ms. Marín Colón will not be able to appear on all panel days.

7. PREPA is currently confirming with COR3 the specific date when it will be able to appear for the Generation panel. As soon as COR3 provides confirmation, PREPA will inform the Hearing Examiner.

8. To make the most out of her appearances, PREPA respectfully requests the Hearing Examiner and the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") to take the necessary steps to give Ms. Marín Colón the opportunity to answer all pertinent questions on the matter of federal funds that may arise during the aforementioned panels, on the day she appears on each panel.

9. It is worth noting that there is no legal impediment for COR3 to appear at the Rate Case evidentiary hearings and, to the contrary, its testimony will be extremely helpful and useful to the Energy Bureau considering the extent of COR3's direct involvement and responsibility in federal funds management, and the high relevance of this subject.

10. In Puerto Rico, the purpose of administrative agencies and the quasi-judicial powers that have been delegated upon them is to provide an adjudicative process that is economic, expedited and practical. The Puerto Rico Supreme Court has recognized that an administrative agency ultimate goal is to find the truth and do justice to the parties. Rodríguez v. P.R. Park Systems, Inc., 119 D.P.R. 634, 640 (1987); Lopez y otros v. Asoc. de Taxis de Cayey, 142 D.P.R. 109 (1996).

11. Act No. 38 of June 30, 2017, as amended, known as the "Government of Puerto Rico Uniform Administrative Procedure Act" ("PR APA") provides that the following rights shall be safeguarded in every formal adjudicative proceeding before an agency:

- (A) The right to be timely notified of the charges or complaints or claims against one of the parties.
- (B) The right to present evidence.
- (C) The right to an impartial adjudication.
- (D) The right to have the decision based on the record.

12. The Puerto Rico Supreme Court has consistently held that administrative due process requirements are fully satisfied when parties are afforded an opportunity to present their case, confront the evidence, and cross-

examine adverse witnesses. In *López y otros v. Asociación de Taxis de Cayey*, 142 D.P.R. 109 (1996) ("Asociación de Taxis"),¹ the Court reaffirmed that administrative agencies, despite their relative procedural flexibility, must base their determinations exclusively on the evidence in the record and allow the parties to rebut and examine opposing evidence. The Court emphasized that only when the administrative determination is grounded on the record of the hearing there is the guarantee that the parties have had the opportunity to present their case and, more importantly, to confront and refute the evidence presented by the opposing party. *Id.* citing with approval *K. Davis, Administrative Law Treatise*, 3rd ed., Little Brown Co., Boston, 1994, §8.4.

13. Agency decision have been rendered invalid in cases where the administrative determination has been based on evidence not contained in the record and without granting the parties an opportunity to examine and rebut it. *Escudero v. Junta de Salario Mínimo*, 66 D.P.R. 594, 602 (1946); *Corporación Azucarera v. Junta Azucarera*, 77 D.P.R. 397, 410–411 (1954).

14. As the Court explained in *López v. Junta de Planificación*, 80 D.P.R. 646, 670 (1958), and restated in *Asociación de Taxis*:

[The] right to a public hearing would have no meaning if the administrative body were permitted to base its decision on evidence received without the knowledge of the parties, outside the hearing, and without giving the interested parties the opportunity to rebut or explain it by means of cross-examination or the presentation of contrary evidence.

¹ While the controversy at issue in *Asociación de Taxis* was an *ex parte* communication that was considered by the agency in rendering its final determination, *its ratio decidendi* is relevant to understanding the parties statutory due process rights under the PR APA in general.

15. These precedents clarify that the essence of the statutory administrative due process lies not in rigid procedural formalities, but in guaranteeing each party a meaningful opportunity to participate in the evidentiary process. What the law protects is not the exclusion of new or clarifying relevant testimony, but rather the **right to confront it** through examination, cross-examination, and rebuttal evidence. The central objective of an administrative hearing is to develop a complete and reliable record upon which the agency shall base its determination.

16. Consistent with this principle, Section 3.13(b) of the PR APA, 3 L.P.R.A. §9653(b), requires that the presiding officer, while *conducting the hearing* with relative informality, ensure that all parties have a full opportunity to: (a) disclose relevant facts and issues, (b) respond and present evidence, (c) conduct cross-examination, and (d) submit rebuttal evidence, except as limited by prior stipulations made before the hearing.

17. COR3's participation in the panels will enhance the integrity and completeness of the evidentiary record by providing firsthand, accurate and reliable technical testimony on the administration and allocation of federal funds, a subject that is highly relevant to this rate case.

18. Applicants (other than PREPA) and intervenors (jointly, "Stakeholders") in this proceeding retain full procedural rights under the PR APA to examine, cross-examine, and present rebuttal evidence to Ms. Marín Colón's testimony, to the extent they deem COR3's testimony adverse.

19. The Hearing Examiner and the Energy Bureau have the authority to take the necessary steps to guarantee and balance both PREPA's right to present evidence (i.e. present COR3/Ms. Marín Colón as a panelist) and the Stakeholder's right to confront and/or rebut that evidence.

WHEREFORE, PREPA respectfully requests that the Honorable Hearing Examiner take notice of the designation of the **Central Office for Recovery, Reconstruction, and Resiliency**, through María L. Marín Colón, Chief Infrastructure and Recovery Operations Officer, as an additional PREPA panelist for the T&D, Generation, and Federal Funds panels; and that the Hearing Examiner and the Energy Bureau take the necessary steps to facilitate her participation, on the date of her appearance on the panels where federal funds will be discussed, in the interest of developing a complete, accurate, and transparent evidentiary record consistent with due process and applicable law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 12th day of November 2025.

GONZÁLEZ & MARTÍNEZ
1509 López Landrón, Bldg.
Seventh Floor
San Juan, PR 00911-1933
Tel.: (787) 274-7404

s/ Mirelis Valle Cancel
Mirelis Valle Cancel
RUA No.: 21,115
Email: mvalle@gmlex.net

s/ Natalia Zayas Godoy
Natalia Zayas Godoy
RUA No.: 20,415
Email: nzayas@gmlex.net

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE: We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and notified via e-mail to the Hearing Examiner, Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record, attorneys of the intervenors of record: 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; hrivera@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; javrva@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; flauria@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; kbailey@acciongroup.com .

GONZÁLEZ & MARTÍNEZ

/s/Mirelis Valle Cancel

Mirelis Valle Cancel

/s/Natalia Zayas Godoy

Natalia Zayas Godoy