

**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
Miscellaneous Procedural Matters
(November 17)

**Hearing Examiner's Order on Miscellaneous Procedural Matters
(November 17)**

Victor González: Given Mr. González's decision to withdraw his testimony in favor of acting as a party representative, I direct Ms. Bailey to remove that document from the folder of submissions marked for identification.

Generation panel—language: Energy Bureau consultant Rafael Sosa, the primary questioner, will conduct his examination in Spanish. I will conduct my questioning in English. Panelists may respond in their preferred language. Translation will be available for all.

Generation panel—seating: Please inform Idalie and Omar of the number of counsel seats that you need for that panel, so that they can rearrange the seating. Send party and number to Idalie Aponte Vera iaponte@jrsp.pr.gov and Omar M. Rodríguez González omrodriguez@jrsp.pr.gov. No need to copy me or anyone else.

Executability: This topic appears on the Monday schedule for the T&D panel. But it applies to generation also.

Conflicts: I will obtain specific questions from the Commissioners, and make those questions available to all at least one week before the panel date.

PREPA's motion on extension of time for submissions on pension matters: The new deadline is November 19 for direct submissions; December 3 for rebuttal submissions. This extension applies to all submitters.

PREPA's motion requesting permission to have a representative from COR3 appear: I deny this request for a single, simple reason: Because no COR3 representative has submitted prefiled testimony, the only reason for their appearance would be to introduce new information. The deadline for doing so, in writing, was weeks ago, per a procedural schedule, applicable to all parties, that provided ample time for written prefiled responses. PREPA's proposal would leave no time for written prefiled responses. Opposing counsel would have to develop and execute cross-examination on the fly, departing from standard

adjudicative practice and from our practice in this proceeding. This basis is the sole basis for my decision. My decision does not imply any lack of value of such a presentation; nor does it preclude the Energy Bureau, at any time, from seeking the expertise of its fellow government officials.

Possible change in schedule: LUMA has informed me that Mr. Saca would be unable to appear at the time of the presently scheduled panels on Conflicts and on Cooperation. One possibility is to move those two panels to the slot presently scheduled for Federal Funds; i.e., December 8. I then would move the Federal Funds panel to December 18 and 19. I ask for parties' reaction to this option by Tuesday, November 18. I see no other solution to this puzzle. It is important to have all three utility CEOs appear simultaneously. This solution does leave November 25 open. One possibility is to use part of that day for a series of legal and policy questions for counsel to address. Or we could lengthen the holiday break.

Federal funds questions: Please provide, nonargumentatively, topics that you think would be appropriate for this panel. Remember the distinction that I have tried to draw: specific questions about specific expenditures belong with the substantive panels; discussion of ways to speed the process of seeking, receiving, and spending federal funds, and of PREB consultant Guímel Cortéz's proposal for a base-rate rider to address timing gaps and uncertainties associated with FEMA funds, goes with the Federal Funds panel.

Executability: By email Sunday afternoon, 16 November, and for purposes of preparing for hearing on 17 November, I emailed to counsel the attached document.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on November 17, 2025. I also certify that on November 17, 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@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; 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; mfb@tcm.law; lft@tcm.law; arosenberg@paulweiss.com;
 pbrachman@paulweiss.com; swintner@paulweiss.com; tfurchtgott@paulweiss.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; Brian.Gorin@analysisgroup.com;
 Bhumika.Sharma@analysisgroup.com; Rachel.Anderson@analysisgroup.com;
 charles.wu@analysisgroup.com; harrison.holtz@analysisgroup.com;
 lindsay.greenbaum@analysisgroup.com.

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




 Sonia Seda Gaztambide
 Clerk

Hearing Examiner's Tentative Thoughts on Executability (For panelist discussion 17 November 2025)

The prefiled submissions of Mr. Hogan and Mr. Shearman add up to this: An accurate projection of executability is an impossibility. That fact leads to this conclusion: Multihour cross-examination to determine which perspective the Commissioners should adopt—Mr. Hogan's pessimism or Mr. Shearman's optimism—will not have much decisionmaking value. It will not help the Commissioners face the unavoidable: the need to balance (a) the risk of underfunding essential projects against (b) the risk of making customers pay for projects that the utilities don't execute.

The better use of our time is to find ways to reduce both those risks. Regrettably, neither Mr. Hogan nor Mr. Shearman addressed that question. To fill that gap—to focus us on base-rate solutions rather than witness-credibility conclusions—I offer some thoughts. I hope that they can help aim the cross-examination productively.

Categorizing projects by executability: Instead of Hogan's and Shearman's generalizations about the executability of the whole, can the parties categorize the many projects in terms of likelihood of execution—say, 3-5 categories ranging from certain to very likely to less likely to unlikely? Mr. Meléndez insists that all his projects are executable. But given his 25 years of executability experience, his optimism must have some gradation, yes? This categorization would help the Energy Bureau decide what level to fund in base rates.

Addressing the risk of excess optimism: If a project reflected in rates became unexecutable, LUMA would propose an alternative use of the funds. If the Energy Bureau didn't act within some short period of time, that project would proceed. Or the Energy Bureau could require LUMA to refund the money. What we don't want is money collected from customers, then not spent; or spent on projects not approved. Mr. Meléndez says he has a list of shovel-ready projects. He can submit that list; and the Energy Bureau can decide what to approve in advance—in a separate expedited procedure, not in this rate case.

Addressing the risk of excess pessimism: For projects of lower likelihood (but still better than 50% likely), include the costs in rates, but place the funds in a restricted account requiring Energy Bureau permission to access. That way LUMA won't use funds connected to unexecutable priority projects for nonpriority projects.

Bottom line: For purposes of this rate case, the Energy Bureau would base the rate on an educated projection, then have a process for either (a) substituting ready projects for nonexecutable projects, or (b) returning the funds to customers.