

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: Victor L Gonzalez view regarding Hearing Examiner's Order of December 9, 2025 on the Pension rider.

TO THE HONORABLE PUERTO RICO ENERGY BUREAU

COME NOW Victor L Gonzalez , and respectfully submits his views on the Pension rider:

INTRODUCTION

I can only provide the requested legal view from the perspective of a lay person. Please note that Puerto Rico Energy Public Policy has facilitated the creation of over 10,000 direct jobs and over \$6 billion in private investments by the roof-top solar sector.

Answer to Hearing Examiner's questions

Is there any legal vulnerability to this change, in light of the statutory provision relating to per-kWh treatment of solar-panel customers? **YES**

If the pension costs were rolled into base rates, rather than recovered through a rider, would that then mean that the pension costs would have to be recovered, per the statute, via a kWh charge? **YES, and also if they are to be recovered through a rider.**

DISCUSSION

In the July 31, 2025 Resolution and Order¹, the Energy Bureau established that the pension rider be a per-customer charge rather than a per-kWh charge. It also excluded any request for correction to the Energy Bureau² or judicial review³. It justified the decision by claiming that a cents/kWh approach (per-kWh charge) “does not ensure fairness, because customers who can reduce their kWh consumption but still benefit from the electric system, such as net- metering customers, will not pay their fair share.” (emphasis added) (page 26 of July 31 Resolution and Order)

As we have not yet reached the midnight hour of the change to a per-customer charge, I welcome the opportunity to provide a layman’s opinion of why the change to a per-customer charge goes again the spirit and the letter of Puerto Rico Energy Public Policy and the statutes that facilitate its implementation; in particular, Section 4.c of Act No. 114 of August 16, 2007, as amended⁴.

¹ *Conversion to Fixed Customer Charge: LUMA SHALL notify the Energy Bureau as soon as it is feasible and cost-effective to implement the necessary billing-system modifications to convert the pension cost recovery from a per-kWh charge to a per-customer charge.* (page 37 of July 31, 2025 Resolution and Order)

² *We make this point so that parties can look for errors and inform us. We ask the three applicants to inform the Hearing Examiner formally and expeditiously of any need to correct or clarify the numbers in this Resolution and Order, without rearguing points that the Energy Bureau has addressed. The Hearing Examiner then will schedule expeditiously the necessary conference to clear matters up so that the Energy Bureau can make any necessary corrections.* (page 38 of July 31, 2025 Resolution and Order)

³ *While, the decision is expected to be rational and take into account relevant considerations and the information before the Energy Bureau, it is not based on an evidentiary record or evidentiary hearing, and is not subject to judicial review, as it constitutes an interlocutory administrative action taken solely for provisional purposes.* (page 5 of July 31, 2025 Resolution and Order)

⁴ Act No. 114 of August 16, 2007, as amended

Section 4. — Applicable Rate. — (22 L.P.R.A. § 1014)

a)...

b)...

c) *Prohibited charges. — The Electric Power Authority or the transmission and distribution network Contractor shall not impose any charge or modify the monthly electric power usage consumption rate of its net metering customers, or customers who interconnect any distributed generation system, without prior authorization from the Bureau as provided above. Likewise, the rate approved by the Bureau for net metering customers shall not be discriminatory or discourage entering into net metering agreements. No direct or indirect charge shall be imposed on the generation of renewable energy by prosumers.*

Discriminates and discourages entering into net metering agreements

Act No. 114 as amended clearly prohibited discrimination against net-metering, and mandated PREPA and the Energy Bureau to facilitate self-generation from renewable energy sources and increase energy saving by prosumers. The statutes call for customers to reduce their kWh consumption. Net-metering customers are simply following the Puerto Rico Energy Public Policy. The benefit or cost (“Value of Solar”) of net-metering, I understood was not going to be part of this docket. I disagree with the Resolution and Order assertion, unsupported by any evidentiary hearing and without a chance to respond until now, that net-meter customers “**will not pay their fair share**”. This statement discriminates against net-metering clients and discourages entering into net-metering agreements.

A Per-customer charge, a fix charge, discourages utility clients from continuing with their existing net metering agreements or entering into agreements. Currently, 98% of net-metering customers have a BESS and 100% of new net metering customers include a BESS. A BESS provides stand-alone capabilities, reliability and resilience to net-metering customers that the grid does not. Furthermore, as has been shown during this summer, the use of thousands of net-metering clients BESS as a Virtual Power Plant (VPP) mitigated the load shed needs of the grid.

Tax on Solar

A Per-customer charge, a fix-charge, puts a burden on clients that self-generate energy using renewable energy (“roof-top solar clients or net-metering clients”) that didn’t exist when they purchased their roof-top solar systems. The 200,000 net-metering clients that invested \$6 billion dollars will now be taxed for their roof top **solar** investment.

Direct Charge

Labor costs include pension costs. Labor costs are O and M costs that historically have been collected through per-kWh charges. This change, from the existing and long-term practice, to recover O and M charges via a per-kWh charge to a per-customer charge imposes a “direct charge” ⁵as defined by Act No. 114 to net-metering clients that the statute specifically prohibits.

Energy Saving and Energy Efficiency Impacts

The Pension rider per-customer rate discourages energy savings and investing in energy efficiency appliances.

Request

For the reasons stated above, I respectfully request that the Pension rider continues to be charged per-kWh.

Respectfully submitted on December 11, 2025.

Victor L Gonzalez, Interventor in this proceeding.

Certificate of Service: I hereby certify that, on this date, I have filed this motion through the online filing system of the PREB and sent a copy to the PREB Clerk: secretaria@energia.pr.gov, secretaria@jrsp.pr.gov, legal@jrsp.pr.gov, sseda@jrsp.pr.gov; to the Hearing Examiner Scott Hempling: shempling@scotthemplinglaw.com; and to Puerto Rico Electric Power Authority: Mirelis Valle Cancel, mvalle@gmlex.net; Juan R. González Galarza, jgonzalez@gmlex.net; Alexis G. Rivera Medina, arivera@gmlex.net, agriveramedina@outlook.com; Juan M. Martínez Nevárez, jmartinez@gmlex.net; Natalia Zayas Godoy, nzayas@gmlex.net; Maria J. DiConza, mdiconza@omm.com; Mohammad S. Yassin, msyassin@omm.com; Gabriel L. Olivera, golivera@omm.com; pfriedman@omm.com; LUMA Energy LLC and LUMA Energy ServCo LLC: Margarita Mercado Echegaray, margarita.mercado@us.dlapiper.com; Jan M. Albino López, jan.albinolopez@us.dlapiper.com; Yahaira de la Rosa Algarín, yahaira.delarosa@us.dlapiper.com; Carolyn Clarkin, Carolyn.Clarkin@us.dlapiper.com; Brett Ingerman, brett.ingerman@us.dlapiper.com; Brett Solberg, brett.solberg@us.dlapiper.com; katuska.bolanos-lugo@us.dlapiper.com; andrea.chambers@us.dlapiper.com; Genera PR LLC: Giuliano Vilanova Feliberti, gvilanova@vvlawpr.com; Maraliz Vázquez Marrero, mvazquez@vvlawpr.com; dbilloch@vvlawpr.com; ratecase@genera-pr.com; regulatory@genera-pr.com; legal@genera-pr.com; Oficina Independiente de Protección al Consumidor: Hannia B. Rivera Díaz, hrivera@jrsp.pr.gov, lcda.hanniarivera@gmail.com; contratistas@jrsp.pr.gov; Pedro E. Vázquez Meléndez, pvazquez.oipc@avlawpr.com; Instituto de Competitividad y Sustentabilidad Económica: José Pou Román, jpouroman@outlook.com; Fernando E. Agrait Betancourt, agraitfe@agraitlawpr.com; National Public Finance Guarantee Corporation: Eric Pérez Ochoa, epo@amgprlaw.com; Luis A. Oliver Fraticelli, loliver@amgprlaw.com; Alexandra C. Casellas Cabrera, acasellas@amgprlaw.com; Matthew S. Barr, matt.barr@weil.com; Robert Berezin, Robert.berezin@weil.com; Gabriel A. Morgan, Gabriel.morgan@weil.com; Corey Brady, corey.brady@weil.com; Goldentree Asset Management LP: Lydia M. Ramos Cruz,

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