

**3GOVERNMENT 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
Circulating Revised Agenda for the Panel on
Federal Funds

**Hearing Examiner's Order Circulating Revised Agenda
for the Panel on Federal Funds**

Attached to this Order is the revised agenda for the Federal Funds panel. With this panel, our mutual goal is to build a record that helps the Energy Bureau make difficult decisions about ratepayer funding, after considering all the options and all the consequences of those options.

I developed this agenda after consulting with more knowledgeable Energy Bureau consultants, and after studying the Bondholders' December 8 Response to my November 25 Informal thoughts. The agenda does not include a discussion of the Bondholders' legal points (such as how "burden of proof" and the just-and-reasonable standard apply to the federal funds context), because parties can address those points in post-hearing briefs.

I recognize the Bondholders' concerns about changing an agenda on which parties have relied. The original agenda did have in its title "to be reorganized," in recognition of the reality that much of the hearing preceding the panel would have touched on the subject. More importantly, there is no intent to eliminate any of the issues listed in the original agenda, or raised by the Bondholders in their Response, or in their many contributions to date. The attached agenda is a more logical way to arrange the topics stated in the original agenda. Every issue listed in the original agenda has an explicit or implicit home somewhere in the new agenda. (The one possible exception is original item "I—Programs to transition to the FEMA Parts Replacement Program." I invite thoughts on where to place that topic.) And yes, past performance is relevant as a predictor of future performance.




I re-emphasize a point that I made late Friday afternoon, December 12: On two questions, I see a gap between evidence produced thus far, and evidence necessary to help the Commissioners make the best possible decisions. Those questions are:

- What are the consequences to electricity service of saying “no” to ratepayer funds, where the “no” is based on an assumption of availability of federal funds, if those federal funds do not appear timely? What actions should the Energy Bureau take to prepare for those consequences?
- To drive utility performance on nonratepayer funding, what are the available “incentives”? What should the Energy Bureau do to make those incentives effective?

I look forward to the panel discussion.

Be notified and published.




Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on December 15, 2025. I also certify that on December 15, 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; 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;

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I sign this in San Juan, Puerto Rico, on December 15, 2025.


Wanda I. Cordero Morales
Interim Clerk



Federal Funds Panel (December 18-19)

This Panel's purpose is to help the Energy Bureau answer this question:

Focusing on capital expenditure projects in the FY26-28 base-rate revenue requirement, what amounts should the Energy Bureau assign (a) to ratepayers and (b) to nonratepayer sources?

I. What is each project's potential for nonratepayer funding?

- A. Assumption: Each project is necessary, at some future point, for Puerto Rico's electricity system. Is that assumption correct?
- B. Assessment of FEMA potential: The "hopefulness" exhibits
- C. Other federal sources
- D. Commonwealth sources

II. In assigning funds to ratepayers and nonratepayer sources, what are the main scenarios? For each scenario, what are the options for PREB decision?

A. PREB moves project from NFC to FF, reduces ARR

- 1. What facts warrant moving a project out of NFC?
- 2. What are the necessary ARR adjustments?
 - a. CAPEX
 - b. State cost-share
 - c. Labor
 - d. Vendor
 - e. Other



- B. PREB moves project from NFC to FF, reduces ARR, then federal or Commonwealth funds arrive on time**
1. No further PREB action necessary?
 2. PREB action necessary?
- C. PREB moves project from NFC to FF, reduces ARR, federal funds are approved but are delayed**
1. PREB puts project on hold?
 2. PREB allows use of special liquidity funds, such as via Guímel Cortés's device?
- D. PREB moves project from NFC to FF, reduces ARR, but then no federal or Commonwealth funds arrive**
1. Eliminate the project?
 2. Defer the project?
 3. Seek emergency rate for the project?
 4. Reallocate funds to the project from other PREB-approved projects?
 5. Approve use of OMA reserve?
 6. Access funds from a ratepayer-funded account, subject to replenishment by ratepayer funds or outside funds (the Guímel Cortés device)?
- E. PREB leaves funds in NFC, but nonratepayer funds later arrive**
1. Is there any risk that advance NFC spending could jeopardize FF eligibility?
 2. What then are the options? Keep spending, and sacrifice the FF? Or, delay the project and hope for FF? What if the project is urgent?
 3. Cease the NFC funding for that project, use the FF for the project, and spend the NFC funds on a different PREB-approved project?
 4. Cease the NFC funding, use the FF for the project, then refund the NFC to customers?



III. What short-term actions should the utilities take to make federal funds flow, and get used, in the next three years?

- A. What current utility practices are contributing to the goal?
- B. What current utility practices, or omissions in current utility practices, are leaving nonratepayer funding insufficiently or ineffectively pursued, obtained, and managed?
- C. What “incentives” exist to cause Genera, LUMA, and PREPA to succeed in attracting nonratepayer funds? Which ones are likely to work?
 - 1. Reputational damage
 - 2. Loss of incentive payments
 - 3. Loss of affiliate revenues
 - 4. PREB-imposed penalties (On penalties, what decisions, if any, must the Energy Bureau make in advance, so that the utilities have fair notice of consequences?)
 - 5. Financial damages for contract breach
 - 6. Loss of operator’s contract role
 - 7. Other
- D. In its April 2026 Order, what specific actions should the Energy Bureau take?

