

**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: Motion of the PREPA Employees Retirement System (SREAEE) to Protect Statutory Pension Contributions and to Object to Any Methodology or Rider Structure that Endangers the Full and Timely Funding of Pensions

**MOTION OF THE PREPA EMPLOYEES' RETIREMENT SYSTEM (SREAEE) TO
PROTECT STATUTORY PENSION PAYMENTS AND TO OBJECT TO ANY
METHODOLOGY OR RIDER STRUCTURE THAT ENDANGERS THE FULL AND
TIMELY FUNDING OF PENSIONS**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the *Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica* (“SREAEE”), through its undersigned counsel, and respectfully STATES and REQUEST:

I. INTRODUCTION

SREAEE appears before this Energy Bureau to protect the vested rights and financial security of the thousands of retirees and beneficiaries of the Puerto Rico Electric Power Authority (“PREPA”). Pension benefits are statutory, contractual, and constitutionally protected obligations. Their funding is not discretionary, nor can it be subordinated to rate-design experimentation or competition with other tariff mechanisms.

Two documents recently filed in this proceeding have significant implications for the payment of pension obligations:

1. The Hearing Examiner's Order on Miscellaneous Substantive and Procedural Matters issued on December 9, 2025, and
2. LUMA's Revised Motion in Compliance with July 31st Order Regarding Revision of Pension Rider, filed on November 26, 2025.

Certain representations in these filings, particularly the suggestion that the total pension contribution may "change" depending on future Title III determinations, are misleading, unsupported by the record, and potentially harmful to the stability of the retirement system.

SREAE therefore files this motion to ensure that the Bureau adopts protective measures guaranteeing the full, timely, and uninterrupted funding of PREPA's annual pension obligations.

II. THE PENSION PAYMENT IS A MANDATORY OBLIGATION NOT SUBJECT TO RATE-DESIGN DISCRETION

The July 31, 2025, Order approved PREPA's requested FY2026 pension cost of \$307,475,422 for purposes of provisional rates. LUMA's Revised Motion acknowledges this amount and estimates that approximately \$208.42 million will remain to be collected through the Pension Fund Rider as of January 1, 2026. However, LUMA repeatedly frames the pension obligation as a rider-based cost subject to allocation or adjustment and further asserts that the amount may "change" depending on developments in the Title III restructuring. That framing is incompatible with the legal nature of the obligation. Pension contributions are not optional operational expenses; they are binding statutory and contractual commitments. Rate design cannot reduce, delay, or condition PREPA's payment of the full actuarial amount.

Accordingly, SREAAE requests that the Bureau expressly determine that the total required pension contribution:

1. Is not subject to modification through tariff methodology,
2. Cannot be reduced based on projected collection levels, and
3. Must be funded in full regardless of the outcome of rider implementation.

III. THE TRANSITION FROM A VOLUMETRIC RIDER TO A FIXED CUSTOMER CHARGE MUST NOT RESULT IN UNDER-COLLECTION OR DELAYS IN PAYMENT

SREAAE does not oppose the transition to a fixed charge per customer, provided that the change does not create risk of under-collection. However, any shift in structure introduces operational risks that must be mitigated, including:

A. Under-collection risk due to fluctuations in customer accounts or billing issues

LUMA's forecast relies on projected customer accounts and energy shares. If these forecasts fall short, collections will also fall short; however PREPA's obligation to fund pensions does not diminish accordingly. SREAAE therefore requests a formal revenue-guarantee mechanism, requiring PREPA to make up any shortfalls in the amounts collected through the rider.

B. Pension funding cannot compete with other proposed riders or replenishment mechanisms

The Hearing Examiner's December 9 Order invites proposals for a new replenishment rider for OMA accounts. Such riders, if implemented, would compete for space within customers' bills and could be construed as having equal or higher priority than pension contributions. SREAAE respectfully submits that pension contributions must take precedence over any OMA replenishment mechanism or similar structure.

C. Reconciliation under Act 57-2014 cannot alter PREPA's total pension obligation

As SREAEE has repeatedly stated, the pension funding requirement is determined by actuarial need and statutory obligation, not by the level of collections or cash-flow performance.

Under Act 57-2014, Section 6.25(b)(9)(i) requires the Bureau to approve rates sufficient to recover all prudently incurred operating and statutory costs, including mandatory pension contributions. Section 6.25(c) further provides that any modification to the approved revenue requirement or rate design must be addressed through a formal rate review proceeding, with discovery and public hearings. Accordingly, any adjustment to the pension funding component of rates would require a new rate review under Section 6.25 and may not be implemented through a reconciliation mechanism. Reconciliation mechanisms are limited to correcting over- or under-recoveries or reallocations among customer classes and may not be used to revise fixed, non-discretionary operating expenses such as pension obligations or to defer their timely payment.

IV. THE BUREAU MUST REJECT ANY SUGGESTION THAT THE PENSION OBLIGATION MAY BE REDUCED BASED ON FUTURE TITLE III PROCEEDINGS

LUMA's Revised Motion states that the ultimate pension obligation "may change based on determinations made in the Title III bankruptcy proceeding." This assertion is misleading, speculative, and inconsistent with the record in the Title III case. Although Title III theoretically permits the modification of contractual obligations, the Oversight Board has never proposed reducing PREPA's pension obligations, not in its restructuring term sheets, not in its negotiations, not in its filed Disclosure Statement, and not in the proposed Plan of Adjustment currently before the court. No reduction in pension obligations appears anywhere in the official documents governing PREPA's restructuring.

Moreover, LUMA's suggestion that the pension obligation may "change" depending on future developments in the Title III case ignores the fundamental legal distinction between (i) past unpaid contributions to SREAAE that remain the subject of litigation in the Title III proceeding, and (ii) the current and ongoing PayGo obligations, which arise from PREPA's statutory duty to fund monthly retirement benefits on a going-forward basis.

As a result, there is no factual or legal basis for any party to assume or project reductions in the actuarial payments. The Energy Bureau cannot —and should not— design rates or riders based on hypothetical future cuts that the Oversight Board itself has never supported. Doing so would introduce unnecessary instability into the pension funding mechanism and would contradict the legal obligations that remain fully in force unless and until a federal court orders otherwise.

Therefore, the Bureau must state explicitly that the rate-setting process must assume full payment of the actuarial pension contribution, without anticipating reductions or conditioning tariff design on speculative restructuring outcomes.

V. ACCOUNTABILITY AND MONTHLY REPORTING ARE NECESSARY TO PROTECT PENSION FUNDING

Given the complexity of the rider mechanism and the transition to a fixed monthly charge, SREAAE requests that the Bureau impose the following accountability safeguards:

1. Monthly reporting of amounts billed, amounts collected, arrears, and any discrepancies.
2. Immediate corrective action if variances between billed and collected amounts creates risk to full funding.
3. Independent audit rights, ensuring that all sums billed for the Pension Fund Rider are fully transmitted and applied to PREPA's pension obligations.

4. Notice requirements, obligating LUMA to inform SREAAE and the Bureau immediately upon detecting any deficiency in collection.

These measures align with the Hearing Examiner's emphasis on accountability in the administration of replenishment riders and other tariff mechanisms.

VI. REQUEST FOR RELIEF

WHEREFORE, SREAAE respectfully requests that the Bureau:

1. Declare that the full actuarial pension payment obligation is a mandatory legal obligation that cannot be modified, reduced, deferred, or conditioned on tariff methodology or projected collections.
2. Require PREPA to guarantee full payment even if collections through the rider fall short.
3. Give pension contributions priority over any OMA account replenishment mechanisms or similar riders.
4. Reject any implication that pension obligations may be reduced pursuant to Title III, unless and until an express order of the Title III court so provides.
5. Require monthly reporting, auditing, and accountability measures ensuring full, timely funding.
6. Clarify that Act 57-2014 reconciliations may adjust allocations among customer classes but may not alter or delay payment of the total pension obligation.
7. Grant any other relief necessary to protect the pensioners' vested rights and ensure the solvency and stability of retirees.

WHEREFORE, SREAAE respectfully submits this motion for the Energy Bureau's consideration and requests any further relief the Bureau deems just and necessary.

RESPECTFULLY SUBMITTED.

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

WE HEREBY CERTIFY that this Motion was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Notice will be notified to:

Hearing Examiner, Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record.

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