

**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 and Evidentiary
Matters**

**Hearing Examiner's Order on Miscellaneous
Procedural and Evidentiary Matters**

This Order covers the following topics:

- Revision of procedural schedule
- The final FTI Report
- LUMA's objection to Bondholder Exhibits 917 and 919
- LUMA's motion to exclude various documents
- PREPA Late-Filed Exhibits 86, 87, 89, and 90

With this Order, there are no any outstanding pleadings for me to address, though there is the FTI Motion from PREPA pending before the Commissioners. If I am mistaken about outstanding motions, someone kindly inform me by email.

I. Revision of procedural schedule

I grant PREPA's Motion of January 5, 2026, seeking an extension to January 12, 2026, to submit the late-filed exhibits required by my Order of December 22, 2025. To avoid squeezing brief-writers, I revise the deadlines for the briefs on revenue requirements to January 23, 2026 (initial briefs) and February 5 (reply briefs).

Given the tightness of the schedule, there can be no more extensions. Please plan accordingly.

II. The final FTI Report

I admit into evidence, as Exhibit 1081, the version of the FTI Report that, according to PREPA, is final. FTI "issued" the Report on December 26, 2026 (though the document's cover page says November 2025). PREPA attached it as Exhibit A to its motion of January 1, 2026. PREPA's motion describes this version as the "final" version, and has not asserted confidential status for it. Because PREPA filed this version in the docket, it is now available to the public. I still must admit it into evidence because reviewing courts do not look at the Energy Bureau's docket; they look at the record.

Pending before the Commissioners is PREPA's January 1, 2026 motion relating to prior drafts of the FTI report and associated emails.

III. LUMA's objection to Bondholder Exhibits 917 and 919

On December 12, 2025, LUMA timely filed objections to two documents marked for identification through the Accion Discovery Platform: Exhibit BH 917, an Electric Distribution Company Act 129 Reporting (relating to the Pennsylvania Public Utility Commission); and Exhibit BH 919, the Petition for Approval of Initial Budgets and Related Terms of Services. No one used these documents during cross-examination, they are not responses to ROIs, and they appear to have no information useful to the Energy Bureau in this proceeding. I therefore grant LUMA's objection. I direct Accion to reflect that decision on the platform.

IV. LUMA's motion to exclude various documents

LUMA's December 26, 2025, Motion asks that I reconsider my admission of those exhibits between 462 and 925 that, according to LUMA, were not referenced in or attached to pre-filed testimony, or introduced during cross-examination. On January 2, 2026, SESA responded to LUMA's motion, arguing that excluding Requests of Information (ROI) documents not used during hearing would be unfair. In support, SESA cited my insistence during the hearings that counsel not consume time reading into the record statements that witnesses already made in ROI responses, since counsel could cite those responses in their briefs. On January 6, 2026, Bondholders also responded to LUMA, disagreeing with LUMA's request to remove various materials.

Summary of decisions: I deny LUMA's Motion for reconsideration of my decisions to admit material preceding Exhibit 926. As to material beginning with number 926, I grant LUMA's motion except to the extent that it (a) ignores Bondholders' and SESA's use of materials at hearing, or (b) seeks to apply retroactively (i.e., to exhibits preceding 926) the approach that I applied starting with Exhibit 926. I disagree with SESA's response to the extent that it seeks to apply to exhibits after Exhibit 925 the approach I used before Exhibit 925.

A. Documents marked for identification as Exhibits 462 through 925, listed in LUMA's December 26 Motion at Table 1

Here is a summary of my previous actions relevant to this LUMA request:

- I admitted Exhibits 1-461 in my November 5, 2025, Order.¹
- I admitted Exhibits 462-873 in my December 2, 2025, Order.²
- My December 2 Order deemed admitted all materials not objected to through Exhibit 925.³
- My Order of December 2, 2025, distinguished materials marked for identification through November 25, 2025 (*i.e.*, exhibits up to and including Exhibit 925) from materials marked for identification after November 25, 2025. The December 2 Order included this ruling:

Future materials: Beginning with materials numbered Ex 926, not already admitted but introduced during cross-examination, objections must occur at that time.

Materials neither used nor referenced: For materials [beginning with materials numbered Ex 926] that are not referenced in or attached to prefiled testimony, and not introduced during cross-examination, I will not admit them into evidence. On the Accion platform, those documents will remain, unused and not admitted, in the folder labeled "Marked for ID." At the end of the proceeding, Accion will rename this folder "Marked for ID but Not Used."

LUMA's December 26 Motion seeks to apply evidentiary rules that I adopted for exhibits marked beginning with Exhibit 926 retroactively, to Exhibits 462-925—exhibits that I had already admitted. This retroactivity is unfair to parties who relied on the evidentiary framework in place at the time. I therefore deny LUMA's request to reconsider my prior admission of Exhibits listed in Table 1 of its December 26 Motion.

¹ I sustained LUMA's objection to Exhibit 31 on November 5, 2025.

² I sustained LUMA's partial objections to Exhibits 583, 586, 592, and 768 in my November 24, 2025, Order.

³ LUMA timely objected to BH Ex 917 and BH Ex 919, as addressed above.

B. LUMA's motion to exclude various documents marked for identification between Exhibits 925 and 1067

In Table 2 of its December 26 Motion, LUMA proposes for exclusion certain materials between Exhibits 926 and 1067. LUMA argues that parties did not use these materials during cross-examination.

Table 2 incorrectly includes Exhibits 978, 979, and 984. Exhibit 984 was used by Bondholders on December 11, 2025. Exhibits 978 and 979 were used by Bondholders on December 15.

SESA's Motion cites, accurately, examples of my discouraging counsel from consuming hearing time by reading aloud, or asking witnesses to read aloud, information already in the record. SESA asserts that "from the outset of this proceeding, discovery responses have occupied a distinct evidentiary status." If by this statement SESA means that all discovery is automatically part of the evidentiary record, SESA is incorrect. The record includes admitted exhibits, not all ROIs.

As noted above, I had previously admitted all material marked through 925. Also as noted above, my December 2 Order revised that practice, beginning with materials numbered 926. For those higher numbers, I said that I would not allow admission of documents not associated with prefiled testimony unless used during cross-examination. My December 22 Order then required parties to email Kate Bailey of Accion the dates on which a party used any of those materials at hearing. The Bondholders, LUMA, SESA, and PREB Consultants identified the following materials used during cross-examination between December 3 and December 19:

Exhibit	Date Used
939	Dec 5
944	Dec 10
948	Dec 8
951	Dec 8
965	Dec 9
978	Dec 15
979	Dec 15
982	Dec 11
983	Dec 11
984	Dec 11
988	Dec 11
992	Dec 11
993	Dec 11

997	Dec 12
1013	Dec 12
1016	Dec 19
1017	Dec 15
1022	Dec 15
1026	Dec 16
1031	Dec 18
1032	Dec 18
1033	Dec 18
1037	Dec 19
1038	Dec 18
1047	Dec 19
1048 and 1048.1	Dec 19
1049	Dec 18
1050	Dec 18
1052	Dec 19
1054	Dec 19
1058	Dec 19
1059	Dec 18
1066	Dec 19

I admit those materials.

During the hearing on December 16, 2025, I stated that material numbered above 925 marked by PREB Consultants and not used during cross-examination would be considered late-filed exhibits. The parties agreed to object to any of those materials by December 26, 2025. Having received no objections, I admit the following as late-filed exhibits: 940, 944, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 1034, 1035, 1036, 1064, 1065, 1067.

Summary of the above: With the exception of (a) all exhibits listed in the table above, (b) all exhibits listed in the paragraph immediately this one, and (c) LFEs above Exhibit 925, I will not admit any material above Exhibit 925. I direct Accion to adjust the platform accordingly.

Bondholders' concern: Bondholders are concerned about Exhibits 757-758, 760-761, 763-764, 767, 769, 771, 773, 778, 782-783, 786, 788, and 790. Those items are all admitted per my prior rulings, because their numbers are below 926. And I deny LUMA's request to remove Exhibit 978. Bondholders used that exhibit at hearing on December 15, so I admit it.

SESA's concern: SESA suggests that there is tension between (a) my discouraging counsel from consuming hearing time asking witnesses to read aloud what those witnesses wrote in ROI responses, and (b) my order saying that unless counsel used during cross a specific ROI not associated with prefilled testimony, I would not admit that ROI into evidence. SESA wants that tension resolved by my admitting SESA Exhibits 933 through 936 and 994 through 1012. I disagree. Nothing prevented SESA from cross-examining a witness using those witnesses' ROI responses, by saying "I want to introduce this exhibit to contradict the witness. Per the Hearing Examiner's prior warnings, I am not going to read it; I simply want to introduce it so that the contradiction is in the record and so I can cite the contradiction in my brief." I then would ask for objections; and if there were none, admit the document. That practice is the standard practice, in no way rendered unavailable by my directives to counsel not to read things unnecessarily. Put another way, I never told counsel that they could not seek admission of documents that contradicted a witness. Such an action by me would be unambiguously reversible.

SESA objects to LUMA's request to strike SESA materials marked as 933-936 and 994-1012 with the sole exception of 997. SESA argues that granting LUMA's request would impose a retroactive evidentiary rule. As SESA's motion acknowledges, I admitted materials marked 926 and above if they were used during cross-examination. In compliance with my December 22 Order about materials numbered above 925 used at hearing, on January 5, 2026, SESA emailed Kate Bailey the following:

In compliance with the Hearing Examiner's December 22 Order, SESA hereby advises that the only material marked for identification as 926 or higher that was used during the hearing was SESA Exhibit 997, which was utilized during the cross-examination of Sam Shannon on December 16, 2025.

SESA did not introduce Exhibits 933-936 and 994-1012 (other than 997). It is permissible for me to change my rules prospectively. It is not permissible for me to change them retroactively. Admitting those materials now would change my prior orders retroactively—a result perhaps helpful to SESA but unfair to others. I therefore grant LUMA's request to strike 933-936, 994-996 and 998-1012. SESA may of course include in its brief an offer of proof and associated merits arguments based on the excluded materials.

V. PREPA's Late-Filed Exhibits 86, 87, 89, and 90

My December 22 Order identified several materials PREPA uploaded as late-filed exhibits, numbered 86, 87, 89, and 90 and provided an opportunity for objections by December 29. Having received no objections, I admit those materials, subject to the instructions in the December 22 Order.

Be notified and published.



Scott Hempling
Hearing Examiner

CERTIFICATION

I certify that the Hearing Examiner, Scott Hempling, has so established on January 8, 2026. I also certify that on January 8, 2026, 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; 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; dbilloch@vvlawpr.com; ratecase@genera-pr.com; jfr@sbgbaw.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; 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; lindsay.greenbaum@analysisgroup.com; harrison.holtz@analysisgroup.com; charles.wu@analysisgroup.com; Brian.Gorin@analysisgroup.com; Bhumika.Sharma@analysisgroup.com; Rachel.Anderson@analysisgroup.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; kzeituni@paulweiss.com; Julia@londoneconomics.com;
Brian@londoneconomics.com; luke@londoneconomics.com; juan@londoneconomics.com;
mmcggill@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.

I sign this in San Juan, Puerto Rico, on January 8, 2026.





Sonia Seda Gatzambide
Clerk