

**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:** Resolution and Order Addressing  
LUMA's and Genera's Reconsideration  
Motions Submitted January 13, 2026.

**RESOLUTION AND ORDER**

This Resolution and Order addresses requests filed by LUMA Energy, LLC and LUMA Energy ServCo, LLC, (jointly referred as, "LUMA") and Genera PR, LLC ("Genera"), on January 13, 2026. Each request sought modifications of portions of the Hearing Examiner's Order of January 8, 2026 ("January 8 Order"). To avoid any delay in the procedural schedule, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") have expedited its consideration. As to both requests, the Energy Bureau grants in part and denies in part.

**I. LUMA's Request**

On January 13, 2026, LUMA filed its *Urgent Request to Partially Vacate Hearing Examiner's January 8th Order and/or "Appeal" of January 8th Order and to Stay Procedural Calendar* ("LUMA's Request"). Specifically, LUMA asks the Energy Bureau to

*vacate the Hearing Examiner's January 8th Order insofar as it admits exhibits neither referenced in or attached to prefiled testimony nor used during cross examination starting with Exhibit 462 and including the Energy Bureau Consultants' exhibits admitted solely 'as late filed' despite non-use (Exhibits 462, 500, 501, 502, 503, 565, 582, 585, 587 through 591, 593, 595, 596, 598, 600, 602, 608, 609, 614, 619, 620, 705, 711, 724, 860, 862, 869 through 874, 877, 878, 889, 895, 940, 953, 954, 955, 958, 959, 960, 961, 963, 1034, 1035, 1036, 1036, 1064, 1065, and 1067; apply a uniform "use-or-reference" rule for all Exhibits starting with Exhibit 462; and stay the post-hearing briefing schedule outlined in the Hearing Examiner's December 22<sup>nd</sup> Order, as revised by the January 8th Order.<sup>1</sup>*

LUMA proffers these main arguments:

- Starting with Exhibit 462, no exhibits not associated with prefiled testimony and not used at hearing should be admitted, even though the Hearing Examiner ordered on December 2, 2025 ("December 2 Order"), that exhibits marked for identification but not used at hearing before that date would be admitted.
- For Exhibits 926 forward, no documents not associated with prefiled testimony and not used at hearing, including documents marked by Energy Bureau consultants, should be admitted.
- The Energy Bureau should stay the procedural schedule until its request is resolved.

The Energy Bureau rejects LUMA's first argument. However, agrees with LUMA's second argument, except for materials marked for identification by Energy Bureau consultants. Based on these determinations, there is no need to modify the procedural calendar, which will remain unchanged.

The procedural calendar set by the Hearing Examiner will remain unchanged.

<sup>1</sup> LUMA's Request at p. 17 (emphases omitted).



**A. Materials starting with Ex. 426 not associated with prefiled testimony and not used during hearing**

The Energy Bureau affirms the Hearing Examiner's decision to admit materials marked for identification before December 2, 2025, even if those materials were not associated with prefiled testimony or used during cross examination. The Hearing Examiner's action causes no prejudice to the parties or to LUMA, which did not raise a timely objection.

In an order dated December 2, 2025 ("December 2 Order"), the Hearing Examiner, based on the experience gained during the course of this proceeding and on the procedural developments that had occurred up to that point, particularly during the evidentiary hearings, established certain rules for the orderly management of the proposed documental evidence. These rules were necessary in light of the volume of filings and the extensive documentary record the parties sought to develop during the evidentiary hearings in this case. Specifically, the Hearing Examiner provided that documents not referenced in or attached to pre-filed testimony, up to and including those identified as Exhibit 873, would be deemed admitted. He further established that, with respect to Exhibits 874 through 925, the parties would have until December 12, 2025 to file any objections to their admission, and that, in the absence of such objections, those exhibits would likewise be deemed admitted. The Hearing Examiner also set forth specific rules applicable to materials identified as Exhibit 926 and thereafter.

The December 2 Order, stated:

*For [materials]<sup>2</sup> that are not referenced in or attached to prefiled testimony, I admit all such materials through Number 873.*

*For other [materials]<sup>3</sup> already submitted, the deadline to object to [materials]<sup>4</sup> 874 to 925 is **December 12**. (emphasis in the original). This section updates our exhibit practices to resolve some outstanding matters, and to reflect lessons learned from our first nine hearing days. I appreciate everyone's efforts to comply with the various requirements. (emphasis added).*

...  
*Materials neither used nor referenced:* For materials 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."

This language modifying the admissibility parameters clearly had only prospective effect, i.e., from December 2, 2025, forward. It had only prospective effect because just a few lines earlier, the December 2 Order said that "[f]or [materials] that are not referenced in or attached to prefiled testimony, I admit all such materials through Number 873."

<sup>2</sup> The Action platform includes a listing of the documentary record that the parties, from time to time, identified as proposed for admission into evidence and describes such materials as "Documentary Evidence." These documents are enumerated sequentially in accordance with prior orders issued by the Hearing Examiner. Throughout the filings submitted by the parties and in the Hearing Examiner's orders, these materials have been referenced interchangeably as ROIs, exhibits, documents, or materials, in each instance identified by their corresponding identification number. For example, in certain orders, the Hearing Examiner has referred to some of these materials as "ROIs," as several of them consist of responses to requests for information submitted during the discovery process. In other instances, they have been referenced as "documents" or "materials." Notwithstanding these variations in terminology, all such references pertain to the same category of records, namely, documents that were at some point proposed by the parties or the Energy Bureau's consultants for admission into evidence and that, over the course of the proceeding, have been formally admitted by the Hearing Examiner as exhibits.

<sup>3</sup> Id.

<sup>4</sup> Id.



LUMA asserts inconsistency. The Energy Bureau disagrees. The two treatments used by the Hearing Examiner are different treatments, each one applicable to a different period of time. They are different, but because they do not put anyone in a position of having to obey opposites, they are not inconsistent. It is not inconsistent to change a hearing practice midway through a hearing given new circumstances, provided that the change is prospective only. Here, the Hearing Examiner began the hearings with an approach that did not make use of a proposed exhibit at hearing a prerequisite for admission. Having not imposed that requirement at the outset, he could not impose it retroactively without prejudicing parties who had relied on those materials, so he did not. Then in the December 2 Order, seeing the large volume of materials that parties were marking for identification, he properly imposed a prospective practice, by making use during the hearing a prerequisite for admission. There was no inconsistency.

LUMA had an opportunity to object to the Hearing Examiner's December 2 Order admitting unused materials through 873. LUMA did not raise an objection until December 26, 2025, twenty-four days after the Hearing Examiner's ruling, which constitutes an untimely and unfair delay for purposes of seeking relief. As stated in the Hearing Examiner's January 8 Order, LUMA is seeking to apply the December 2 Order retroactively.

LUMA argues that in its timely December 12 Objections to exhibits BH 917 and 919 (which the Hearing Examiner granted in his January 8 Order) it included a "reservation of rights to seek to strike documents that were not referenced or incorporated into pre-filed testimonies and that were not used in cross-examination after the close of the evidentiary hearing." January 13 Motion at para. 22. This argument omits the context. LUMA's December 12 pleading, at p.2 note 2, stated:

*[p]er statements by the Hearing Examiner during the December 12th Evidentiary Hearing, LUMA understands that Kate Bailey will reach out to the parties to remove all materials that are not referenced in or attached to pre-filed testimony and were not introduced during cross-examination. LUMA reserves the right to request that the Hearing Examiner strike any materials not referenced in or attached to pre-filed testimony and not introduced during cross-examination that may remain in the Accion Platform at the close of the evidentiary hearing.*

Read in context, this reservation of rights makes sense only as applied to post-December 2 materials. Whatever LUMA understood Ms. Bailey to be doing, LUMA could not have understood Ms. Bailey to have been acting inconsistently with the Hearing Examiner's December 2 Order, which admitted all "[materials] that are not referenced in or attached to prefiled testimony" through 873, while allowing objections to 874-925 if made by December 12. The rights that LUMA reserved in the above-quoted footnote were necessarily rights connected to the context of that footnote, a context that dealt only with the period following December 2, not before.<sup>5</sup>

LUMA also does not address the consequence of the Hearing Examiner's Orders of November 3, 2025 ("November 3 Order"), and November 10, 2025 ("November 10 Order"). The November 3 Order stated at p. 7:

<sup>5</sup> Moreover, it is doubtful that a party may unilaterally purport to reserve rights in a manner that is inconsistent with the orders governing a proceeding, including the procedural orders, rules, and regulations applicable to a particular case. Any such reservation of rights that contravenes a controlling procedural order must be deemed without effect. To the extent that LUMA's asserted reservation of rights is inconsistent with the Hearing Examiner's order, it is therefore improper and inapplicable in this proceeding.



***Conditional admittance of ROIs requested by Energy Bureau consultants***

*Attached is a list of all ROIs and responses that I wish to place in the record. To avoid extra orders, I am by this Order admitting into evidence all these items, subject to all parties' opportunity to object. Because the list is lengthy, I will allow objections up to **November 15, 2025**. Doing so will allow participants to use these items during the hearing, subject to my striking all discussion of them should I receive and grant an objection. This procedural solution relieves participants of having to review the entire list in the busy week ahead. (emphasis in the original).*

on  
The first two sentences make clear that at that time, November 3, 2025, nine days before the hearing started (on November 12, 2025), the Hearing Examiner was allowing items "into evidence," subject to objection, without requiring any party to use those materials during the hearing. The fourth sentence, referring to the opportunity created by this ruling for parties to use the materials during the hearing, does not limit the generality of the opening two sentences. Thus, it was clear, even before the hearing, that admissibility did not depend on use at hearing. The Hearing Examiner's December 2 Order, admitting all materials not objected to even if not used during hearing, did no more than align with his November 3 Order, to which LUMA did not object. LUMA's December 26 objection is therefore not twenty-four days late but more than fifty days late.

Moreover, the Hearing Examiner's Order of November 10, 2025, which also preceded the hearing stated:

*As anticipated by my prior orders, by today's Order I am admitting all exhibits that remain not objected to, subject to the condition that if someone objects to an existing exhibit during the proceeding, I will consider the question and, if necessary, reverse the admission that I am ordering today. This approach saves everyone time.*

So once again, the Hearing Examiner made clear, before the hearing, in an Order that LUMA omits, that use at hearing was not a prerequisite for admission. And this November 10 Order applied to all exhibits, not merely exhibits sought by Energy Bureau consultants.

It is true that the Hearing Examiner's Order of October 23 stated (emphasis added):

*ROI responses: At our conference on October 23, 2025, I discussed the possibility of my admitting all ROI responses into evidence, subject to later objections. I am dropping that plan. Unless and until I notify otherwise, the requirement relating to introducing such information into evidence remains in place.*

But on November 3 and November 10, the Hearing Examiner "notif[ied] otherwise."

**B. Late-filed exhibits arising from Energy Bureau consultants' requests**

The Hearing Examiner's January 8 Order stated:

*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.*

On December 26, 2025, LUMA did not object to 940, 944, or 952. Therefore, by the Hearing Examiner's rules, they are admitted. But on December 26, 2025, LUMA did object to 953, 954, 955, 959, 960, 961, 963, 1034, 1035, 1036, 1064, 1065, so we must address those objections.



Neither the Energy Bureau nor its consultants are parties to this proceeding with positions to advance. The consultants serve as advisors to the Energy Bureau and assist the Commissioners in reaching well-informed decisions. Although the consultants posed questions to witnesses during the evidentiary hearings, those questions, like those posed by the Hearing Examiner and the Commissioners themselves, were asked in a neutral and non-adversarial capacity, for the purpose of clarification, record development, and understanding of the evidence. Such questioning does not constitute cross-examination or impeachment, nor does it reflect advocacy on behalf of or in opposition to any party. Rather, it is consistent with the type of clarifying inquiries that an administrative adjudicator may pose to ensure the development of a complete and reliable evidentiary record, without assuming the role of an adversary in the proceeding. Consistent with the approach taken by the Hearing Examiner, the Energy Bureau treats the materials at issue as late-filed exhibits—, in the same manner as if they had been requested by the Commissioners.

The Energy Bureau also notes that, throughout the evidentiary hearing, the Hearing Examiner made clear that the determination of a just and reasonable rate cannot rest exclusively on the evidence the parties elect to present, particularly where such selective presentation would omit information necessary for the Energy Bureau to fulfill its statutory mandate. The Hearing Examiner further explained that the Energy Bureau must consider all relevant and material information required to reach a well-informed decision, and that the development of the evidentiary record cannot be left solely to the discretion of the parties advocating for the approval of a rate. Rather, the Commissioners must have access to the information necessary to independently assess whether the proposed rate is just and reasonable.

Although, as a general matter, determinations regarding the admissibility of evidence are initially made by the Hearing Examiner, given the procedural posture of this case, the established procedural calendar, and the fact that the Energy Bureau is the ultimate decision-making authority in this proceeding, the Energy Bureau addresses and resolves directly, through this Resolution and Order, the admissibility of the documents as raised in the December 26 Motion.

The question for the above-listed items, therefore, is relevance and authenticity. We rule as follows:

- 953: PREB, PREPA, P3A Work Plan for T&D (FY24-25): **Admitted** as relevant to transmission performance.
- 954: PREPA Motion informing PREB that Quanta should be restricted from RFPs in Tranches 1-6: **Excluded**—motions are forms of advocacy, not sources of evidence.
- 955: PREB RO ruling on Quanta: **Admission not necessary** because parties may cite all official rulings.
- 956: Genera and PREPA Motion to amend Genera OMA (re performance based incentives): **Excluded**—motions are forms of advocacy, not sources of evidence.
- 957: PREB RO ruling on Genera-PREPA Motion: **Admission not necessary** because parties may cite all official rulings.
- 958: Genera CEO Testimony on conflicts of interest: **Admitted** as testimony.
- 959: LUMA CEO Testimony on conflicts of interest: **Admitted** as testimony.
- 960: LUMA Conflicts of interest avoidance and mitigation plan: **Admitted** as relevant to conflicts and not prejudicial to LUMA because it is a LUMA document.



- 961: LUMA OMA Executed: **Admitted** as official document.
- 962: New Fortress Q1 2024 Investor presentation: **Admitted** as relevant to conflicts and not prejudicial to Genera as it is a document prepared by Genera's owner.
- 963: Parts of PREPA-of-LUMA-COST\_ALL-18 (Q 4, 9, 19, 25): **Admitted** as secondment agreement relevant to conflict and cost.
- 964: Nov 21, 2025, News Article re possible bankruptcy of New Fortress Energy: **Excluded**, as news articles are insufficiently probative.
- 1034: Initial Scope of Work for Island Wide Vegetation Clearing: **Admitted** as relevant to transmission costs.
- 1035: Spreadsheet identifying status of vegetation management projects (active, inactive, obligated): **Admitted** as relevant to transmission costs.
- 1036: PC-of-LUMA-FEMA-26: **Admitted** as relevant to the availability and use of FEMA funds.
- 1064: FEMA FAAS procedures to develop Public Assistance projects to capture recovery Scope of Work: **Admitted** as an official document.
- 1065: FEMA Public Assistance Program and Policy Guide: **Admitted** as an official document.
- 1067: PREPA 5-Year Infrastructure Projection (hydro, dams, irrigation): **Admitted** as relevant to cost.

Parties aggrieved by exclusions may include offers of proof in their briefs.

## II. Genera's Request

Genera's Motion for Reconsideration (January 13, 2026) seeks exclusion of BH 948 (NFE Q2 2023 Presentation) and BH 951 (NFE May 2024 Presentation). In both situations, Genera states:

*Objected to during the December 8, 2025 hearing on the grounds that the document was not uploaded or made available in advance on the Accion Platform in accordance with the Hearing Examiner's Order on Cross-Examination, November 25 Plan, Counsel Panel, and Miscellaneous Items dated November 24, 2025, including the requirement that such materials be submitted by 8:00 pm. Likewise, the witness stated for the record that they had never seen the document before and that it was the first time it was being presented.*

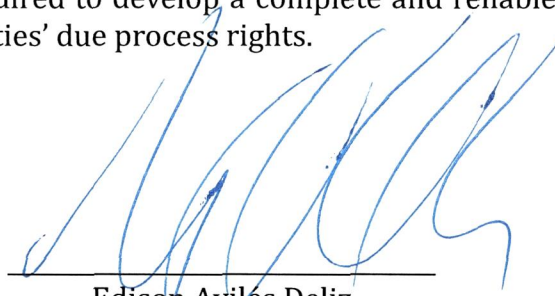
We exclude BH 948 and BH 951 based on Genera's grounds.

Genera also seeks exclusion of PC Ex. 962 and PC Ex. 964 on grounds that they were not used during the hearing. As discussed in the section on LUMA's objections, these are documents sought by Energy Bureau consultants, therefore per the discussion of the consultants' role in Part I above, we treat 962 as a late-filed exhibit sought by the Energy Bureau. We excluded 964 in the list immediately preceding this Part II.

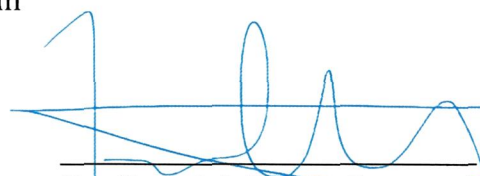



### III. Conclusion

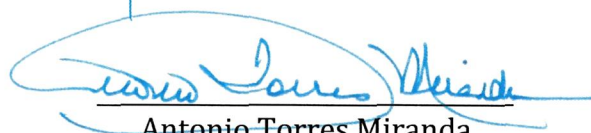
With the few exceptions noted above, the Energy Bureau affirms the Hearing Examiner's decisions at issue here. The Hearing Examiner's decisions were not arbitrary rather, each was clearly articulated, fully reasoned, and responsive to the procedural posture of the case, the volume and nature of the documentary record, and the evidentiary needs of both the parties and the Commissioners. In particular, the admission of the identified documents was procedurally proper and consistent with applicable administrative law standards, as the documents had been previously identified by the parties and conditionally admitted subject to objection, thereby providing notice and a meaningful opportunity to be heard. Although the documents were not used during live testimony, the parties were afforded a fair opportunity to raise objections and present responsive arguments before the Energy Bureau relied on them for substantive purposes. Consistent with Act 38-2017, the Energy Bureau is not bound by strict rules of evidence and may receive relevant documentary evidence, assigning it the probative weight it deems appropriate. Accordingly, there was no prejudice to any party, no violation of due process, and no unexplained differential treatment. Viewed in their totality, the Hearing Examiner's orders appropriately reflected the procedural flexibility required to develop a complete and reliable evidentiary record, while fully respecting the parties' due process rights.

  
 Edison Avilés Deliz  
 Chairman

  
 Lillian Mateo Santos  
 Associate Commissioner

  
 Ferdinand A. Ramos Soegaard  
 Associate Commissioner

  
 Sylvia B. Ugarte Araujo  
 Associate Commissioner

  
 Antonio Torres Miranda  
 Associate Commissioner

### CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 15, 2026. I also certify that on January 16, 2026 a copy of this Resolution and Order was notified by electronic mail to the following: [mvalle@gmlex.net](mailto:mvalle@gmlex.net); [alexis.rivera@prepa.pr.gov](mailto:alexis.rivera@prepa.pr.gov); [jmartinez@gmlex.net](mailto:jmartinez@gmlex.net); [jgonzalez@gmlex.net](mailto:jgonzalez@gmlex.net); [nzayas@gmlex.net](mailto:nzayas@gmlex.net); [Gerard.Gil@ankura.com](mailto:Gerard.Gil@ankura.com); [Jorge.SanMiguel@ankura.com](mailto:Jorge.SanMiguel@ankura.com); [Lucas.Porter@ankura.com](mailto:Lucas.Porter@ankura.com); [mdiconza@omm.com](mailto:mdiconza@omm.com); [golivera@omm.com](mailto:golivera@omm.com); [pfriedman@omm.com](mailto:pfriedman@omm.com); [msyassin@omm.com](mailto:msyassin@omm.com); [katiuska.bolanos-lugo@us.dlapiper.com](mailto:katiuska.bolanos-lugo@us.dlapiper.com); [Yahaira.delarosa@us.dlapiper.com](mailto:Yahaira.delarosa@us.dlapiper.com); [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com); [carolyn.clarkin@us.dlapiper.com](mailto:carolyn.clarkin@us.dlapiper.com); [andrea.chambers@us.dlapiper.com](mailto:andrea.chambers@us.dlapiper.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [legal@genera-pr.com](mailto:legal@genera-pr.com); [mvazquez@vvlawpr.com](mailto:mvazquez@vvlawpr.com); [gvilanova@vvlawpr.com](mailto:gvilanova@vvlawpr.com); [dbilloch@vvlawpr.com](mailto:dbilloch@vvlawpr.com); [ratecase@genera-pr.com](mailto:ratecase@genera-pr.com); [jfr@ecija.com](mailto:jfr@ecija.com); [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov); [gerardo.cosme@solartekpr.net](mailto:gerardo.cosme@solartekpr.net); [contratistas@jrsp.pr.gov](mailto:contratistas@jrsp.pr.gov); [victorluisgonzalez@yahoo.com](mailto:victorluisgonzalez@yahoo.com); [Cfl@mcvpr.com](mailto:Cfl@mcvpr.com); [nancy@emmanuelli.law](mailto:nancy@emmanuelli.law); [jrinconlopez@guidelhouse.com](mailto:jrinconlopez@guidelhouse.com); [Josh.Llamas@fticonsulting.com](mailto:Josh.Llamas@fticonsulting.com); [Anu.Sen@fticonsulting.com](mailto:Anu.Sen@fticonsulting.com);



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[kbailey@acciongroup.com](mailto:kbailey@acciongroup.com). I also certify that today, January 16, 2026, I have proceeded with  
the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today January \_\_, 2026.



Wanda I Cordero Morales  
Interim Clerk

