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COMMONWEALTH 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: SREAEE's Legal Brief on Revenue Requirement

SREAEE'S LEGAL BRIEF ON REVENUE REQUIREMENT

I. INTRODUCTION

COME NOW the *Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica* (henceforth "ERS" or "SREAEE"), through its undersigned legal representatives, and respectfully **states and informs** the Hearing Examiner and the Puerto Rico Energy Bureau as follows:

This Brief on Revenue Requirement is submitted in response to the Hearing Examiner's order dated October 22, 2025 in the above-captioned rate case to assist the Puerto Rico Energy Bureau ("PREB" or "Bureau") in evaluating the pension-related revenue requirement presented by the Puerto Rico Electric Power Authority ("PREPA") and incorporated by SREAEE. The purpose of this Brief is to provide the Bureau with a clear, record-based explanation of the pension amounts included in PREPA's revenue requirement and to demonstrate that those amounts are lawful, reasonable, and adequate under Act 57.

Under the **Trust Agreement dated as of January 1, 1974, as amended** (the "1974 Agreement")—the very instrument that creates and governs PREPA's bondholder security and the flow of funds—pension payments are expressly treated as a **core operating cost**. The 1974 Agreement defines "Current Expenses" (Section 101) to include, *inter alia*, "**any payment to pension or retirement funds**," thereby confirming that pay-as-you-go pension obligations are not discretionary or extraordinary items, but ordinary and necessary expenses of operating the System. Moreover, the 1974 Agreement's revenue waterfall reinforces that priority: monies in the 1974 General Fund "**will be used first for the payment of Current Expenses**" (Section 505), and only **after** such Current Expenses are satisfied are Revenues applied to debt service and related bond accounts. Accordingly, Bondholders' contention that ongoing pension payments are not ordinary operating expenses is contradicted by the Trust Agreement itself—the foundational contract for the bonds—which treats pension funding as a Current Expense (i.e., a core expense) payable ahead of debt service.[1]

This proceeding arises against the backdrop of PREPA's ongoing restructuring under Title III of PROMESA and the policy determinations reflected in the FOMB certified fiscal plans. In its July 31, 2025, Resolution and Order, the PREB determined that PREPA's "pension obligations

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[1] *See* Trust Agreement, Exhibit A, p. 20. Oficial notice requested. Under Puerto Rico's Uniform Administrative Procedure Act (Act No. 38-2017, as amended), the presiding officer in an adjudicative hearing "may take official notice of everything that could be the object of judicial notice in the courts of justice," thereby incorporating—by reference—the same scope and temporal reach that governs judicial notice in court proceedings. In turn, Puerto Rico's Rules of Evidence expressly provide that judicial notice "may be taken at any stage of the proceedings, including the appellate stage," and further safeguard due process by recognizing a party's right to be heard on the propriety of taking judicial notice, including after notice has been taken if timely notification was not provided. Accordingly, because the LPAU defines "official notice" by reference to matters that are susceptible to "judicial notice" in Puerto Rico courts, an agency may take official notice **at any stage of the administrative proceeding**, consistent with the Rules of Evidence, including on review, provided the parties are afforded an appropriate opportunity to be heard. **Rule 201(e):** "**Judicial notice may be taken at any stage of the proceedings, including the appellate stage.**"

must be treated as a non-deferrable expense." *See* PREB Resolution and Order: Establishment of Fiscal Year 2026 Provisional Rates and Fiscal Year 2026 Provisional Budget. Under that framework, pension benefits are to be supported through a dedicated funding mechanism, including the establishment of a PayGo trust funded by ratepayers. The FOMB further recognizes the Bureau's authority to approve rates sufficient to ensure the uninterrupted payment of pension benefits. *See* PREPA Exhibit 85.03, p 21; Fernández Expert Report, Oct. 27, 2025.

The pension-related amounts reflected in PREPA's revenue requirement correspond to the projected cost of pension-related cash outflows payments arising during the fiscal years covered by the requested rates (FY 2026, FY 2027, and FY 2028). As with other operating expenses, the permanent rates are designed to fund pension obligations on a current, pay-as-you-go basis as they accrue during the rate period, rather than to address pension liabilities attributable to prior fiscal years. *See Id*. at 35; *See* PREPA Ex. 85.01, p. 7, lines 1-8.During the pension panel in this rate case, PREPA and SREAEE witnesses presented testimony and documentary evidence addressing the magnitude of PREPA's pension obligations and the projected cost of funding those obligations over the near-term fiscal years.[2] PREPA Exhibit 33, p. 11. Those testimonies reflected estimated annual pension funding requirements of approximately $307 million for Fiscal Year 2026 and approximately $298 million for Fiscal Years 2027 and 2028, corresponding to an average monthly cost of roughly $27 million. PREPA Exhibit 31, p. 11; PREPA Ex. 85.01, p. 5-10. These estimates

[2] During the Pension Panel hearing, the Examiner and the Bureau unduly and prejudicially curtailed the SREAEE's rights to present evidence and to examine witnesses, thereby impairing the development of a complete and reliable record for the proceeding. This determination was made notwithstanding the Retirement System's timely objection and the arguments raised by its counsel on the record. Accordingly, the Retirement System expressly reserves all rights and remedies, as the foregoing limitations constitute a denial of due process of law—both procedural and substantive—under applicable law and the governing constitutional protections.

were drawn from actuarial analyses, census data, and projections further reviewed and affirmed as reasonable by SREAEE's actuarial expert, José Fernández, based on the same cash-flow projections and census data. (Fernández Expert Report, Oct. 27, 2025). Furthermore, they were endorsed in the FOMB's September 2025 PREPA Employee Retirement System report. *See* PREPA Exhibit 85.03, p.24

This brief aims to provide further detail supporting these figures and clarification as to how the pension amounts were derived and what evidence in the record substantiated them; particularly, to identify "where in the current evidentiary record the Bureau may find the factual and testimonial basis for the $307 million PayGo funding amount." *See* NEPR-AP-2023-003 Evidentiary Hearing on Rate Case for Wednesday, December 10, 2025, at 00:39:50. This brief does not seek to relegate policy choices already made in the certified Fiscal Plan or in PREPA's Title III proceedings. Rather, it explains how the pension-related revenue requirement flows from established actuarial data, demographic realities, and governing fiscal policy, and how the amounts presented to the Bureau are grounded in the evidentiary record developed in the case.

As explained below, the pension revenue requirement presented on behalf of SREAEE is supported by substantial evidence, reflects reasonable projections of PayGo pension costs, and is necessary to ensure the continued payment of earned benefits to PREPA retirees. *See* PREPA Exhibits. 85.01, 85.03, 85.04; Fernández Expert Report, Oct. 27, 2025). Approval of this revenue requirement is essential for the Retirement System's existence and solvency. The Bureau has been provided with a lawful and rational basis to fulfill its statutory obligation to establish rates that are just, reasonable, and sufficient to meet PREPA's non-deferrable operating expenses.

II. STATEMENT OF FACTS

The PREPA Employees' Retirement System ("SREAEE") is a public defined-benefit pension system established to provide retirement benefits to eligible employees of PREPA, as well as benefits to retired members and their surviving beneficiaries. PREPA serves as the plan sponsor, contributes to the system, and pays all administrative costs associated with the operation of SREAEE, which totals approximately $11.9 million annually and are budgeted separately from the PayGo pension funding request. PREPA Ex. 85.01, p. 8, lines 3-12. The assets of SREAEE are dedicated exclusively to the benefit of its active members, retired members, and their beneficiaries.

As of May 2025, SREAEE provides pension benefits to approximately 10,098 retirees and 2,438 surviving spouses or dependents, for a total beneficiary population of roughly 12,500 individuals. These beneficiaries collectively require monthly pension payments requiring aggregate monthly pension-related payments in the mid-to-high $20 million range. See PREPA Ex. 41, Sch. C-9; PREPA Ex. 33, p. 11.

At present, approximately 250 active PREPA employees are participating in the retirement system, along with approximately 2,000 former PREPA employees who are now employed by other governmental entities and remain eligible to receive pension benefits upon retirement. PREPA Exhibit 85.03, p.10.

Over time, the pension funding model under which benefit payments were supported through a combination of employee contributions and employer funding ceased to be viable for lack of sufficient funding from PREPA, workforce declined, and retiree population growth. *See Id* at 15. For decades, SREAEE experienced a steady erosion of its asset base driven by increasing benefit payment obligations to a growing number of retirees and beneficiaries, combined with insufficient employer contributions.

As the number of contributing employees declined, required employer contributions increased as a percentage of compensation, even as PREPA's ability to make those contributions weakened. In addition to workforce decline, increased life expectancy materially affected benefit obligations. Improvements in mortality experience meant that retirees and surviving beneficiaries received benefits for substantially longer periods than had been assumed when the System was established. PREPA Exhibit 85.03, p.20; *See also* Fernández Expert Report, Oct. 27, 2025 (explaining insolvency and PayGo necessity).

Taken together, these demographic and actuarial developments rendered the prior pension funding model structurally unsustainable. The combination of a shrinking contributor base, a growing retiree population, longer benefit payment durations, and chronic underfunding eliminated the feasibility of continuing to finance pension obligations through traditional employer and employee contributions alone. By early 2023, SREAEE notified the FOMB that it would lack sufficient liquid assets to continue making monthly benefit payments as early as May 2023. *See* Financial Oversight Management Board, PREPA Fiscal Plan, 2025, p. 134.

In December 2023, the FOMB approved an interim Commonwealth loan of approximately $300 million to fund an estimated twelve months of retiree benefit payments through December 2024. The loan was expressly authorized as an emergency bridge to avoid immediate interruption of benefit payments, not to restore funded status, and its approval was accompanied by a requirement that PREPA take steps to identify and implement a long-term funding solution. *Id.*

As of October 31, 2024, PREPA reported that available funding was sufficient to support pension benefits only through the end of calendar year 2024. At that time, estimated monthly funding needs for retiree and beneficiary benefits ranged between approximately $24 million and $26 million, exclusive of potential additional obligations arising from employee withdrawals. *See* Id, at 121.

On November 15, 2024, PREPA filed an informative motion to PREB stating it would be unable to continue to fund pension benefits in full after December 2024 and requested PREB's help. PREB responded by rejecting the motion and requesting PREPA to either find funds for a budget reapportionment or take required action as provided under Act 57-2014, including requesting a rate increase to fund the monthly benefits. PREPA responded shortly after, stating it had identified $74 million of pending reimbursements from FEMA that, once fully processed, would provide interim liquidity.

PREB's Resolution & Order, dated December 26, 2024, approving the requested budget amendment required PREPA to file a proposal by the end of January 2025, identifying additional sources and the parties' plan to fund pension benefits after this most recent $74 million cash infusion was depleted.

After three months of funding benefits for January 2025 through March 2025, the ERS was again out of money and at risk of default. After considerable deliberations with the Commonwealth, the Oversight Board allowed the Commonwealth to fund an additional $25 million to PREPA under the terms and conditions of the original $300 million loan amount to ensure PREPA pensions were paid through April 2025. The Commonwealth agreed to additional advances in the following months, as additional $25 million loans were approved for funding in May, June, July, and August 2025. These subsequent loans were intended to continue supporting pension payments during those months. As of September 19, 2025, the total current Commonwealth loan outstanding balance was $425 million. *See* PREPA Exhibit 85.03, p.21.

On July 3, 2025, LUMA (on behalf of itself, Genera, and PREPA) filed an application for a revised permanent rate structure, as well as sought approval of an immediate interim or "provisional rate" to fund pensions while the permanent rate review was conducted to address PREPA's operating needs under the annual budgets. On July 31, 2025, the Energy Bureau approved a dedicated PayGo cost recovery rider for PREPA to fund the ERS. The provisional rates took effect on September 1, 2025, and will remain in place until permanent rates are approved and implemented, which must occur no later than June 30, 2026. *See* PREPA Exhibit 85.03, p. 21.

In response to the structural insolvency of SREAEE, the FOMB addressed pension funding. In its 2025 Certified Fiscal Plan, the FOMB acknowledged that emergency loans and temporary liquidity measures could not provide a durable solution and emphasized the need to identify a stable, recurring funding source sufficient to cover ongoing monthly pension costs. See LUMA Exhibit 1.01, p. 135; *See also* Fernández Expert Report, Oct. 27, 2025 (finding PayGo cash-flow requirements reasonable).

The Fiscal Plan reflects the FOMB's assessment that, absent a dedicated revenue stream, SREAEE would continue to experience liquidity shortfalls that threaten the continuity of benefit payments. In that context, the FOMB urged PREPA, SREAEE, the Puerto Rico Fiscal Agency and Financial Advisory Authority, and the Puerto Rico Energy Bureau to take steps to implement a funding source capable of supporting monthly pension payments during calendar year 2025, while the Title III restructuring process continues. The Fiscal Plan expressly identified the inclusion of pension costs in electricity rates, either through the base rate or a rider, as a potential mechanism to address those funding needs. *Id*.

Consistent with that framework, the FOMB's September 2025 report on the PREPA Employees' Retirement System analyzed the projected costs of pension benefits under a pay-as-you-go funding approach and evaluated the sustainability of such a model given the demographics and benefit structure. That report proposed pension benefits to continue to be administered and paid through SREAEE, with funding supported by rate-based revenues sufficient to reimburse benefit payments as reasonable administrative expenses.

Under the PayGo system, the annual pension funding needs are determined based on projected benefit payments for the fiscal year in question. Those projections have been developed through actuarial valuations that rely on current census data, including the number of retirees and beneficiaries, their ages, benefit amounts, and expected mortality.

The actuarial reports and underlying census data used to develop these projections have been consistently relied upon in PREPA's Fiscal Plans, including the 2025 Certified Fiscal Plan (*See* LUMA Exhibit 1.01, p. 123, Exhibits 31 and 32), and the Financial Oversight and Management Board's September 2025 PREPA Employee Retirement System Report (*See* PREPA Exhibit 85.03, p.24 Exhibit 8; and, p.28, Exhibits 11 and 12. Across these documents, projected pension costs are derived from the same core demographic inputs and actuarial methodologies, adjusted to reflect updated census information and experience as it becomes available.

The projections used in connection with the PayGo framework reflect benefit payments that are expected to occur during each fiscal year, assuming continuation of existing benefit provisions. They do not represent an amortization of past underfunding or a recovery of prior-year shortfalls. Instead, they estimate the cash required to meet pension benefit payments as they come due during the fiscal year. See PREPA Ex. 85.01, p. 7, lines 1-8.

III. QUESTION PRESENTED

Whether, in order to fund pension payments made by SREAEE, should the Puerto Rico Energy Bureau, under Act 57-2014, approve a revenue requirement that reflects PREPA's projected pay-as-you-go pension benefit costs ($307,475,422.00 for Fiscal Year 2026, $298,658,580.64 for Fiscal Years 2027 and $298,658,580.64 for Fiscal Year 2028), when the record evidence demonstrates that SREAEE's liquid assets have been exhausted, pension payments already constitute a non-deferrable operating expense, and the projected amounts are supported by current census data, and actuarial analyses performed by PREPA and SREAEE, as well as the Financial Oversight and Management Board's certified fiscal plans and SREAEE system report.

IV. ARGUMENTATION

A. The Record Demonstrates That SREAEE's Liquid Assets Have Been Depleted, and That Pay-As-You-Go Funding Is the Only Feasible Mechanism to Ensure Continued Pension Payments.

The evidentiary record developed in this proceeding establishes that SREAEE no longer possesses sufficient liquid assets to independently fund monthly pension benefit payments. LUMA exhibit 1.01, p. 135. As reflected in PREPA's filings, SREAEE's testimony, and the Financial Oversight and Management Board's September 2025 PREPA Employee Retirement

System report, the System's trust assets have been fully depleted as a result of decades of underfunding, workforce contraction, and demographic changes that increased benefit payment obligations while reducing the contributor base. PREPA Exhibit 85.03, p.29, Exhibit 7; *See also* Fernández Expert Report, Oct. 27, 2025 (confirming insolvency and absence of investable trust assets). As a result, SREAEE lacks any internal capacity to sustain pension payments absent an external funding source. PREPA Exhibit 85.03, p.35.

Beginning in 2023, SREAEE repeatedly notified the Oversight Board and other governmental entities that it would be unable to meet monthly benefit obligations without emergency liquidity assistance. In early 2023, SREAEE relied on approximately $8 million in Commonwealth funding associated with employer contributions for former PREPA employees transferred to the Government, approximately $65 million authorized through a budget amendment for emergency pay-as-you-go payments funded from PREPA's operating cash balances, approximately $32 million recovered from the Puerto Rico Medical Services Administration (ASEM) to settle past-due government receivables, approximately $25 million received from the Puerto Rico Aqueduct and Sewer Authority pursuant to a February 7, 2023 settlement, and approximately $51 million obtained through a June 23, 2023 settlement with the Office of Management and Budget and the Department of Treasury for additional outstanding receivables. *See* LUMA Exhibit 1.01, p. 134.

Each of these measures provided short-term liquidity but was non-recurring and insufficient to sustain ongoing benefit payments. Consequently, in December 2023, the Commonwealth approved a $300 million interim pension loan to fund retiree benefits through December 2024, followed by additional advances throughout 2024 and 2025. These measures underscore the absence of any viable prefunded or internal funding alternative and confirm that emergency borrowing was used solely as a stopgap to prevent immediate interruption of retiree benefits. None of these actions restored the System's funded status or were intended to do so; rather, they demonstrated the structural reality that pension benefits must be funded contemporaneously as they come due. This conclusion is further consistent with the FOMB's stated intentions in the Fifth Amended PREPA Plan of Adjustment, which expressly implements a permanent transition of SREAEE from a prefunded model to a pay-as-you-go structure, under which pension benefits would continue to be paid from SREAEE and reimbursed through a dedicated PayGo funding mechanism. *See* Fifth Amended PREPA Plan of Adjustment, Schedule B, at 6, Case 17-03283-LTS, Doc#29125-2 (Mar. 2025).

Considering these conditions, the record reflects that a pay-as-you-go funding approach is not a discretionary policy choice but a legal and practical necessity. See PREPA Ex. 85.01, p. 7, lines 1-8. Under the PayGo framework, annual pension funding requirements are determined by projected benefit payments for the relevant fiscal year, based on amounts budgeted for previous fiscal years as well as current census data and actuarial assumptions regarding retiree populations, benefit levels, and expected mortality. PREPA Exhibit 85.03, p. 23. PayGo does not attempt to amortize historical underfunding or rebuild depleted trust assets. Rather, it identifies the cash required to satisfy pension obligations as they accrue during the rate period.

Both the 2021 and 2025 Certified Fiscal Plans for PREPA, as well as the Oversight Board's September 2025 PREPA-ERS eport, recognize that restoring a fully funded pension trust would require contributions far in excess of PREPA's financial capacity, particularly during the near-term fiscal years relevant to this rate case. Id; *See also* Fernández Expert Report, Oct. 27, 2025

B. The Pension Amounts Included in PREPA's Revenue Requirement are Derived from Actuarial Projections and Current Census Data and Therefore Provide a Lawful and Rational Basis for Rate Setting.

Under the PayGo framework adopted in PREPA's certified Fiscal Plans, annual pension funding needs are calculated by projecting the total cash outflows required to pay all pension related benefits during the fiscal year, net of limited internal inflows. These projections are grounded in current census data, observed benefit levels, and actuarial assumptions regarding the timing and composition of benefit payments.

As reflected in the most recent FOMB' PREPA-ERSreport, SREAEE provides pension benefits to approximately 12,543 pensioners and beneficiaries, who receive an average monthly benefit of $1,857. (PREPA Ex. 85.03 at p. 28, Ex. 11). Multiplying the number of beneficiaries by the average monthly benefit yields aggregate monthly base benefit payments of approximately $23.3 million, which annualize to approximately $280 million in regular retiree and surviving spouse pension payments.

That $280 million figure, however, reflects only the average monthly benefit payments at a fixed point in time (April 2024, to be precise). It does not capture the full universe of pension-related cash outflows that must be paid during the fiscal year, nor does it reflect the timing, variability, and composition of benefit payments that occur over the course of the year. For that reason, PREPA's PayGo projections incorporate additional categories of benefit payments and actuarial adjustments that are not reflected in a simple average-benefit calculation.

PREPA's PayGo funding requirement for Fiscal Year 2026 is calculated as the difference between projected total pension-related cash outflows and projected internal inflows**,** as set forth in the Forecast of Proposed Cash Transfers. (PREPA Ex. 85.01 at pp. 6–7; PREPA Ex. 85.04).

For Fiscal Year 2026, PREPA projects total pension-related cash outflows of approximately $330 million which are detailed below:

> $282,242,203 million related to regular retiree and surviving spouse benefit payroll, reflecting the core monthly pension payments made to SREAEE beneficiaries. Surviving spouse annuity applies in the event a retiree dies, where the spouse will receive a life annuity equal to 30% of the annual pension payable to the members at the time of death subject to certain conditions. *See* PREPA Exhibit 85.04; *See also* PREPA Exhibit 85.03, p. 29

$48,337,400 million consists of other required pension-related payments and are estimated and described as follows:

> $13,200,000 for Annual Salary Benefits (Retired Death Benefit) : A lump sum payment equal to the last salary at this time of retirement from active service or death while in active service is payable upon the death of a participant who either has 20 years of service or is age 60 with 15 years of service. For death with less than the required years of service, the amount is reduced proportionately based on the ratio of the years of service worked to the years required for a full benefit. *See* PREPA Exhibit 85.04; *See* also PREPA Exhibit 85.03, p. 29

$12,000,000 for Refunds and Rollovers of member contributions: The employee contributions made through an employee's career are accrued at 5% and are refunded if a participant dies while in active service; if an employee terminates employment but is not entitled to a benefit; or if an employee chooses to receive the employee contributions in lieu of a deferred benefit upon termination. Furthermore, a retiree's beneficiary may be entitled to a partial refund of contributions based on the contribution elections made by a participant and the amount of retiree benefits that have already been received. *See* Id; Id

Seasonal bonuses such as the Summer and Christmas Bonuses for the amounts of $1,035,400 and $4,102,000 respectively: The Summer and Christmas bonus are annual bonuses paid to all retirees and beneficiaries for the amounts of $100 and $400 respectively. *See* Id; Id

$18,000,000 for other Benefits and Payments which are comprised of:

> Funeral Benefits – A lump sum of $1,000 is paid upon the death of all retirees. *See* PREPA Exhibit 85.04; *See* also PREPA Exhibit 85.03, p. 29
>
> Disability lump sum – Employees who become disabled but do not have the required 5 years of service (10 if hired on or after January 1, 1993) receive a lump sum equal to the last salary at the time of disability reduced proportionately for the number of years of service completed out of 5 (10 if hired on or after January 1, 1993). *See* PREPA Exhibit 85.04; *See* also PREPA Exhibit 85.03, p. 29

Disability pension – Employees who become disabled are eligible to begin a pension with at least 5 years of service (if hired on or after January 1, 1993). Employees are eligible to receive a disability pension that is equal to the greater of 90% of the basic benefit or 20% of final average compensation, payable immediately. If the disability retiree has elected a Coordinated Benefit, the benefit payable after age 65 will be reduced by $17.10 times each year of credited service (but no less than 17.% of compensation). *See* PREPA Exhibit 85.04; *See* also PREPA Exhibit 85.03, p. 29

Cost of Living Adjustments (COLAS) - SREAEE provides current and future retirees with COLAs every three years. Pension COLAs are provided for retirees under SREAEE, with the latest modification to the COLA provisions being approved in Resolution 92-98 and effective on July 1, 1992. The COLA is currently an automatic feature providing increases every three years for current and future retirees. Increases to all pensions are 8% for the monthly pension up to $300; 4% increase for the monthly pension between $300 and $600; and 2% increase for the monthly pension in excess of $600. *See* PREPA Exhibit 85.04; *See* also PREPA Exhibit 85.03, p. 29 These projected outflows are based on actual historical benefit payment experience, current census data, and actuarial assumptions regarding mortality, benefit commencements and terminations, and the timing of payments over the fiscal year, rather than a static

> snapshot of average monthly benefits. Importantly, the projected pension outflows do not include administrative expenses of the retirement system, which are budgeted separately and are not part of the $307 million PayGo funding request. (PREPA Ex. 85.01, p. 8, lines 3-12).

Against these projected outflows, PREPA estimates $27,834,593 million in internal pension-related inflows for Fiscal Year 2026. *See* PREPA Ex. 85.04. Those inflows are estimated and defined as follows:

$4,519,229 million in Employer Contributions: SREAEE is structured as a traditional defined benefit (DB) plan. Under a DB plan, a formula defines the benefit payable upon retirement, with the employer bearing the responsibility of securing adequate funding to deliver these benefit amounts. *See* PREPA Ex. 85.03, p.27; *See* PREPA Ex. 85.04

$10,529,376 million for Member Contributions (including collections from mobilized employees): SREAEE is a contributory plan, meaning that employees are required to have a portion of their salary withheld to pay for a share of the benefits accrued under the System. *Id*.

$4,199,988 for Personal Loan Payments: The System allows participants to take personal loans which are guaranteed by wages earned at PREPA and their accumulated employee contributions. If a member resigns from PREPA but opts to keep contributions in the System, they will not be required to immediately repay the System. However, members who remove their contributions from the System, including all members with less than 10 years of service, must repay in full the outstanding loan balance at the time of separation. *See* PREPA Ex. 85.03, p.16; *See* PREPA Ex. 85.04

$6,006,000 for Mortgage Payments: In May 2019, the System approved new regulations allowing mortgage loans to members. Maximum loan amounts to be granted are $200,000. If a member resigns from PREPA, the member is responsible for making loan payments. Vested benefits may be reduced in retirement or even pre-retirement upon failure to repay. *Id*.

$2,580,000 for Other Cash Receipts. *Id*.

When these projected inflows are subtracted from total projected pension-related cash outflows, the resulting net PayGo funding requirement equals $307,475,422 for Fiscal Year 2026, which is the amount included in PREPA's requested revenue requirement in this proceeding. (Id.).

This methodology is repeated for subsequent fiscal years, producing projected PayGo funding requirements of approximately $298.7 million for Fiscal Years 2027 and 2028, reflecting gradual changes in benefit composition and expected payment experience. (PREPA Ex. 85.04).

On a monthly basis, these projections correspond to average pension-related cash outflows of approximately $26–27 million, which aligns with SREAEE's historical benefit payment experience once all categories of required pension payments are considered. (PREPA Ex. 33 at p. 11).

These cash-flow projections were independently reviewed by SREAEE's actuarial expert, José Fernández, who evaluated the projected inflows, projected outflows, and resulting net funding requirements and concluded that the projected revenue requirements for Fiscal Years 2026 through 2028 are reasonable and sufficient to meet the System's benefit obligations on a pay-as-you-go basis. (Fernández Expert Report, Oct. 27, 2025).Finally, these projections appropriately assume no growth in PREPA's active workforce, and no material increase in contribution inflows, consistent with the record evidence demonstrating that SREAEE is now overwhelmingly comprised of retirees and beneficiaries. (LUMA Ex. 1.01 at p. 133; PREPA Ex. 41, Sch. C-9). An independent actuary further confirmed that the PayGo projections used to derive the $307 million funding requirement are consistent with the projections reflected in the FOMB SREAEE Report and the revenue-requirement analyses prepared by PREB's consultants, demonstrating alignment across PREPA, the Oversight Board, and independent regulatory experts. (Id.; PREB Consultants 62).

Accordingly, the $307 million pension funding amount included in PREPA's revenue requirement is not a policy estimate or a contingency reserve, but a cash-flow-based projection derived from current census data, observed benefit levels, and sworn actuarial testimony, and therefore provides a lawful and rational basis for rate setting under Act 57.

C. The Pay-As-You-Go Pension Revenue Requirement Reflects Current-Period Obligations and Does Not Recover Legacy Liabilities or Prior-Year Shortfalls

The actuarial projections underlying the PayGo estimates expressly exclude any effort to recoup prior-year shortfalls. See PREPA Exhibit 85.01, p. 7, lines 1-3. Instead, they calculate the cash necessary to satisfy monthly benefit payments to retirees and beneficiaries during the rate period, assuming continuation of existing benefit provisions and prevailing demographic trends. The resulting figures therefore reflect current-period pension costs, analogous to other operating cash obligations that arise during the same fiscal years.

The Oversight Board's proposed restructuring framework likewise reflects this distinction. Under the Fifth Amended PREPA Plan of Adjustment (*See* Commonwealth of Puerto Rico, Case No. 17-03283, Docket 29125), pension benefits are to continue to be paid as they come due, with

SREAEE reimbursed for annual PayGo benefit payments through a newly established PREPA PayGo Trust. The proposed structure does not contemplate amortization of historical underfunding through rates but instead limits rate-supported funding to contemporaneous PayGo payments made consistently with the defined benefit plan as modified by the Plan. *See* Fifth Amended PREPA Plan of Adjustment, Schedule B, at 6 (Mar. 2025).

This distinction is particularly important in the context of the Bureau's ratemaking authority. The Bureau is not required to adjudicate responsibility for historical pension underfunding or to resolve issues arising from PREPA's prior contribution practices. Nor is the Bureau being asked to approve rates designed to amortize legacy pension liabilities incurred in previous years. Rather, the pension revenue requirement before the Bureau is limited to ensuring that sufficient revenues are available to meet pension benefit payments as they accrue during the rate period, thereby avoiding interruption of earned benefits and further reliance on emergency liquidity measures.

The record further reflects that attempting to address historical underfunding through rates during the near-term rate period would be neither feasible nor consistent with the PayGo framework. As the Oversight Board has explained, restoring SREAEE to a fully funded status would require contribution levels far in excess of the PayGo amounts reflected in PREPA's revenue requirement, particularly in the first years of any prefunding effort. The pension amounts presented in this case, therefore, represent a constrained and targeted funding approach, not an effort to shift legacy liabilities onto current ratepayers.

Accordingly, the pension-related revenue requirement presented in this proceeding should be understood as a forward-looking funding mechanism limited to current-period obligations. By aligning pension funding with actual benefit payments expected during the rate period, the PayGo approach ensures transparency, avoids recovery of historical shortfalls through rates, and provides the Bureau with a clear and rational basis for evaluating the requested pension amounts within the scope of its ratemaking authority.

D. Approval of the Pension Revenue Requirement is Necessary to Ensure Adequate and Reasonable Rates and to Prevent Interruption of Earned Pension Benefits

The evidentiary record in this proceeding demonstrates that pension benefit payments constitute a high-priority, non-controversial, non-defferable, recurring and unavoidable cash obligation during the rate period, and that, absent a dedicated revenue source, PREPA lacks the liquidity necessary to satisfy those obligations on an ongoing basis. As the Oversight Board and the Bureau have both recognized, continued reliance on ad hoc financing mechanisms is neither assured nor appropriate as a long-term strategy. Absent permanent rates that incorporate pension funding, PREPA would again face the risk of benefit interruptions or the need for extraordinary governmental intervention.

Approval of the pension revenue requirement also promotes rate stability and transparency. By explicitly incorporating projected PayGo pension costs into the revenue requirement, the Bureau ensures that pension obligations are addressed through a predictable and visible rate component, rather than through emergency borrowing or deferred payment arrangements. This approach allows ratepayers and policymakers alike to understand how pension costs are being funded and avoids the accumulation of hidden liabilities that could create future rate shocks.

Conversely, failure to approve the pension revenue requirement would undermine the adequacy of the rates approved by the Bureau. Rates that do not provide sufficient revenue to meet known; recurring pension obligations would be structurally deficient and would expose PREPA to renewed liquidity crises during the rate period. Such an outcome would be inconsistent with the Bureau's obligation to establish rates that enable PREPA to meet its lawful obligations and would increase the likelihood of future interim rate adjustments or emergency proceedings.

E. The Bureau's Approval of the Pension Revenue Requirement is Consistent with its Prior Orders, the Certified Fiscal Plan, and the Ongoing Title III Restructuring Framework.

Approval of the pension-related revenue requirement presented in this proceeding is consistent with the Bureau's prior determinations, the Financial Oversight and Management Board's certified fiscal plans, and the broader restructuring framework governing PREPA's operations during the rate period. The Bureau has previously recognized that pension funding presents an urgent and recurring obligation that cannot be deferred without risking interruption of earned benefits and further destabilization of PREPA's finances. *See also* Fernández Expert Report, Oct. 27, 2025 (finding PayGo cash-flow requirements reasonable)

In its July 31, 2025, Resolution and Order approving a provisional pension cost recovery rider, the Bureau expressly acknowledged that pension funding constitutes a high-priority, non-deferrable expense and emphasized the need to ensure uninterrupted benefit payments while permanent rates are under review. That order reflects the Bureau's determination that pension costs must be addressed through rates in the absence of alternative funding sources, and that rate-based recovery provides a transparent and administrable mechanism to do so. The pension revenue requirement now before the Bureau represents the logical continuation of that approach in the context of permanent rate setting.

The Oversight Board's Fifth Amended PREPA Plan of Adjustment further reinforces this approach as the intended long-term structure for pension funding. Although the Plan of Adjustment has not yet been confirmed and is therefore not binding on this Bureau, it reflects the Oversight Board's considered policy judgment that SREAEE pension benefits should continue to be paid on a pay-as-you-go basis, with PREPA reimbursing SREAEE through a dedicated PayGo trust funded with sufficient revenues to cover annual PayGo payments and appropriate administrative expenses. *See* Fifth Amended PREPA Plan of Adjustment, Schedule B, at 6 (Mar. 2025).

The requested pension funding is also consistent with the certified fiscal plans issued by the Oversight Board, which recognize that PREPA's pension obligations must be funded on a pay-as-you-go basis and that electric rates are the sole sustainable source of funding for those obligations. The fiscal plans do not contemplate the restoration of a prefunded pension trust during the near-term fiscal years relevant to this case. Instead, they identify rate-based PayGo funding as the operative framework for ensuring continued benefit payments during PREPA's restructuring.

VI. CONCLUSION

For the reasons set forth above, the record in this proceeding demonstrates that SREAEE's liquid assets have been exhausted, that pension benefit payments must be funded on a pay-as-you-go basis during the rate period, and that the pension-related amounts included in PREPA's revenue requirement are supported by actuarial projections, current census data, and the Financial Oversight and Management Board's certified fiscal plans. These amounts ($307,475,422.00 for Fiscal Year 2026, $298,658,580.64 for Fiscal Years 2027 and $298,658,580.64 for Fiscal

Year 2028), reflect current-period obligations only and do not seek recovery of historical underfunding or legacy liabilities.

Accordingly, to ensure that rates are adequate, reasonable, and sufficient under Act 57-2014, and to avoid further reliance on emergency or temporary funding measures, the Puerto Rico Energy Bureau should include the projected pay-as-you-go pension costs in PREPA's approved revenue requirement for the rate period.

WHEREFORE, the *Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica*, through its undersigned legal representatives, **respectfully submits** the foregoing **Legal Brief on Revenue Requirement**, and requests that the same be **taken into consideration** by the Puerto Rico Energy Bureau as part of the record of these proceedings.

RESPECTFULLY SUBMITTED.

In Ponce, Puerto Rico, on January 23rd, 2026.

WE HEREBY CERTIFY that pursuant to the Hearing Examiner's Order dated December 22, 2025, that this Brief is part of the undersigned party's affirmative briefing in this proceeding and that the **total word count across all three affirmative briefs**, taken together, **does not exceed the maximum of 52,000 words** authorized by the Hearing Examiner.

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 sent to:

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

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