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**IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY RATE
REVIEW**

SUBJECT: Bondholders' Initial Post-Hearing
Brief on the Revenue Requirement

**BONDHOLDERS' INITIAL POST-HEARING BRIEF
ON THE REVENUE REQUIREMENT**

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National Public Finance Guarantee Corporation, GoldenTree Asset Management LP, Syncora Guarantee, Inc., Assured Guaranty Inc., the Majority Member PREPA Ad Hoc Group, and the PREPA Ad Hoc Group¹ (collectively, the “Bondholders”) respectfully submit this post-hearing brief regarding the revenue requirement.

PRELIMINARY STATEMENT

Bondholders represent the vast majority of holders of PREPA’s outstanding bond obligations, which were issued to fund the buildout of the electric grid. Many are long-term investors not only in PREPA, but also in the Commonwealth and other Puerto Rico government entities. Many have likewise been instrumental in the successful Title III restructurings to date—with PREPA being the last remaining. Bondholders appreciate that they were granted the opportunity to intervene and assist with developing the record in this rate case. To be clear, Bondholders agree that PREPA and its operators must pay for reasonable and necessary costs to provide safe and adequate service, and that rate increases are required to fund such expenses. But PREB should not authorize the massive spending increases requested here.

Despite proposing to collect more than **\$10 billion** from ratepayers over the next couple years (not including fuel and purchased power), and to increase general residential rates by an average of **14 cents/kWh** relative to current levels, LUMA, PREPA, and Genera have failed to prove that many proposed costs are justified, reasonable, and necessary to provide electric service at the lowest cost. This failure is notable not only because of their proposal’s magnitude, but also given the ample opportunities they had to carry their statutory burden—including in the July rate petition, in a months-long discovery period during which they received hundreds of ROIs, in their witnesses’ sur-rebuttals, in a six-week evidentiary hearing, and even in “late-filed exhibits” that

¹ The members of the two ad hoc groups can be found in sources cited in prior Bondholder filings.

PREB allowed so the utilities could attempt to backfill information. Despite these myriad opportunities, many costs in the rate petition rest on nothing more than the utilities' say-so.

The utilities' say-so is not enough. That was illustrated time and again at the hearing, when in the crucible of cross many of their ratepayer-funding requests crumbled under scrutiny. The more the rate proposal was probed, the more it unraveled. \$30 million in ratepayer funds for technology projects—gone after errors were revealed during cross, forcing LUMA to finally concede, on the hearing's last day, that the projects are not executable. Hundreds of millions in ratepayer-funded projects—now admitted to be eligible for federal funding *after* Hurley (who the utilities never crossed) demonstrated as much, and *after* the Hearing Examiner ordered the operators to produce late-filed exhibits evaluating project eligibility (something they should have assessed before requesting ratepayer funds).

The record also shows that PREPA and its operators—especially LUMA—gave short shrift to the billions in available federal and Commonwealth funding, turning instead to ratepayers as an easier source of “liquidity.” In response to calls to maximize the use of federal funds, LUMA’s witnesses answered with excuses, complaints about the process to obtain federal funds (something LUMA had touted its experience with), and even the truism that the billions of long-unused federal funds are finite. But as LUMA’s witnesses ultimately admitted, federal funds will *not* run out during the rate period, LUMA expects to continue using federal funds throughout its 10-year infrastructure plan, and LUMA could reduce ratepayer costs by spending more federal dollars in this rate period versus later years. Genera likewise continues to propose at least \$15M in ratepayer funding for projects it expects to be covered by federal funds. And PREPA, for its part, would squander between \$1.3 and \$7.3 *billion* of available federal funds on dam and irrigation projects that have little or nothing to do with generating electricity, and insofar as they do, generate but a

pittance. PREPA also admitted it refuses to deploy \$636M in unallocated federal funding that FEMA has implored PREPA and the operators to utilize. None of this makes sense, let alone meets the statutory test of rates being just, reasonable, and consistent with providing service at the lowest reasonable cost.

The events leading up to the rate petition help explain this situation. The utilities submitted radically lower expense forecasts to the Financial Oversight and Management Board (“FOMB”) in connection with the 2023 PREPA Fiscal Plan—approximately \$4B/year across all expense categories for FY2026-2028, with approximately \$200-250M/year of Necessary Maintenance Expenses for that period.² FOMB described the revenue requirement then as what would “fully cover all projected costs [PREPA] must reasonably incur to ensure the provision of adequate service to Puerto Ricans.”³

Then, on August 2, 2024—just weeks after a First Circuit Court of Appeals decision found that the bonds are secured by PREPA’s Net Revenues—FOMB suddenly instructed the operators to provide *new, higher* expense projections,⁴ in an effort to depress forecasted Net Revenues. The expense forecasts ballooned from the prior PREPA fiscal plan, rising to \$5.01B, \$5.79B, and \$6.08B for FY2026-2028, with \$745M-\$1,053M in Necessary Maintenance Expenses (a 3-4x *increase* from the prior plan for the exact same period).⁵

That brings us to this rate case. The utilities, now committed to massive expense projections as instructed by FOMB, have asked PREB to approve costs they cannot justify. They

² 2023 PREPA Fiscal Plan, p.130, <https://drive.google.com/file/d/1aqXCP728HU7s7uE1Ys-nHvchnJ85dvIJ/view?usp=sharing>.

³ *Id.* p.113.

⁴ Ex.1.01 (2025 PREPA Fiscal Plan), p.9.

⁵ *Id.* p.96.

have turned to ratepayers to fund (i) expenses without evidentiary support, (ii) projects already covered by or eligible for federal funds, and (iii) costs that are plainly unnecessary for grid reliability—like ergonomic chairs, shielding facilities from electromagnetic pulses from nuclear bombs and storms in outer space, and replacing functional, modern computers and monitors just because the warranty expired.

PREB has a distinct legal role that is not preempted by FOMB and a clear statutory directive to approve only those rates that are just, reasonable, and necessary to provide electric service at the lowest reasonable cost. Bondholders are supportive of rate increases that fund such necessary expenses. But given the failures of proof, performance and executability issues unrelated to liquidity, and the fact that PREPA is in bankruptcy and cannot access the capital markets to finance expenditures, PREB should adopt a careful, incremental approach to raising rates here and hold the entities to their statutory burden of proof—not open the floodgates to expenses justified by no more than their say-so. PREB must exercise its authority to protect ratepayers from the utilities’ overstated, unjustified funding requests.

LEGAL STANDARD

The utility bears the burden of proving “the proposed rate is just and reasonable, consistent with sound fiscal and operational practices that provide for a safe and adequate service at the lowest reasonable cost.” 22 L.P.R.A. § 1054x(b). LUMA agrees. Ex.90, p.19. To meet its burden, the utility must furnish sufficient “evidence and documents” to permit PREB to assess comprehensively the relevant factors, including the utility’s proposed charges, expenditures, and efficiencies. 22 L.P.R.A. § 1054x(a)-(b); *see also R&O*, p.2 (4/21/2025)⁶ (PREB “will consider whether the information contained in the petition is of sufficient quality and clarity to support a

⁶ Unless otherwise indicated, citations to PREB orders are in this case.

finding of just and reasonable rates”). PREB must examine “each cost that the rate application seeks to recover in rates,” including whether “the proposed cost [is] no higher than the level required by prudent utility practice.” *HE Order on Rate Case Procedures*, p.4 (4/25/2025).

PREB’s determination must be made without deference “to the [requesting utility]’s filings or positions.” *Final Order*, CEPR-AP-2015-0001, ¶ 56 (1/10/2017) (“2017 Rate Order”). There is no presumption of reasonableness for a utility’s proposed costs. Applying such a presumption would be reversible legal error, as it would improperly flip the statutory burden onto PREB and intervenors to prove a negative on whatever sparse record the utility chooses to provide. As the Hearing Examiner has explained, “[a] presumption of prudence is especially inappropriate for a utility that faces little competition.” *Direct Testimony of Scott Hempling on behalf of the South Carolina Department of Consumer Affairs before the Public Service Commission of South Carolina*, Docket 2020-125-E (11/10/2020). PREPA faces *no* competition, so the Hearing Examiner’s logic applies with even greater force here.

In sum, the burden is on the utility to establish—through sufficient record evidence—that each of its proposed costs is just, reasonable, prudent, and consistent with providing adequate service at the lowest reasonable cost. As explained below, despite the unprecedented size of the proposed costs here, PREPA and its operators have failed to discharge their burden in many instances.

ARGUMENT

I. Transmission and Distribution

A. *LUMA’s Overreliance on Ratepayer Funding*

PREB has stated that “federal dollars are a pillar of the Puerto Rico electric system’s long-term rebuilding and resiliency strategy,” and it “will not treat electricity customers as the funding source of first resort.” *Provisional Rate Order*, p.32 (7/31/2025) (“PRO”). Yet LUMA requests

NFC budgets that violate these principles and are neither just nor reasonable for three main reasons.

First, the proposed ratepayer funding amounts are overestimated and unsupported. *Second*, the requested ratepayer amounts duplicate funds available from federal and Commonwealth sources, unnecessarily burdening ratepayers. *Third*, LUMA cannot execute the proposed scale of projects given its demonstrated inability to fully utilize past budgets, as well as general supply-chain, labor, and other executability challenges. PREB should not greenlight LUMA’s request to burden ratepayers with massive costs that could be covered at little or no cost to customers, or that are not executable.

1. LUMA’s Proposal

LUMA asks customers to pay staggering sums for its spending wish-list. LUMA’s Optimal Budget—the one it advances—proposes to spend approximately **\$2.29B** of ratepayer money between FY2026-2028: \$603M (FY2026), \$762M (FY2027), and \$928M (FY2028). Ex.50, p.23 (citing Ex.1b); Ex.51, p.49 (citing Ex.8); Ex. 1106 (1/9/2026 Updated Revenue Requirement), Annex 1 (“Updated RR”).⁷ This represents a 5-7x increase above LUMA’s NFC spending in

⁷ LUMA filed the Updated RR on 1/9/2025, and Genera filed its informative motion on 1/13/2025, weeks after the hearing and shortly before this brief was due. In addition to the lateness of the filing (which precluded questioning on the Updated RR), several features of the Updated RR render it particularly difficult to assess whether and how specific costs have changed, including: (i) changes are generally not identified at a project or department level, and no corrected project-level or department-level spreadsheets (such as the LTIP) or written testimonies were filed; (ii) LUMA’s list of changes in tab “LUMA’s Updates to RR” primarily claim unspecified “inadvertent errors,” and either contain no support or cite other documents that often lack explanations; (iii) Genera’s updated numbers reside in a separate Annex 3 that does not appear to have been tied into the “Updated Revenue Requirement Schedules” in Annex 1; and (iv) Genera is belatedly proposing a “hybrid” budget rather than the Constrained and Optimal Budgets previously discussed in this case. As such, while Bondholders have diligently endeavored to confirm costs discussed in this brief relative to the Updated RR, the above challenges mean the operators may have changed costs in a non-obvious manner, such that they no longer align with figures presented here. Any such discrepancy is inadvertent and could have been avoided with a clearer presentation of the specific cost changes and reasons therefor.

FY2025 (\$126M). Ex.50, p.23 (citing Exs.1a, 5a). Even LUMA's *Constrained* NFC Budget requests approximately \$398M (FY2026), \$504M (FY2027), and \$606M (FY2028), for a total of over \$1.5B. *Id.* (citing Ex.5a); Ex.51, p.49 (citing Ex.8); Updated RR, Annex.1.Tab.D.1 Constrained. This would triple LUMA's FY2025 NFC spending. Ex.50, p.23 (citing Exs.1a, 5a).

2. LUMA's NFC Budgets Are Unjust and Unreasonable

a. *LUMA's budgets propose inflated NFC spending.*

Initially, several ratepayer-financed projects far exceed what is required to restore the grid and/or are nonessential. LUMA identifies three NFC programs that are disproportionately reduced between the Optimal and Constrained Budgets: Distribution Pole and Conductor Repair (PBUT30), Tools Repair and Maintenance (PBOP5), and Retail Wheeling (PBCS4). Ex.6, pp.58-59. These programs, as detailed below, contain unnecessary items. For example, the Emergency Preparedness Department requests \$1.55M of ratepayer funds to replace "large television monitors, computer desk monitors, laptops, [and] hotspots" bought just a few years ago (2022). Ex.12, p.14; Updated RR, Annex.1.Tab.D.1.Optimal. There is no record evidence that this hardware is not working properly, yet LUMA claims "the computers and monitors are end of life after four years" because the *warranty* has expired. 12/5 Tr. 212:17-18. LUMA cannot explain why ratepayers should pay to replace working technology merely because the warranty ended.

LUMA also proposes ratepayer-funded development of a mobile app for the Procurement Department—hardly an emergency expense. Ex.15.00, pp.30-31. And as discussed *infra* Part I.C.1, LUMA requests millions in ratepayer funds to replace poles *without even knowing which ones were inspected*, let alone which require replacement, and to otherwise upgrade functional facilities (*infra* Part I.C-E). There is no record evidence that such spending is necessary for "safe and adequate service," and other such examples abound.

b. Many proposed NFC projects should be funded by outside sources.

LUMA prefers ratepayer dollars over federal funding, because the former can be obtained with less process. But this contradicts PREB's determination that it "will not treat electricity customers as the funding source of first resort." PRO p.32.

First, over the past several years, LUMA has routinely exhausted, or nearly exhausted, its ratepayer funding while underutilizing outside or alternative funds. Ex.50, pp.29-30. For example, between FY2023 and FY2025, LUMA underspent its federally-funded capex budget by 30.8% (\$179.1M), 20.0% (\$160.3M), and 43.3% (\$523.1M), respectively, while consuming nearly all ratepayer funds. Ex.608 (LUMA's 2023 Annual Report); Ex.589 (2024); Ex.620 (2025); *see also* 11/17 Tr. 398:9. During this period, the amount of federal funds LUMA failed to use exceeded the *entirety* of the ratepayer-funded budget—proving that the problem is not a lack of available outside funding, but rather LUMA's preference for more-easily-obtained ratepayer funds. *See* 11/13 Tr. 361:15-20 (Meléndez claiming that federal funds are not "flexibl[e]," because LUMA must "apply for it ... and go through a process"); Ex.74, pp.38-39; 12/18 Tr. 196:4-5 (Smith praising funding sources that are "more concrete" and "less complex" to obtain).

Second, as discussed throughout, LUMA improperly requests ratepayer funds for projects for which it already requested outside funding. For example, Hurley identified \$1.5M and \$0.9M in NFC for the Guánica and Maunabo transformer replacements, respectively—even though LUMA also requested federal funding for such projects. Ex.51, p.53.

Third, LUMA requests funds for projects that are unnecessary. For example, it requests \$138M in NFC for LUMA's "Fleet Capital Vehicle Purchase" project, \$34M in NFC for LUMA's "Retail Wheeling" project, and \$1.8M in NFC for "Employees Ergonomic Chairs." *Id.* pp.56-57; Updated RR, Annex.1.Tab.D.1.Optimal, Ex.2.05 Unconstrained LTIP.TAB.Non-Federal-Capital.

Fourth, LUMA’s Constrained and Optimal Budgets seek ratepayer funding for projects eligible for outside funding. *See, e.g.*, Ex.1047 (“Hopefulness Ranking” showing numerous federal-funds-eligible programs, according with Hurley’s earlier findings). For example, Hurley identified \$304.6M in NFC Projects in the Constrained Budget that are at least partly eligible for federal funding. Exs.51, 53; Ex.1047; *see also infra* Part XIII.A.2.a. PREB previously recognized this pattern and reallocated five ratepayer-funded projects—totaling over \$19M in FY2026 alone—to federal funding. *See* PRO p.19.

Worse yet, LUMA has repeatedly argued that if a ratepayer-funded project ultimately receives outside funding, LUMA’s request for ratepayer money should *not* be reduced, because “all of the capital can be deployed on [other] projects.” Ex.81, p.ii; *see also id.* pp.8, 11; 11/12 Tr. 247:15-25 (Meléndez testifying that despite DOE grants, “LUMA should be allowed to be able to utilize the funds associated through the rate case”); 12/18 Tr. 290:19-291:6 (Smith testifying that LUMA would not return ratepayer funds that were no longer needed for a project). That is improper. Collecting and keeping ratepayer funds for projects that receive federal funding violates the principle of providing safe and adequate service *at the lowest reasonable cost*. To the extent LUMA maintains there are other critical projects to which ratepayer funds should be reallocated (*see* Ex.74, pp.41-42), that ignores LUMA’s burden to prove *in this rate proceeding* that such alternative projects are reasonable and prudent, and that federal funds are not available for them—which it has not done.

Fifth, LUMA has not substantiated its claim that it prioritizes outside funding and only turns to NFC for: (1) activities it believes are not federally eligible; (2) work it deems too urgent to wait for federal processes; and (3) portions of projects that are eligible but are not within the funded federal scope. *See* Tr. 11/12 375-79. The sources and uses of outside funding are more

expansive than LUMA admits (*see infra* Part XIII.A), and it simply ignores the option of using those sources to advance projects while awaiting federal funds.⁸ Moreover, LUMA’s determination of urgency is based on an unsupported, unproduced rating that purportedly measures “the criticality and urgency of the replacement.” 11/12 Tr. 377:24-25; *see also* 11/13 Tr. 20, 25-26. Nowhere in LUMA’s petition did it explain this “rating system” with any specificity, electing instead to vaguely invoke it at the hearing. *See* 11/12 Tr. 379 (Meléndez generically describing the process as “balancing the funds coming in, balancing the material we can buy, and execut[ing] in accordance with the orders that we receive as well”); 12/18 Tr. 82-84 (LUMA does no quantitative analysis regarding funding classifications). LUMA’s decision not to produce this “rating system” and subject it to regulatory scrutiny means LUMA has not carried its burden here.

Finally, when LUMA deems eligible projects too urgent to rely on federal funding, LUMA suggests that—where it can—it will engage in a reconciliation process by applying for federal funds post-hoc. 11/13 Tr. 58-59. But, as Meléndez recognized, after-the-fact funding is subject to uncertainty and there are “a lot of challenges” to recouping funds after ratepayers already paid. 11/13 Tr. 67-69. These admissions and unsupported claims belie LUMA’s contention that it maximizes federal funds before turning to ratepayers.

⁸ The record shows LUMA has presented a false binary between ratepayer funding and FEMA funding. *See, e.g.*, Ex.5, p.24 (Meléndez: if FEMA funds are insufficient, “either additional NFC funds would be required, or critical repairs could remain incomplete”); *id.* p.64 (referring only to “FEMA investment” to mitigate impact of reduced budget and disregarding other available federal and Commonwealth sources). LUMA has not even explored some of the other sources of outside funding. *See, e.g.*, 12/18 Tr. 287-91, 430-31, 440; Ex.1059, p.7; Ex.1033.

3. LUMA Cannot Execute the Optimal or Constrained NFC Budgets

Even if LUMA had demonstrated the propriety of its request for ratepayer money—it has not—the request should be denied because LUMA cannot execute its proposed spending levels.

See infra Part I.J.

* * *

Given LUMA’s improper NFC funding requests, as detailed herein, PREB should restrict ratepayer funding to situations where LUMA has shown that all outside funding (not just FEMA⁹) is *unavailable*, and that the proposed project is *imminently necessary* to repair the grid.

B. Vegetation Management (“VM”)

The Vegetation Management and Capital Clearing Implementation Program (PBOB7) involves: (1) VM, and (2) vegetation capital clearing. Ex.6.14, p.1. PREB should approve LUMA’s Constrained Budget for this program, because LUMA cannot execute its Optimal Budget.

LUMA’s Optimal Budget seeks \$125M (FY2026), \$131.3M (FY2027), and \$137.8M (FY2028) in O&M funding in addition to the nearly \$690M in federal funding for this program. Updated RR, Annex.1.Tab.C-2-Optimal; Exs.2.05, 2.06, Tab.5.4. This is a huge ramp-up compared to LUMA’s FY2025 budget of \$50M. 11/12 Tr. 131:23-25. Comparatively, LUMA’s Constrained Budget seeks \$70.7M (FY2026), \$125M (FY2027), and \$131.3M (FY2028) in O&M funding. Updated RR, Annex.1.Tab.C.2.Constrained. This represents a more gradual ramp-up in spend but still reaches nearly the same levels in FY2027 and FY2028, which makes sense given that FY2026 will be nearly over when the final order issues here.

⁹ *See supra* n.8.

Thus, the Constrained Budget proposes funding that will still allow LUMA to address vegetation-related issues, which are responsible for “50% of the outages” (11/12 Tr. 13:7), without raising executability issues. *See* Ex.50.00, pp.19-23.

1. *LUMA’s Institutional Inexperience*

LUMA maintains that utilizing the municipalities in maintaining the system after the federal vegetation clearing is completed is a “key part of [its] strategy going forward.” 11/12 Tr. 100:22-23. However, LUMA has no agreements or standard contracts in place, and has made no meaningful progress toward securing these municipal resources. *Id.* 99:12-18. In fact, LUMA says the municipalities have been somewhat “reserve[d]” in this effort. *Id.* 104:4. The additional money requested under LUMA’s Optimal Budget (particularly in FY2026) cannot solve near-term delays from LUMA’s institutional inexperience. *Id.* 104:19-25 (explaining there are “no problems” that “the Energy Bureau can help with” regarding the municipality issue).

2. *Other Implementation Issues*

Additionally, LUMA has persistent qualified-labor issues and physical constraints, including “difficulty finding actually qualified arborists on the island.” Ex.50.00 p.26; 11/12 Tr. 92:5-6. With this limited supply of properly licensed and trained personnel, LUMA cannot achieve its proposed ramp-up under the Optimal Budget. *See* Ex.920 ¶ 117 (“As the scope of these activities increases, additional resources will be needed to plan the work, ensure proper staging of materials and staff . . . [where] these functions are [already] thinly staffed.”).

LUMA has also been consistently unable to access rights-of-way for VM. 11/12 Tr. 96:11-97:1. LUMA never explained how it plans to address these physical limitations, and with the overly ambitious ramp-up in the Optimal Budget, these access-related limitations will be amplified. Ex.50.00, pp.19-23.

C. Transmission

LUMA has requested over *a billion dollars* in transmission-related capital spending for FY2026-2028 (including over \$303M ratepayer-funded) in its Optimal Budget, and *over \$953M* in its Constrained Budget (including over \$245M ratepayer-funded). Ex.5.00, pp.29, 44, 56, 58, Tables 5, 11; Updated RR, Annex.1.Tabs.D.1. LUMA has failed to show these proposed amounts are just and reasonable.

1. Transmission Priority Pole Replacement Program (PBUT13)

PBUT13 would “replace[] damaged overhead transmission poles and towers, along with associated hardware and conductors” based on “the results of an assessment conducted under the Assessment of Transmission Lines program.” Ex.5.04, p.1. Any “[m]ajor repairs and replacement will be based on the results of the transmission system assessment and analysis by engineers” and “will be scheduled based on the criticality of the pole or structure.” *Id.* LUMA requests over \$255M for this project in its Optimal Budget (Updated RR, Annex.1.Tab.D-3-Optimal), including over \$161M ratepayer-funded. *Id.* LUMA’s request for ratepayer funding should be denied.

First, LUMA improperly requests hundreds of millions of dollars in ratepayer funds *before* completing the assessment by which it would learn what poles to replace and what costs that would entail. Meléndez could not even provide a “rough percent[age]” of poles inspected to date. 11/12 Tr. 152:19-20. Meléndez testified that “[b]ased on preliminary estimates,” “23 transmission poles require critical repairs … in FY2026” (Ex.5.0, p.45), but never provided any supporting evidence or described how LUMA reached these “preliminary estimates.” LUMA’s “preliminary estimates” also carry little weight because LUMA conducted two *prior* inspections and revised downward its assessment of the percentage of poles requiring replacement—from 25% to 10%—thus demonstrating the inaccuracy of LUMA’s preliminary estimates. *Compare* Ex.5.04, p.2, Gap table, first row, *with* Ex.5.04, p.2, Gap table, final row; *see also* 11/12 Tr. 230:19-232:21.

Second, LUMA fails to provide project-by-project support for this huge ratepayer-funding request. Meléndez testified that LUMA merely relies on its experience from *prior* pole-replacement projects—using “industry rates informed by LUMA subject matter experts and adjusted for the realities of performing work in Puerto Rico”—because no engineering work has been done to identify the actual scope of work. Ex.5.04, p.45. But LUMA did not describe the “industry rates” used, identify the subject-matter experts or their purported qualifications, or explain the basis of the adjustments for “the realities of performing work in Puerto Rico.” *Id.* LUMA admittedly made ad hoc adjustments (*see* Ex.136), and further conceded it lumped much of the budget into broader program-wide categories and failed to “list[] every project that we have in the budget,” because LUMA does not know “when things are going to happen.” 11/12 Tr. 186:18-187:9. Although Meléndez claimed LUMA has “enough projects in our portfolio” (*id.* 190:5-6) to use ratepayers’ money, that conclusory claim falls flat. LUMA cannot collect hundreds of millions from ratepayers based on the speculative representation that there are enough (unidentified) projects on which to spend the money.

Third, LUMA conceded that many proposed projects in this program could be eligible for outside funding, but it nonetheless requests ratepayer funds because of purported “imminent need.” *Id.* 165:1-8. LUMA contended it conducted a “technical analysis” for each pole and line segment to assess eligibility for federal funding and whether there is an imminent risk of failure (*id.* 166:2-168:17), but this claim contradicts LUMA’s concession, discussed above, that it has not actually inspected the poles. At any rate, LUMA did not produce any such technical analysis and is bound by that tactical decision. PREB consultant Shiffman recognized this deficiency when he remarked in response to Meléndez’s testimony, “this is the first that I recall hearing about this process and

that [it] was the way that the repair funded pole replacement budget was determined.” *Id.* 167:21-25. Just so.

LUMA’s “technical analysis” also conflicts with its “Hopefulness Ranking” document (Ex.1047), where LUMA maintained that all but two projects under this program *are* eligible for federal funding but stated LUMA is not pursuing them because of what it calls “limited federal funding.” However, LUMA conceded that: (1) it has not conducted *any* quantitative analysis of how, and more importantly *when*, a limit on federal funding would be reached (12/18 Tr. 83:16-23, 86:8-87:5), and (2) any such limit would not be reached during this rate period. *Id.* 87:6-23, 96:5-11. LUMA likewise admitted that it may seek federal funding for these projects during the rate period. *Id.* 107:2-25.

Even if Meléndez’s “technical analysis” found support in the record (it does not), it would still not justify LUMA’s ratepayer-fund request, because Meléndez’s testimony undermines the purported analysis’s accuracy. Meléndez admitted that the electrical system suffered pervasive damage from federally-declared disasters, which would bring many of LUMA’s proposed capital projects under federal funding criteria. Ex.5.0, pp.15-16. Yet, when describing LUMA’s process for determining how costs were allocated between federal and ratepayer funding, Meléndez exposed his misunderstanding of those criteria. He testified that if one segment of a transmission line was damaged by a hurricane but the next segment was not—but otherwise has to be rebuilt because of its deteriorated condition and “will actually benefit ultimately the reliability of the grid”—the former would be eligible for federal funding, while the latter would not. 11/12 Tr. 174:8-9. False. The 2018 Stafford Act amendments permit “replace[ment] or restor[ation] [of] components of the facility or system not damaged by the disaster where necessary to fully effectuate the replacement or restoration of disaster-damaged components to restore the function

of the facility or system to industry standards.” Ex.51, p.23. When pressed, Meléndez admitted that the mere fact a segment was not damaged by a natural disaster does *not* preclude federal funding for the segment (as he had incorrectly suggested earlier). 11/12 Tr. 311:7-19.

LUMA’s argument that ratepayer funding is necessary even for federal-funds-eligible projects because of criticality is also incorrect. LUMA lags behind Genera and PREPA in obtaining federal funding.¹⁰ In fact, Meléndez admitted that LUMA’s efforts to secure federal funding “*have not been up to par* to the needs of the system.” 11/12 Tr. 387:19-20.¹¹ So even though LUMA asks to charge ratepayers because the federal funds process is allegedly too slow, the record shows the problem lies with LUMA. As Meléndez agreed, if LUMA were to secure federal funds faster—which it could and should do—there would be less need for ratepayer funds. *Id.* 280:1-281:19.¹² Multiple other mechanisms, aside from ratepayer funding, also exist to bridge any alleged timing issues. *See infra* Part XIII.A.3-4.

Fourth, Meléndez’s written testimony showed a massive ramp-up in NFC spending for PBUT13 from \$0 in the 2025 amended budget to \$14M (FY2026), \$43M (FY2027), and \$67M (FY2028)—though these numbers appear not to match LUMA’s original or updated revenue requirements, which show an even greater ramp-up. Ex.2.03, Tab 5.4.1 (\$24M, \$54M, \$83M); Updated RR, Annex.1.Tab.D-3-Optimal (same). Such a ramp-rate raises serious executability issues. *See infra* Part I.J.1.

¹⁰ Compare 168:16-170:3, 176:12-177:11, with 11/12 Tr. 59:5-14, 127:23-128:8, 389:12-15; 11/13 Tr. 51:21-52; 11/14 Tr. 13:2-17; 11/17 Tr. 311:12-312:1

¹¹ All emphases are added unless otherwise noted.

¹² Although Meléndez testified that “the needs for the system is [*sic*] over \$22 billion and there is not enough” federal funding to satisfy those needs—and that ratepayer funding is therefore necessary—he later conceded he was referring to “the 10-year long-term investment plan that we have filed” and not FY2026-FY2028, which is the subject of this rate case. *Id.* 304:2-18.

Finally, to the extent LUMA’s PBUT13 request includes ratepayer-funded O&M costs, they should be denied because “[t]he O&M budget is largely reflective of the increased workload that is required to support a projected five-fold increase in NFC funding”—meaning such costs stand or fall with the NFC. Ex.5.0, p.36. Burgemeister also admitted the O&M expenses included in LUMA’s rate request did not consider any savings resulting from improvements made with the federally-funded capital programs, which is an obvious oversight. 11/12 Tr. 323:7-19.

2. Transmission Line Rebuild Program (PBUT33)

PBUT33 would “upgrad[e] transmission lines to withstand high winds and improve system reliability.” Ex.5.05, p.1. This program, however, is still in the “planning” stage. *Id.* LUMA seeks over \$569M for PBUT33 in its Optimal Budget (Updated RR, Annex.1.Tab.D.3.Optimal), including over \$129M ratepayer-funded (*id.*), and over \$529M in its Constrained Budget, with over \$89.5M ratepayer-funded. Ex. 5.0, p.44, Table 5; Updated RR, Annex.1.Tab.D-3-Constrained. The ratepayer-funded portions should be denied.

First, LUMA cannot justify these costs because it admits not knowing which anchors and guys need replacement or which lines require corrosion mitigation. Ex.5.05, p.2, Gaps, rows 1-2. Meléndez testified that in proposing costs, LUMA used “industry norms informed by the acquired expertise and experience of LUMA’s staff, adjusted to reflect the realities of performing work in Puerto Rico.” Ex. 5.0, p.45. But as discussed *supra* Part I.C.1, LUMA failed to substantiate this vague claim. And although LUMA identifies “28 overhead transmission line segments (five of which fall under the Stabilization Plan for FY2026)” that are out-of-service, it does not identify how much is allocable to these line segments or why LUMA requires *additional* funding for the segments in the Stabilization Plan. *See* Ex.5.0, p.18.

Second, LUMA wants to “[h]arden[] structures to current standards,” but those structures are still working and have not failed. 11/12 Tr. 286:14, 296:6-296:9; Ex.137, p.1. Similarly,

LUMA wants to “[r]estore and upgrade line design capacity (non-SRP)” but admits the project would merely upgrade in-service components. 11/12 Tr. 298:16-17. Tellingly, the program was not included in LUMA’s SRP. *Id.* Asking ratepayers to shoulder the costs of upgrading working equipment is imprudent and unreasonable.¹³

Third, LUMA’s contention that it conducted a “technical analysis” for each line segment to assess federal-funding eligibility and risk of failure does not hold up. *See supra* Part I.C.1. Even where LUMA does attempt to describe why it needs ratepayer funds, its reasons are speculative. For instance, [REDACTED] (Ex.2.06, Tab NFC, Row 119), but it admits DOE “grant funding is anticipated.” Ex.733. LUMA speculates that if it seeks federal funding for this project, it may lose federal funding for a “more comprehensive solution” that “*could be deemed* in excess of those required for baseline restoration.” Ex.74, p.57. That is an unsupported hypothetical, not a proven justification for collecting ratepayer funds.¹⁴ And LUMA concedes it may ultimately decide against adopting “the longer-term solution.” *Id.* p.58.

Fourth, LUMA proposes a massive ramp-up in NFC spending on this program from \$1M in the 2025 amended budget to \$40M (FY2026), \$38M (FY2027), and \$51M (FY2028). Updated RR, Annex.1.Tab.D.3.Optimal. As discussed, that raises serious executability issues. *See infra* Part I.J.1.

¹³ At the hearing, Meléndez contended for the first time that the proposal to create “new 115[kV] underground paths in the San Juan metro area” included new lines that would replace out-of-service lines. *Id.* 300:6-301:15. This contradicts LUMA’s discovery responses, which say that Capital Program NFC is for components that have *not* failed. Ex.137, p.1. Nor did LUMA provide any evidence regarding how much of the program cost is attributable to these activities, and Meléndez did not know. 11/12 Tr. 302:13-18.

¹⁴ It is also inconsistent with LUMA’s classification of the project in its “Hopefulness Ranking.” Ex.1047, line 60.

Fifth, PREB should deny LUMA’s request for federally-funded capex projects that are unnecessary for grid restoration. Using federal funds for these projects would be imprudent, because once utilized, the funds are “gone forever” and cannot be used for projects with “a greater immediate impact on electrical reliability.” Ex.51, p.61.

For instance, LUMA requests over \$105M in FEMA funds to “[c]onstruct a new microgrid system to provide resiliency, power quality, energy redundancy, stand-alone and black start capabilities to the island of Vieques.” Ex.387.1 (Attachment 1) (supplemental response), Row 96. With a population of 8,000 people, the cost of the project would be approximately \$13,000 *per person*. See QuickFacts Vieques Municipio, Puerto Rico, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/viequesmunicipiopuertorico/HEA775224>. LUMA plans a similar \$40M project for even-more-sparsely-populated Culebra, costing over \$22,000 per person. Ex.387.1 (Attachment 1) (supplemental response), Row 97; 2020 Decennial Census, U.S. Census Bureau, <https://data.census.gov/all?q=Culebra+Municipio,+Puerto+Rico>.

Remarkably, these projects do not even address an existing outage or failure, but rather provide a redundancy for *if*, someday, the islands’ submarine cables were to hypothetically fail. Ex.51.02a, p.B-8 (project would “*act as a redundancy* of the existing Transmission and Distribution Grid, *providing an alternative*”). The submarine cables to Vieques and Culebra did *not* fail following Hurricane Maria, one of the strongest to ever hit Puerto Rico. 11/12 Tr. 266:2-20, 270:24-271:22; *see also* Ex.74, p.43. And although Meléndez initially claimed Vieques needs this redundancy because it is on a “hurricane-prone path,” he conceded that all of Puerto Rico is on a hurricane-prone path. 11/12 Tr. 258:5-6, 261:8-11. The same was true for Meléndez’s

attempted justification that these islands endured blackouts after Maria. *Id.* 242:17-243:5.

Spending over \$145M in finite federal funding for a likely needless redundancy is unreasonable.¹⁵

LUMA also requested \$120M in federal funding to restore the Dos Bocas to America Apparel, 1900 Caguas to Lares, and 1900 Lares to San Sebastian lines to “pre-disaster conditions.” Ex.74, p.44. LUMA argues it would “improve resiliency *related to limited contingency* in the event of other failures in the system.” *Id.* Again, spending major federal dollars on speculative contingencies is imprudent.

Finally, to the extent LUMA’s request for this program includes ratepayer-funded O&M costs, it should be denied for the reasons noted above. *See supra* Part I.C.1.

D. Substations

LUMA requests over *\$1.7B* in substation-related capex in its Optimal Budget (over *\$389M* ratepayer-funded), and over *\$1.1B* in its Constrained Budget (over *\$345M* ratepayer-funded). Ex. 5.00, pp.44, 58, Tables 5, 11; Updated RR, Annex.1.Tabs.D.1. The proposed ratepayer expenses should be denied.

1. Substation Reliability Program (PBUT7)

PBUT7 would “[r]einforce and upgrade existing system infrastructure to improve reliability, including replacing obsolete” equipment. Ex.5.06, p.43. LUMA seeks over \$647M for this project in its Optimal Budget (over *\$363M* ratepayer-funded), and over \$606M in its Constrained Budget (over *\$321M* ratepayer-funded). Updated RR, Annex.1.Tabs.D.1. The ratepayer-funded portions should be denied.

¹⁵ These projects are also inconsistent with LUMA’s self-professed project planning. Shearman opined that all LUMA investments should have “significant impact[s] on resilience (system stability),” and that “projects with declining impact per dollar invested” would not be undertaken “until relatively late in the Plan.” Ex.75, pp.21-22. Though these projects have a lower impact per dollar invested, LUMA requests funding for these projects as early as this year.

First, LUMA seeks these funds largely to replace equipment it deems too old, despite the equipment continuing to work. Ex.5.06, p.1; Ex.137, p.1. During cross, Meléndez agreed the design life expectancy of a component “is not a hard cut off,” and it can continue operating beyond that expectancy. 11/12 Tr. 433:4-18. He also agreed that just because “something is not up to [current] standards doesn’t mean that it’s not working.” *Id.* 438:15-18. Ratepayers should not be burdened with the cost of replacing working components simply because LUMA thinks they are too old. Rather, LUMA can resort to outside funding—not to mention financing once PREPA exits Title III—to bring such equipment up to industry standards over time. *See supra* Part I.A.2.b. Although LUMA identifies “24 substation transformers … seven of which fall under the Stabilization Plan for FY2026” that are out of service, it does not identify how much of the budget relates to these transformers or why LUMA requires *additional* funding for those under the Stabilization Plan. Ex.5.0, p.18.

Second, LUMA offers no budget estimates for FY2027-2028 for many projects, instead lumping them into “general cost categories” “not related to a specific project.” 11/12 Tr. 390:5-20. Meléndez testified, without support, that “[t]he team’s experience and knowledge also helped shape the estimate” of LUMA’s costs, but that amounts to asking PREB to simply accept LUMA’s assurance without supporting evidence. Ex.5.05, p.46.

Third, this program, like many others, involves a massive ramp-up in NFC spending, from \$24M in the 2025 amended budget to \$111M (FY2026), \$117M (FY2027), and \$134M (FY2028)—numbers that materially *increased* in LUMA’s latest request. Updated RR, Annex.1.Tab.D.1.Optimal. That raises serious executability issues. *See infra* Part I.J.1.

Fourth, LUMA admits that all but five of this program’s projects are federal-funding-eligible. Ex.1047. As discussed *supra* Part I.C.1, LUMA failed to show it needs ratepayer funds

because there is “limited” federal funding during this rate period, or because projects cannot wait. Although Meléndez anecdotally mentioned projects that purportedly cannot await federal funding due to safety issues (11/12 Tr. 366:8-368:10), as with PBUT13, LUMA made a tactical decision not to submit any supporting analysis—circumventing regulatory scrutiny—and thus failed to carry its burden. *See* 11/12 Tr. 385:8-10 (Hearing Examiner: “Without intending any criticism of what you have been saying, sir, it is anecdotal and it is examples.”).

LUMA continues to argue it should be able to double-collect from ratepayers,¹⁶ even for projects that PREB reallocated to federal funding in the PRO. *See* Ex.74, p.38; PRO p.19.¹⁷ LUMA also seeks ratepayer funds for other projects that have “been identified as no longer requiring ratepayer funds,” including \$13.1M for Transformer Pre-Installation work, \$15.7M for Transmission Repairs, and \$19.4M for Relay Protection Upgrades.¹⁸ That is imprudent and unreasonable. Finally, LUMA seeks ratepayer funding for 25% of the Guánica and Maunabo transformer-replacement projects, claiming it “is required to start these projects while LUMA and FEMA jointly manage through the obligation process.” Ex.74, p.38. However, LUMA has many other resources available to address timing issues. *See infra* Part XIII.A.3-4. LUMA should utilize those resources to jumpstart projects, not turn to ratepayers.

2. Substations Rebuilds Program (PBUT8)

PBUT8 would “(1) harden[] and moderniz[e] T&D substations, (2) mak[e] upgrades to conform to the latest codes, industry standards, and practices, (3) replac[e] electromechanical and electronic relays, (4) relocat[e] substations in flood-prone areas and (5) deploy[] new substations

¹⁶ *See* Ex.74.15 (Attachment 1), Rows 8, 20, 42.

¹⁷ *See* Ex.2.06, Tab NFC, Rows 161, 163, 165; Ex.2.05, Tab NFC, Rows 165, 167, 169.

¹⁸ Ex.51.04a, p.65.

to meet industry standards.” Ex.5.07. LUMA seeks over \$511M for PBUT8 in its Optimal Budget (over $\$25M$ ratepayer-funded), and over \$508M in its Constrained Budget (over $\$22M$ ratepayer-funded). Updated RR, Annex.1.Tabs.D.1. The ratepayer-funded portions should be denied.

First, as discussed *supra* Part I.D.1, LUMA concedes the ratepayer-funded capex involves working components. Meléndez agreed that “hardening” and “modernizing” projects would bring components to the latest standards (11/12 Tr. 449:20-25), but just because “something is not up to standards doesn’t mean that it’s not working.” *Id.* 438:15-18. He also agreed LUMA’s proposed substation-relocation activities would simply mitigate future, potential risk. *Id.* 420:17-22. That does not justify using ratepayer funds now. PREB should also reallocate federal funding from the Jobos TC project (Ex.2.05, Row 992) to projects with greater impact, because Ex.1074 shows that substation is not in a flood-zone—just *near* one.

Second, Meléndez testified that in proposing costs, LUMA used “industry perspectives” and “adjusted to reflect the realities of performing work in Puerto Rico.” Ex. 5.0, p.46. But LUMA never provided any supporting evidence and made ad hoc adjustments. *See supra* Part I.C.1.

Third, LUMA represents that only one project is eligible for outside funding (Ex.1047), but it did not provide any supporting evidence.

Finally, to the extent LUMA’s program request includes ratepayer-funded O&M, it should be denied. *See supra* Part I.C.1.

E. Distribution

1. Distribution Pole and Conductor Repair (PBUT30)

LUMA budgets almost \$900M ($\$650M$ ratepayer-funded) for PBUT30 in its Optimal Budget, and \$530M ($\$283M$ ratepayer-funded) in its Constrained Budget. Updated RR, Annex.1.Tabs.D.4; 11/13 Tr. 322:5–323:22. This includes “installing, constructing, and repairing priority poles and hardware identified through the Distribution Line Assessments program, as well

as addressing emergent poles and hardware that require immediate repair.” Ex.5.08, p.1; Ex.5.0, p.46. LUMA described its estimating process as: “With quantities defined for Primary Conductor, Pad- and Pole-Mounted Transformers, Primary and Secondary Poles, Non-Structural Repairs, Switches, and UG Cable Segments, rates experienced since commencement were used with appropriate adjustments for inflation and any anticipated supply chain issues.” Ex.5.0, pp.45-46. That is inadequate for several reasons.

First, these “quantities defined”—and how they were determined—are not in evidence. LUMA has also admitted it does not know “the number or location” of secondary poles in the system (11/13 Tr. 324:4-7), and that assessments to determine “[m]ajor repairs and replacements” have not been conducted by engineers. Ex.74.16, p.1. The scale of work is therefore unknown. LUMA’s Exhibit 74.17 does not provide answers. There, LUMA responded to a discovery request for “*any historical costs or sources on which the cost estimates are based.*” For the largest bucket of ratepayer funding—Pole Replacement—LUMA stated, “this budget designs [*sic*] to execute 7,880 primary pole replacements with nonfederal capital (NFC) through FY2028 using an average cost of \$35,000 per pole based on recent historic actuals.” LUMA did not explain where the 7,880 figure came from, or how the \$35,000 per-pole cost was calculated. *See* Ex.74.17, p.2. In short, LUMA asks PREB to simply accept its unsupported assertions.

Second, LUMA fails to explain why these projects cannot be federally funded. As to Pole Replacement, LUMA noted the number of poles and “pole defects identified,” but it failed to explain why these pole replacements are proposed as NFC. Ex.74.17, p.2. LUMA claims ratepayer funding is needed because “[f]ederal funding will address approximately 16 percent of the distribution system,” implying the total amount of federal funding is inadequate. Ex.6, p.43. But LUMA admitted federal funds will *not* run out during the rate period (*see supra* Part I.C.1),

and said it could attempt to utilize federal funds currently allocated to later years during the rate period instead. 12/18 Tr. 107:13-25. LUMA's later-produced "Hopefulness Rankings" chart also shows that many of these projects *are* eligible for federal funding. Ex.1047, lines 46-57.

Finally, LUMA failed to prove the distribution projects are executable. While LUMA said it took "a measured view of how much federally funded distribution work could be accomplished" (11/13 Tr. 326:2-328:8), it failed to explain how LUMA developed that view, what precisely a "measured view" is, or how it translates into executability.

2. *Distribution Lines Rebuild (PBUT6)*

LUMA budgeted \$432M (\$181M ratepayer-funded) in its Optimal Budget and \$410M (\$159M ratepayer-funded) in its Constrained Budget for PBUT6. Updated RR, Annex.1.Tabs.D.4. This includes projects for rebuilding distribution feeders. Ex.5.10, p.1; Ex.5.0, p.43. LUMA has failed to justify these NFC costs.

First, LUMA does not provide the details necessary for PREB to assess its request on a subprogram-by-subprogram basis. For example, LUMA claims the NFC budget includes industry "unit costs, adjusted for the realities of performing work in Puerto Rico" (Ex.5.0, p.46), but LUMA never specifies these factors or how it made adjustments. LUMA makes similar claims for other sub-programs, asking PREB to blindly accept its estimates. *See, e.g.*, Ex.5.0, p.46 ("we assumed an average repair rate of \$2 million per mile"; "[a] budget placeholder has been placed, *based on LUMA's expertise and experience since commencement*"). And Exhibit 74.17—where LUMA answered a request for "any historical costs or sources on which the cost estimates are based"—fails to provide further detail. *See* Ex.74.17, p.6. Burgemeister's testimony is also too vague to be helpful. Ex.6.00, p.43 (stating the "funding identified for this emergent work *is based on forecasted failures and find rates*," without explaining how those forecasts were calculated).

Second, LUMA fails to explain why these projects cannot be federally funded. For example, for the largest bucket of NFC spending—Distribution System Upgrades—LUMA does not justify its ratepayer-fund request. Ex.74.17, pp.5-8. It simply states these upgrades are part of the Priority Stabilization Plan (Ex.5.0, Q.49), without explaining why these projects cannot be federally funded. *See supra* Part I.C.2. Meanwhile, LUMA later admitted several of these projects are federal-funding-eligible. Ex.1047, lines 89-98.

Finally, LUMA fails to prove these proposed projects are executable. *See infra* Part I.J.

3. *Distribution Grid Reliability (PBUT39)*

LUMA requests over \$70M in ratepayer funds for PBUT39 in its Optimal Budget and \$60M in its Constrained. Updated RR, Annex.1.Tabs.D.4; 11/13 Tr. 262:9-264:10. This includes projects for abandoned infrastructure and operational flexibility. 11/13 Tr. 265:20 – 266:16; Ex.5 pp.43-44, 46, 58. The ratepayer funding request should be denied.

First, LUMA argues—but fails to prove—that past funding of “\$75,000 per feeder [] did not allow completion of the sufficient remediation requirements identified on average for the feeders.” Ex.74.17, p.4; *see also id.* p.5 (making broad claims but providing no sources). The program brief does no better. For example, it does not clarify which feeders “are in areas with a high frequency of animal interference” or “have equipment that is damaged, outdated, or at the end of their useful life,” nor does it detail how these budgets were determined. Ex.5.13, pp.1-2; Ex.381. LUMA likewise failed to explain the “historical project costs” or “current resources available” that led to “\$210,000 per feeder.” Ex.381, pp.1-2; Ex.74.17, pp.4-5; *see also* Ex.5, p.46 (no details about the “average amount of devices” or “historical costs”). LUMA’s proffer is so insufficient that it cannot be meaningfully assessed—not to mention that it does not include any cost-benefit analysis.

Second, LUMA fails to submit evidence explaining why these projects cannot be federally funded. These projects focus on reliability and resilience (Ex.74.17, pp.4-5), falling directly within HUD requirements (Ex.51, Q.16), not to mention DOE.¹⁹

Finally, LUMA does not explain what resources are available to execute this project, effectively asking PREB to take its word. Ex.74.17, p.5 (stating, without explanation, “[t]he dollars requested in the rate case considered [sic] an executable amount”). Nor has LUMA demonstrated the need to complete these projects now. The few examples LUMA provides are for *non-critical* resources. *See, e.g.*, 11/13 Tr. 252-54.

4. New Business Connections (PBUT38)

LUMA requests \$47M in ratepayer funding in its Optimal Budget and \$41M in its Constrained for PBUT38. Updated RR, Annex.1.Tabs.D.1; 11/13 Tr. 350:10-352:2. This includes projects for “all aspects of the new customer connection process.” Ex.5.11, p.1; Ex.5.0 p.43. According to LUMA, the NFC estimates were “structured to reflect the anticipated project volume based on historical data (from 2022, 2023 and 2024), design & technical assessments, and inspection activities necessary to ensure compliant service connections.” Ex.5.0, p.46.

However, LUMA’s “historical data” is nowhere in the record. The program briefs contain no citations or data. *See* Exs.5.11, 6.06. Burgemeister’s general claims about cost estimation (Ex.6.0 p.44) include no citations, spreadsheets, or other supporting evidence—thus, again, asking PREB to take LUMA’s word. And although Exhibit 5.11 said a service fee would be implemented to decrease the amount requested from all ratepayers—and to increase the amount borne by new customers being connected under this program—that fee has not actually been implemented, and

¹⁹ <https://www.energy.gov/articles/energy-department-announces-365-million-funding-provide-overdue-support-puerto-ricos-power> (“repairs to strengthen grid reliability”).

LUMA did not know when it will be. 11/13 Tr. 360:6-15. LUMA’s request for ratepayer funding should be denied.

5. *Distribution Streetlighting (PBUT5)*

LUMA requests \$40M in ratepayer funding in its Optimal Budget and \$6M in its Constrained for PBUT5. Updated RR, Annex.1.Tabs.D.1; 11/13 Tr. 328:10-331:21. It includes “installing new LED lights, updating GIS data for streetlight assets, and auditing billing records for approximately 500,000 streetlights.” Ex.5.12, p.1; Ex.5.00, p.43. LUMA claims these NFC estimates were “[b]ased on preliminary estimates that 57 poles, 57 poles with TPA, and 2,415 luminaires will be replaced in FY2026, historical rates informed by LUMA subject matter experts and adjusted for the realities of performing work in Puerto Rico were used to arrive at these estimates.” Ex.5.0, p.46. LUMA’s request should be denied.

First, the referenced information is not in the record. Even when directly asked—*twice*—for the basis of its \$40M NFC request, the most LUMA could muster is a vague reference to “historical data.” 11/13 Tr. 335:15-337:5. LUMA chose not to introduce this supposed data and subject it to regulatory scrutiny; without such evidence, LUMA has not met its burden.

Second, these projects qualify for federal funding—they are just currently “deactivated.” 11/13 Tr. 347:1-11. LUMA is actively attempting to *reactivate* federal funding for these projects, which it expects to occur. 11/13 Tr. 348:13-23; Ex.1047, lines 84-88. These projects should be funded federally.

Finally, LUMA provides no evidence of how it plans to execute what it admits is a “dramatic increase in” the “projected number of replacements.” Ex.5.0, p.46.

F. Energy Control Center Construction & Refurbishment (PBUT24)

PBUT24 involves consolidating LUMA’s existing control centers “into one primary and one secondary ‘state-of-the-art’ facility.” Ex.51.00, p.64; *see also* 11/13 Tr. 414:12-415:13.

Under its Optimal and Constrained Budgets, LUMA proposes \$8.9M in federal funding (FY2026), \$33.9M (FY2027), and \$40.1M (FY2028). Updated RR, Annex.1.Tabs.D.1.

Although LUMA argues “benefits [will be] achieved by consolidating” the facilities, which are supposedly included in its operating budget, no such evidence was produced and no specific cost savings were identified. 11/13 Tr. 418:18-21. Neither the proposed scope of work nor related testimony included any quantitative analysis of how LUMA’s consolidation efforts will supposedly produce budget efficiencies. *See id.; Motion Submitting One Amended SOW*, Exhibit 1, NEPR-MI-2021-0002, pp.1-14 (4/16/2024). As discussed *infra* Part III.B, this is consistent with LUMA’s overall failure to demonstrate efficiencies and savings. Accordingly, there is no evidentiary basis to grant this request.

LUMA’s consolidation efforts are also currently unnecessary. As Hurley explained, this project will not resolve any urgent matters, and while such a facility may be considered in the future, money should be spent today “more prudently to improve system reliability and truly benefit the customers in Puerto Rico.” Ex.51, pp.64:11-65:8.

G. Enabling

1. Asset Data Integrity (PBUT27)

In its Optimal Budget, LUMA requests \$5.06M (FY2026) and \$5.25M (FY2027-2028) for PBUT27. Updated RR, Annex.1.Tab.D.1.Optimal. In its Constrained Budget, LUMA requests \$3.4M (FY2026), and \$4.6M (FY2027-2028). Updated RR, Annex.1.Tab.D.1.Constrained.

PBUT27 focuses on reconciling two duplicate systems and remedying past system errors. As Allen explained, LUMA currently uses two separate GIS ecosystems. The first is a “historic legacy-type technology ecosystem” focused on the connectivity model, where LUMA ensures that critical infrastructure assets are appropriately mapped and documented. 11/14 Tr. 246:19-247:14.

The second is a cloud-based platform. LUMA is attempting to “integrate data from the legacy to the new on an ongoing and continual basis.” *Id.* 247:2-11.

LUMA’s justification for PBUT27 is ambiguous. Meléndez acknowledged that the GIS system has “discrepancies that we’re validating.” 11/14 Tr. 249:15-16. But exactly what is being validated remains unclear: Meléndez explained initially that, “[i]n the old system, they’re being validated.” *Id.* 249:18-19. Yet when PREB consultant Cook asked whether “the data integrity program is primarily focused on fixing the data in the legacy system rather than the new system,” Meléndez said the opposite: “[I]t’s making sure that the information in the new system is correct.” *Id.* 250:10-14.

LUMA also failed to quantify why it needs over \$5M/year to ensure its data entry is accurate and correct past errors. Indeed, LUMA personnel testified that LUMA’s data-entry issues are *not* causing operational problems. *Id.* 252:20-253:4. Moreover, LUMA has not quantified any (nonoperational) impacts of these errors. *Id.* 253:22-254:4.

2. Materials Management (PBOP6)

For PBOP6, LUMA requests \$3.2M (FY2026), \$1.5M (FY2027), and \$1.3M (FY2028) in its Optimal Budget, and \$2.3M (FY2026), \$0.8M (FY2027), and \$0.7M (FY2028) in its Constrained. Updated RR, Annex.1.Tabs.D.1. PBOP6 purportedly includes costs related to mobile portal/access to Asset Suite, spill containment, replacement of aged racking and materials handling equipment, and costs for a “barcoding system.” 11/14 Tr. 256:4-14; Ex.15.03, p.1. LUMA did not provide any evidence of the cost breakdown across these areas, its specific efforts, or how the money will assist.

LUMA’s sole justification for this cost was that the mobile portal/access to Asset Suite for warehousing activities is “critical for tracking material for federally funded programs.” Ex.15.03, p.1. However, when asked, Perez clarified the Materials Management program does *not*

specifically impact federally funded projects. 11/14 Tr. 262:7-263:13. She also admitted that not receiving funding for the Materials Management and Asset Suite programs would not jeopardize federal funding. *Id.*

Perez represented that, under the Constrained Budget, NFC funding for PBOP6 had been removed (Ex.15.0, p.34), but the NFC funding actually remains, with nearly \$4M requested in the Constrained Budget over the rate period. Updated RR, Annex.1.Tab.D.1.Constrained. LUMA failed to explain why this “removed” line item was added back, what these costs represent, or why they are now supposedly critical enough to be in the Constrained Budget.

3. Safety and Quality Control Initiatives

LUMA requests funding for various safety and quality control projects. For its Health, Safety and Environmental Quality and Technical Training program, PBHE1, LUMA requests an undefined sum for a program that purportedly trains employees. LUMA Exs.8.02, 835. For PBOP5, Tools Repair & Management, LUMA requests \$7.4M, \$7.8M, and \$8.1M across FY2026-2028 (Optimal). Updated RR, Annex.1.Tab.D.1.Optimal. According to LUMA, this program focuses on tooling plans to address safety needs and implement a better tools-management system. Ex.6.01. Further, LUMA is requesting 15 new hires in the Health, Safety, and Environmental Department for FY2026-2028, as well as 11 positions that allegedly need to be backfilled. Ex.8.0 pp.9-11.

Granata testified that LUMA has experienced a “number of serious accidents,” specifically in the “fundamental utility electrical safety category.” 11/14 Tr. 269:14-23. But LUMA does not quantify the types or number of serious accidents it hopes to avoid, or when and how ratepayer money would prevent such accidents.

Granata later clarified that LUMA’s quality-control budget requests do *not* actually involve new quality-control plans or initiatives, but instead largely seek to further increase LUMA’s hires.

Id. 273:2-9. He explained that these additional specialists are needed “given the immaturity … of LUMA.” *Id.* 273:14-22.²⁰

Granata’s concessions about LUMA’s failures in areas of “basic” electrical safety are concerning, particularly when LUMA has elsewhere lauded its ability to maintain high safety standards. Indeed, later in the hearing, Granata lauded LUMA’s safety efforts. 11/14 Tr. 307:2-308:11. In discussing safety incidents, Granata stated there has been only one electrical contact and one “arc flash.” *Id.* 302:13-15. He further stated, “We have been able to identify the gaps. And those gaps *were not in training and they were not in procedures*,” but were just “drifting away from the core habits.” *Id.* In other words, Granata testified the gaps were not due to training or procedures, yet he is requesting more ratepayer funds for just that.

4. Compliance and Studies (PBUT1)

LUMA requests \$9.6M (FY2026), \$13.5M (FY2027), and \$19.7M (FY2028) in its Optimal Budget for Compliance and Studies; in its Constrained Budget, LUMA requests \$8.4M (FY2026), \$11.7M (FY2027), and \$17.1M (FY2028). Updated RR, Annex.1.Tabs.D.1. PBUT1 is divided into four sections: T&D System studies, Renewable and DER interconnection studies, T&D System Safety studies, and Wildfire Mitigation. Ex.5.02. PBUT1 includes studies for a Formal Transmission Plan that PREB directed LUMA to file by April 2026. 11/14 Tr. 279:1-16.

At the hearing, LUMA could not quantify the studies’ benefits. Meléndez said, “[h]aving more technical data, more studies are going to help us, and having more certainty on these projects is going to help be able to” answer certain questions. *Id.* 29:17-22. He stated, “[a]scertaining

²⁰ Granata’s comments on the “immaturity of LUMA” are concerning. LUMA has been operating the T&D system for 4.5 years, plus a 1-year Front-End Transition Period. *Id.* 312:4-7. In this hearing and elsewhere, LUMA has heralded its experience and expertise. *See e.g.*, *id.* 301:23-302:10. LUMA’s claims that it is “immature” cast doubt on its operational proficiency.

where to put the dollars continues to be part of our day-to-day modeling and studies.” *Id.* 29:23-25. These vague claims do not suffice to demonstrate the prudence and reasonableness of LUMA’s ratepayer-fund request.

Additionally, the studies’ timeline is uncertain, and LUMA does not even have various data yet. *Id.* 181:17-182:22. When asked, Meléndez was unable to state when the dynamic studies would start. *Id.* Eventually, he said LUMA is still waiting on outside information and agreed that LUMA would commence the studies “whenever that date is [when outside information is received] plus one year.” *Id.* 182:24-183:3. Once commenced, the studies would take additional time—more than a year after the data is received. *Id.* 183:5-11. Further time would then be needed to assess the results. As such, any purported benefits of the studies to ratepayers—which LUMA did not even assess—would not arrive for many years, if at all. These funding requests should be denied, other than what is strictly necessary to comply with PREB directives.

5. T&D Fleet (PBOP1)

In its Optimal Budget, LUMA requests \$69.7M (FY2026), \$56.7M (FY2027), and \$55.6M (FY2028) for PBOP1; the Constrained Budget requests \$35.1M (FY2026), \$22.3M (FY2027), and \$21.1M (FY2028). Updated RR, Annex.1.Tabs.D.1. PBOP1 purports to bring the current vehicle and equipment fleet up to industry standards. Ex.6.13. Aside from maintenance and fuel, these costs also include large acquisitions of light-duty and heavy-duty vehicles. *Id.* LUMA provided certain cost details for vehicle acquisition, including the type and number of vehicles and per-unit pricing assumptions. Ex.148.

LUMA did not, however, conduct a cost-benefit analysis to prove the *necessity* of these substantial costs. 12/4 Tr. 242:17-22, 248:11-16. Nor did LUMA quantify the alleged risks of not upgrading the fleet during this rate period. *Id.* 248:13-20. Further, the evidence shows LUMA used the Manufacturer Suggested Retail Price (“MSRP”), which tends to overstate vehicle costs

and does not reflect any volume or other discounts that LUMA would likely obtain. *Id.* 244:14-20, 245:10-246:5. LUMA likewise failed to analyze whether existing vehicles could be repaired/restored instead of replaced (*id.* 248:12-20), and admitted it is managing operations with the current fleet. *Id.* 228:19-25.

Finally, as discussed *infra* Part I.J.3, LUMA is facing significant supply-chain constraints and material shortages, including because of high utility-industry demand. LUMA has not demonstrated how its request for over \$180M in additional utility vehicles and equipment is executable in this context.

H. Support Services

In its Optimal and Constrained Budgets, LUMA [REDACTED] [REDACTED] for the Third-Party Attachment (“TPA”) program, all ratepayer-funded. Exs.2.05, 2.06. It is unclear whether this request remains in the Updated RR. *See* Updated RR, Annex.1.Tabs.D-1; *supra* n.7. This program focuses on studies and non-compliance by third-party attachers. Ex.66.01, p.3; 11/17 Tr. 22:19-23:4.

LUMA is supposed to collect rental fees from telecom companies attaching to PREPA’s poles. *Id.* 39:21-25; 27 L.P.R.A. § 269g. TPA parties are also supposed to pay a one-time application fee. 11/17 Tr. 51:5-12. Indeed, the TPA program should be a net source of *revenue* to PREPA—thereby *reducing* ratepayers’ bills—not a deadweight *loss* to PREPA and ratepayers. *See id.* 52:10-19.

But under LUMA’s proposal, it is the latter. *First*, PREPA (and now LUMA) have failed to collect required payments from attachers. Since LUMA took over the TPA program in 2025, it has collected only 27% of its “known annual rental fees,” “has not received complete payment from all the telecommunication companies,” and “[f]or FY2025, LUMA has only invoiced and collected \$588,329” from CLARO. Ex.681, p.1. Notably, these figures do not capture the fees

LUMA could and should be collecting were it more proactive in assessing distribution poles and identifying unauthorized attachers. *Id.*; 11/17 Tr. 575:8-10.

Second, PREPA (and now LUMA) have failed to oust unauthorized attachers, who are free-riding on the system at the expense of ratepayers. No LUMA witness could identify a single instance where LUMA removed an unauthorized attacher. *Id.* 573:21-574:575:3. In fact, even though LUMA has identified 1,200 unauthorized attachers, it has only “warned” one company and subsequently “demand[ed],” but not actually collected, payment. *Id.* 570:1-213, 573:21-574:575:3. This is partly because LUMA has not even properly assessed the number of distribution poles. *Id.* 575:8-10. When pressed on this issue, LUMA’s witnesses could not quantify the costs associated with this assessment—even though that cost was part of LUMA’s budget request. *Id.* 569:7-17. Further, LUMA admits it has decided *not* to pursue a more-aggressive strategy against unauthorized attachers. *Id.* 596:22-597:3, 599:20-23. LUMA’s answer to its shortcomings, instead, is to shift the costs to ratepayers. *Id.* 57:19-24. That is improper.²¹

Finally, LUMA has failed to negotiate appropriate rates despite effectively holding a monopoly. LUMA inherited several contracts from PREPA that charged varying rates. *Id.* 68:17-25. To remedy the “huge mess” related to the contracts, LUMA now seeks to create a “uniform” contract template. *Id.* 68:25-69:14. LUMA has allegedly been negotiating with attachers for *three years*, without showing it is any closer to a successful resolution. *See id.* 76:13-78:5. Had LUMA timely negotiated a reasonable rate, it would be generating revenue and *saving* ratepayers money through the TPA program, not charging them more. *See* 11/17 Tr. 71:4-10.

²¹ Although LUMA tries to blame PREPA, regardless of how LUMA inherited this program, LUMA has had *4.5 years* to correct course, and ratepayers cannot pay the price of LUMA’s inefficient execution. *See id.* 62:12-63:5 (describing the inherited program as a “huge mess”); *id.* 541:18-542:5 (stating that TPA billing was “new” for LUMA, and that “PREPA had not been doing it regularly either”).

This proposed ratepayer costs should be denied, so that LUMA is forced to properly administer the TPA program.

I. T&D General Operating Costs

LUMA’s Optimal Budget requests \$1.01B (FY2026), \$1.13B (FY2027), and \$1.21B (FY2028), for a total of *over \$3.3B* in operating expenses during the rate period. Updated RR, Annex.1.Tab.C.2.Optimal. In its Constrained Budget, LUMA requests \$809M (FY2026), \$975M (FY2027), and \$1.01B (FY2028), for a total of *over \$2.79B* in operating expenses. Updated RR, Annex.1.Tab.C.2.Constrained. These budgets are neither just nor reasonable because they (1) scale at an unrealistic rate, (2) over-rely on ratepayer funds, and (3) were calculated using an unreliable methodology.

Additionally, LUMA requests an un-executable ramp-up in employees, materials, and supplies, and it seeks to turbocharge its use of seconded employees—increasing costs to ratepayers, raising conflicts of interest, and potentially jeopardizing federal funds.

1. Funding Requests and Methodology

First, both the Optimal and Constrained Budget requests far exceed LUMA’s historical spending. LUMA’s Optimal Budget requests a \$446M increase from FY2025, which is entirely ratepayer-funded. Updated RR, Annex.1.Tab.C.2.Optimal. In the Constrained Budget, the only removed program is Retail Wheeling. *Id.* p.56. LUMA’s justification is the system’s history of underfunding, but as elsewhere, LUMA simply assumes without support that it can successfully achieve an unprecedented ramp-up in spending.

Second, LUMA requests ratepayer funding for activities at least partly covered by outside funding. Burgemeister testified that LUMA views federal funding as “a way for us to get there quicker” with respect to maintenance costs, but “NFC is really what needs to be there forever.”

11/17 Tr. 108:16-24. That is wrong, and telling. Billions in outside funding is what allows the utility to rehabilitate the system *without* unduly burdening ratepayers. *See infra* Part XIII.A.

Third, LUMA’s “bottom-up” budget methodology is unreliable. Burgemeister describes it only in generalities: “defining total system needs, then adjust[ing] to reflect work required to achieve system stability, and finally, executability.” Ex.6, p.20. LUMA purportedly “applie[s] a historical perspective regarding the realities that have characterized efforts since commencement.” *Id.* Such generalities cannot carry LUMA’s burden. *See supra* Legal Standard. Further, LUMA states that the scope of the corrective maintenance budget “cannot be fully known during the budgeting phase”—a lack of support compounded by LUMA’s use of a so-called Puerto Rico factor (11/17 Tr. 91-93, 104-108), which predicts high levels of system degradation. Ex.6, pp.20-21; 11/17 Tr. 105:23-106:21. This unsound methodology leads to obvious inconsistencies, including LUMA seeking a large maintenance budget based on current levels of system degradation, but then requesting a higher budget for *preventative* maintenance than for corrective maintenance of degraded components. 11/17 Tr. 116-17. Such a large budget request should not be founded on unsupported and inconsistent generalities.

2. Seconded Employees

LUMA anticipates a massive increase in seconded employees, who it hires from its parent companies, Quanta and Atco, and pays to live in Puerto Rico, instead of using local employees. As of November 17th, LUMA had approximately 325 seconded employees, the vast majority in the Capital Programs department. 11/17 Tr. 150:3-151:8. By year-end, LUMA seeks to “ramp up” this number to 600. *Id.* 160:13-16. LUMA then plans to increase this number to nearly a *thousand*: 800 by FY2026; 920 by FY2027; and 975 by FY2028. Ex.5, pp.37-38. Most of these seconded employees would join the Capital Programs department. As of November 17th, Capital Programs had under 1,000 employees, at least a third of whom were seconded. 11/17 Tr. 161:3-

163:4. Thus, the number of seconded employees LUMA plans to add by FY2028 is roughly equal to the *current size* of the entire department.

Incredibly, LUMA claims this use of seconded employees is “targeted and select,” and it has repeatedly said it intends to reduce reliance on seconded employees. *Id.* 164:20-24; Ex.6.0, pp.37, 52-53, 55, 68; Ex.388, p.2. The evidence says otherwise.

LUMA has offered various rationales for this discrepancy, but none holds water. LUMA stated, for instance, that fieldworker seconded employees are necessary only until certain contracts can be awarded. 11/17 Tr. 210:20-211:16. However, when asked what these contracts are and when they will be awarded, LUMA could not give a clear answer, stating only, “they are supposed to be awarded by the summer.” 11/17 Tr. 212:5-23. LUMA did not produce any plan or cost-reduction mechanism to account for any supposed decrease in seconded-employee costs associated with these unidentified contract awards.

The record shows that costs associated with seconded employees are higher than for local employees.²² As Gomez admitted, salaries for seconded employees can be higher than for local employees, due to higher salaries in the mainland U.S., and the benefits received by seconded employees are also more expensive. 11/17 Tr. 199:14-22; 200:15-201:21. Seconded employees also burden ratepayers with substantial indirect costs not applicable to local employees, including for hotel rooms, rental vehicles, and meals. Ex.5.0, p.36, 40; 11/17 Tr. 192:1-193:17, 194:5-25. What’s more, seconded employees are associated with increased utilities and rents. 11/17 Tr. 196:7-17; Ex.5.0, p.41; Ex.2.0, p.77; Ex.6, p.34. In the Capital Programs department, LUMA

²² The exact cost associated with LUMA’s projected use of seconded employees during the rate period is unknown. The Hearing Examiner directed LUMA to provide the total annual cost to ratepayers associated with LUMA’s projected use of seconded employees during the rate period (11/17 Tr. 184:10-187:5), but it does not appear to have done so.

projects such expenses to increase about *six times*: from \$1.3M in FY2025 to approximately \$7.3M in FY2026. Ex.5.0, p.41; 11/17 Tr. 195:23-196:11. In LUMA’s Optimal Budget, seconded-employee utility and rent costs alone total \$22M. 11/17 Tr. 197:1-198:11.

While some costs for seconded employees might be paid by federal funds, ratepayers would shoulder the rest. Further, misusing federal funds impacts ratepayers: LUMA has repeatedly claimed—though Bondholders disagree—that the utility’s 10-year spending needs exceed currently available federal funds. Either way, spending federal dollars on more-expensive seconded employees reduces LUMA’s ability to direct those dollars toward more critical endeavors. 11/17 Tr. 197:24-198:11.

Indeed, FEMA has disputed LUMA’s use of seconded employees for federally-funded projects, meaning that LUMA’s increasing use of secondees may jeopardize federal-funds access. FEMA found that LUMA’s secondment agreement creates a potential for organizational conflicts of interest and allows private entities to secure funds without competition. 11/17 Tr. 206:19-25 *see also id.* 168:9-12. FEMA indicated it would not consider future non-compliant projects using seconded employees. *Id.* 206:19-25. The P3 Authority (“P3A”) has also opposed LUMA’s use of seconded employees. *Id.* 209:18-210:4. While LUMA has appealed FEMA’s determinations, that appeal remains pending, and the prudent course in the face of such warnings is to decrease, not *increase*, the number of seconded employees. *Id.* 210:5-14.

This is especially true given that LUMA’s parent companies benefit, at the expense of ratepayers, from LUMA’s use of seconded employees. When seconded employees go from Quanta or Atco to LUMA, LUMA assumes their salaries and benefits, relieving Quanta and Atco of those costs. This allows the parent companies to avoid terminating employees when their services are not needed: They can simply send employees to LUMA, shift costs for the

secondment period to Puerto Rican ratepayers, and then get the employees back later if they choose. *Id.* 178:13-184:4. That optionality is a valuable benefit for the parent companies at the expense of ratepayers.

Seconded employees may also provide LUMA's parent companies with an unfair bidding advantage by facilitating the exchange of talent and knowledge between LUMA and its parent companies—which compete for T&D projects in Puerto Rico. As explained by LUMA witnesses, seconded employees include people in key leadership positions, as well as employees with “specialized knowledge of operations budget, finances, processes and standards.” Ex.2.0, p.77. While at LUMA, seconded employees are treated like regular LUMA employees and may have access to confidential information. Though seconded employees sign NDAs (12/8 Tr. 239:11-25), there is always a risk of employees breaching their NDA, as LUMA's CEO Saca acknowledged. *Id.* 218:6-11.²³ In any case, hundreds of Quanta and Atco employees are sent to LUMA, where they are exposed to LUMA's decisionmaking processes, and are in constant contact with LUMA personnel—before returning to Quanta and Atco with the inside knowledge, skills, and relationships they gained. *Id.* 216:1-218:16. This affords a significant advantage when bidding on projects in Puerto Rico.

PREB should direct LUMA to wind down, not ramp-up, its use of seconded employees, which is inconsistent with providing service at the lowest reasonable cost.

²³ There are no provisions in LUMA's conflicts policy specifically prohibiting seconded employees from sharing information with affiliates. *See* Ex.1078.

3. Other Operating Costs

LUMA’s Operations Budget consists of staffing, materials and supplies, transportation, per diem and mileage, Technical and Professional Outsourced Services (“TPOS”), and miscellaneous expenses. Updated RR, Annex.1.Tabs.C.2.

LUMA’s materials/supplies request of \$47.5M in FY2026, which increases year-over-year, is inconsistent with labor and supply-chain realities. Updated RR, Annex.1.Tab.C.2.Optimal. **First**, LUMA’s supply-chain problems make obtaining materials much more difficult, with delays of *years* for certain equipment. 11/17 Tr. 278-284; Ex.5, p.21 (Meléndez: “Last June, the National Infrastructure Advisory reported, ‘an electric utility … may have to wait 2 to 4 years for it to be delivered’”). Thus, it is unlikely LUMA can utilize its large materials/supplies budget. *See* Ex.50, pp.28-29.

Second, LUMA justifies a year-over-year increase in its materials/supplies budget by assuming its workforce will increase over that period (thus allowing it to use such materials/supplies), but LUMA has repeatedly recognized the enormous labor procurement and retention issues it faces. *See, e.g.*, Ex.5, p.21 (Meléndez testifying, “LUMA has struggled to find qualified individuals to do critical work on the T&D System”); Ex.75 (Shearman noting it can take years to find qualified workers). Just between July and November 2025, LUMA lost *over 450* employees—a significant share of its total workforce. Ex.588.1; *see also* Ex.874 (noting layoff of 168 LUMA positions, including 29 within T&D Operations). An increase in materials/supplies funding against this backdrop is unreasonable.

Similarly, LUMA’s transportation, mileage, and per diem category requests \$30.6M, also increasing year-over-year. Updated RR, Annex.1.Tab.C.2.Optimal. Again, this is premised on assuming “fully annualized [] staffing levels and additions throughout the two years” (Ex.6, p.32),

which is unlikely for the aforementioned reasons (and is largely attributable to seconded employees).

LUMA also requests \$273M for TPOS, including certain IT and legal services, VM contracts totaling \$125M, specialty contracts totaling \$69.4M, and ancillary contracts totaling \$9.6M. Updated RR, Annex.1.Tab.C.2.Optimal. LUMA failed to articulate how such services are not otherwise duplicated by individual departments' support-services budgets, and why they could not be done in-house for a lower ratepayer cost. Ex.6, p.32.

For these reasons, the proposed increases in T&D Operating Costs should be denied.

J. Executability

LUMA's proposed budget creates significant executability issues. This raises a fundamental problem: PREB must determine whether the proposed expenses reflect "efficient, prudent, and sound operational and administrative practices" to provide "reliable electric service at the lowest reasonable cost." *Completeness Determination*, p.2 (08/19/2025). If LUMA obtains approval of expenditures it cannot timely execute, then it will over-collect from ratepayers. Over-collection is not efficient, prudent, or consistent with providing service at the lowest reasonable cost. Ratepayers' money is prudently spent only if ratepayers receive a commensurate benefit, and requiring payment now for projects that cannot be executed during the rate period would needlessly burden customers without *any* improvement in service. Ex.50, p.11.

Attempting to ad hoc substitute some alternative project is no answer to the executability problem. First, whatever executability issue prevents completion of the original project(s)—say labor shortages—may well hinder the alternative project(s). Second, even assuming that were not the case, the alternative project is an alternative for a reason: The original project was higher-priority and/or more beneficial. Thus, substitution would not offer ratepayers the same benefit. Third, there would likely be a material delay in pivoting to an alternative project, during which

time ratepayers' money would have been collected needlessly. Finally, in the unlikely scenario that LUMA or Genera found itself with excess capacity to execute projects, they could request a budget increase, emergency rate increase, regular rate increase, or utilize other funding (such as a reserve).

Indeed, LUMA acknowledged the importance of having an executable budget. Ex.1.0, p.44; 11/17 Tr. 408:8-409:19 (Shearman identifying challenges for utilities during aggressive ramp-ups). Shearman agreed it is not best practice—and unfair to ratepayers—to seek funding for projects the utility does not expect to complete within a budget period. 11/17 Tr. 438:25-439:10. Yet LUMA proposes an unprecedeted ramp-up here. And although Figueroa claimed LUMA assessed whether the Optimal Budget “can realistically be carried out” (Ex.1.0, p.41), neither he nor anyone else substantiated this alleged assessment, its methodology, or even its detailed findings.

Instead, LUMA retained an outside consultant, Shearman, to attempt to backfill on executability—and he failed. Shearman conceded that he did *no* analysis of project executability. 11/17 Tr. 440:6-13. And Shearman was forced to acknowledge that his calculations of ramp rates were based on incorrectly sourced numbers, which were significantly lower than LUMA’s correct numbers. *Id.*, 370:13-25, 372:25-373:13. As Shearman admitted, if he had used the correct numbers in his calculations, “the increase would have been about 50% more on top of the numbers I have.” *Id.* 373:15-374:6.

Shearman also confessed to selectively excluding data for comparators that would have caused their numbers to be lower than LUMA’s proposed ramp rate—in other words, Shearman admitted to *cherry-picking* data to skew growth rates higher than LUMA’s proposal (making it look more reasonable than it is). *See id.* 387:15-388:24 (admitting he excluded distribution data

for certain utilities in his first comparison chart, and did so specifically because if he had included this data, “the ramp up factor would not have met his threshold” for including in the chart); *see also id.* 394:3-14 (admitting he “analyzed every company in the industry” but included only “those that exceeded the growth rates that LUMA was projecting or proposing”). If this were a federal proceeding, these admissions would be grounds for exclusion under *Daubert*.

1. LUMA’s Proposed Ramp-Up Is Not Executable

LUMA’s proposed NFC budgets represent an unprecedented increase from historical budgets—which LUMA has struggled to utilize. This alone demonstrates executability problems. LUMA requests nearly \$400M for FY2026 in its Constrained Budget (and over \$600M in its Optimal Budget), more than triple its FY2025 NFC level. Ex.50, p.3; Updated RR, Annex.1.Tabs.D.1. The NFC budgets continue to grow year-over-year, and by FY2028, LUMA’s request reaches over \$600M in its Constrained Budget and over \$900M in its Optimal Budget—nearly 5x and 7x LUMA’s FY2025 NFC budget, respectively. This increase is particularly stark in LUMA’s Capital Programs department, which had a 2025 budget of \$83.3M: By FY2028, that figure reaches a staggering \$790.7M, a nearly *ten times* increase. 11/17 Tr. 329:4-331:5.

But it gets worse. Given that the final order will not issue until just two months before the end of FY2026, LUMA would effectively have only *two years* to execute this immense proposed ramp-up, despite collecting from ratepayers an amount calibrated to a three-year period. *Id.* 331:25-332:3. That is plainly not feasible, and LUMA could not identify any applicable precedent for such a dramatic ramp-up—because Shearman’s analysis was flawed, as discussed above, and Meléndez’s comparisons to utilities he worked at were inapt. *Id.* 341:25-342:10 (agreeing that LUMA’s proposed ramp-up is four times more aggressive than JEA’s); 346:4-348:7 (admitting he did not know the time period for ITC’s supposed “10x ramp-up”).

Meléndez also acknowledged that it can be difficult for utilities to increase their T&D capital investment even by 3-4x in a short period, and that instances of dramatic increases in capital spending (like LUMA proposes) are unusual. *Id.* 332:5-25. Shearman agreed. *Id.* 407:25-408:6. Shearman also agreed that when a facility has not expended substantial resources on capital projects for an extended time, a substantial ramp-up is more difficult—which he conceded was the case for LUMA until recently. *Id.* 409:21-411:15, 412:1-8.

LUMA also has a significant backlog of unstarted and unfinished projects. As of July 2025, LUMA had 314 pending capex projects awaiting federal-funding obligations, and 188 ongoing federally-funded and NFC capex projects, totaling approximately \$2.7B. Ex.50, p.18. Of these, 95 were past their expected completion date by an average of 114 days. *Id.* For instance, although the Tranche 1 renewable interconnection projects began in February 2021,²⁴ they have not been completed, with only a small subset even having *estimated timelines* now—5 years later. Ex.1085. For that subset, the commercial operation dates range from over 5 years to nearly 6.5 years after project inception. *Id.* These past, present, and future executability problems demonstrate the fantasy of LUMA’s proposed budgets.

2. LUMA Has Acknowledged It Cannot Execute

Pressed at the hearing, LUMA was forced to acknowledge its inability to execute its proposed budget. Aside from the admissions by Shearman and Meléndez, LUMA’s last-minute reductions to major ratepayer-funded costs for IT-related TPOS contracts exemplify that it has bitten off more than it can chew. In a surprise exhibit filed the night before follow-up cross on the last day of the hearing, LUMA suddenly made a *70% reduction* (\$30M) to these ratepayer-funded amounts. *See infra* Part V.F.1.

²⁴ *Resolution and Order*, NEPR-IN-2023-0002 (4/26/2023).

Why? When crossed about this dramatic reduction, Allen was clear: Tens of millions were removed “*because of [LUMA’s] inability to execute.*” 12/19 Tr. 19:17-21; *see also id.* 20:3-15 (agreeing that “because LUMA could not execute on these initiatives within the rate period that we are considering here, [it] reduced the funding request by approximately 70% and pushed those initiatives into out years”); *id.* (“because of our cash constraints *and our inability to execute*”).²⁵ That is exactly what Bondholders have contended, and what LUMA finally admitted under scrutiny.²⁶

This eleventh-hour admission of LUMA’s inability to execute on tens of millions in projects—not to mention the irregular circumstances surrounding this revelation (*see infra* Part V.F.1)—guts LUMA’s assurances of executability. As Allen admitted, LUMA was “hoping to be able to execute” and therefore included a large ratepayer-fund request, but when scrutinized, the request crumbled. This begs the question: How many more unrealistic expenses are buried in LUMA’s rate petition, hidden behind a façade of confidence?

3. *Logistical, Material, and Labor Issues Prevent Executability*

a. *Logistical challenges.*

Hogan testified that in his decades of utility experience, utilities that attempt to significantly ramp-up capital spend often face execution challenges, driven by factors such as lack of institutional expertise in project delivery, permitting delays, and shifting public sentiment. Ex.50, pp.25-26. LUMA faces all these problems.

²⁵ Allen also made clear that the 70% reduction due to un-executability was not merely a personal or departmental error, but rather a decision made by “director level leadership, finance leadership, and humans all across this organization.” *Id.* 20:20-21:5. LUMA provided no justification for this course of events, and Allen admitted that “time management certainly could have been better” in LUMA’s realization of un-executability. *Id.* 36:20-37:4.

²⁶ The executability of the remaining items in Ex.1066 is also far from certain. *See id.* 60:14-61:7.

As LUMA acknowledged, it has faced logistical challenges and similar external and internal constraints that prevented it from fully executing its budgets. For instance, in discussing why it spent only \$43M of \$115M budgeted for the Distribution Line Rebuild program, LUMA attributed its underspending to “delays in starting engineering work for new feeder groups,” “optimizing the scope of existing in-flight projects,” and “delays in FEMA project review.” Ex.53.05, p.26; Ex.50, p.19. Despite these difficulties, LUMA now proposes an even higher NFC budget for this item. Updated RR, Annex.1.Tabs.D.1 (\$42.1M (FY2026), \$62M (FY2027), \$77.1M (FY2028)); Ex.50, p.20.

Similarly, for its Transmission Line Rebuild program, LUMA budgeted \$68M in FY2025, of which it spent only \$47M (31% underspend). LUMA attributed the underspending to “delays in engineering related to the scope of optimization for existing in-flight projects” and “prioritizing resources to work on System Stabilization Plan projects.” Ex.53.05, p.27. Of note, LUMA budgeted only \$0.9M in FY2025 for the NFC portion of this item, yet spent a still-more-paltry \$0.2M (78% underspend). LUMA now proposes an average of \$43.2M/year for this item—an amount 216 times higher than LUMA’s real spend. Ex.50, p.20; Updated RR, Annex.1.Tab.D.1.Optimal. LUMA offered similar reasons for its shortfalls in federal-funding expenditures in FY2024, including “unforeseen complexities experienced in the procurement process” and “delays in the design phases.” Ex.727.1, p.5.

b. Material, equipment, and supply-chain constraints.

LUMA has acknowledged significant procurement challenges that undercut its request to increase its materials and equipment spend. Meléndez highlighted the escalating supply-chain issues LUMA faces, including material shortages, supply-chain disruptions, procurement-process challenges, material-availability issues, and long delivery times. 11/17 Tr. 382:17-23, 288:9-289:14; Ex.5.0, pp.8, 24. Certain pieces of equipment, such as large power transformers, take up

to *four years* to receive, meaning if ordered now (or even a year ago), such equipment could not be installed during the rate period. 11/17 Tr. 283:25-284:16, 287:17-288:2. These acute supply-chain constraints imply a “scale of work envisioned … far beyond existing capabilities to execute.” Ex.5.0, p.24; *see also* Ex.50, pp.28-29 (citing public research highlighting LUMA’s supply-chain problems).

c. Labor constraints.

LUMA is proposing vast increases in personnel, including adding approximately 1,672 FTEs²⁷ to Meléndez’s department alone over the rate period (doubling that department). 11/17 Tr. 237:11-240:7. Yet Meléndez testified that LUMA is facing a limited supply of trained workers and is struggling to find qualified individuals. Ex.5.0, p.24; 11/17 Tr. 268:19-269:2, 271:8-11, 273:12-19. Others at LUMA echoed these concerns. *See, e.g.*, Ex.1.0 (Figueroa) p.68; 12/3 Tr. 527:18-24(Figueroa); 11/17 Tr. 118:18-24 (Burgemeister). This dearth of talent will likely persist. *Id.* 271:13-272:22. LUMA’s use of seconded employees underscores this issue: LUMA’s position is that seconded employees are needed precisely because of the skill and capacity gaps in the labor supply. 11/17 Tr. 274:4-275:2.

These issues are exacerbated by the time to train specialized employees. For instance, LUMA testified it takes ~3.5 years to qualify a journeyman line worker. 11/17 Tr. 275:4-25. Training specialized employees is an issue across departments: In the Regulatory department, for instance, Figueroa stated that the 33 proposed new hires would not cause *any* near-term reduction in the cost of outside services—because of the time needed for training. Ex.1.0, pp.67-68; *see also* 12/3 Tr. 490:18-492:8; 12/2 Tr. 242:24-244:14 [REDACTED]
[REDACTED]

²⁷ 1,172 FTEs, plus backfilling ~500 departed employees.

12/4 Tr. 187:4-188:25 (Smith agreeing that despite stated goal of moving from “external consultants to internal assistants” from 2027 onward, the Finance department is still requesting increased TPOS costs across the rate period).

Worse yet, these proposed headcount increases are coming when LUMA is experiencing major employee *departures*. From July to November 2025, there were approximately 500 departures (-30%) from Meléndez’s department, including engineers, linemen, administrative staff, and “people doing real work that aren’t there anymore.” 11/17 Tr. 240:4-7, 246:9-23. This compounds the un-executability of LUMA’s budget: First, if LUMA hopes to reach the same level of employees contemplated in July, it would now have to hire hundreds *more*, on top of the hundreds already proposed. Meléndez also agreed that having a staff of professionals with technical mastery is one of the reasons he believes LUMA can execute. *Id.* 244:17-22. Having five hundred *fewer* experienced staff necessarily reduces executability; as Meléndez agreed, LUMA has “a bigger lift now compared to[] what [it] had when [he] wrote the testimony.” *Id.* 245:22-246:5.

How LUMA hopes to deal with these departures is unclear: LUMA has stated it is *not* planning to reduce its proposed labor budget to reflect the reality of 500 fewer employees, despite acknowledging the resulting lower costs. *Id.* 265:12-17, 266:25-267:8; *see also* Ex.50, pp.28-29.

4. *An Un-Executable Budget without a Reconciliation Mechanism Creates Perverse Incentives*

Without a reconciliation mechanism to refund excess moneys to customers, utilities that over-collect have an overabundance of funds they cannot use on the approved projects. Ex.50, p.11. LUMA does *not* intend to refund over-collected amounts to ratepayers (*see supra* Part I.A.2.b), allowing it to use ratepayer funds on lower-priority or even unnecessary projects—

or to waste ratepayer funds (due to the time value of money) by doing nothing with them for a time. *See* Ex.50, p.15.

K. Retail Wheeling

LUMA requests \$34M in ratepayer funding in its Optimal Budget for this program. Updated RR, Annex.1.Tab.D.1.Optimal; 11/25 Tr. 117:9-23. While this is a PREB-mandated program, LUMA has not demonstrated a plan for execution. LUMA spent only \$300,000 on wheeling in FY2025 before pausing work, and it now proposes to spend over *50 times* as much in both FY2027 and FY2028—yet it has not even begun design work. Ex.6.0, p.36; 11/25 Tr. 117:18-118:7; *see also id.* 118:8-129:7 (discussing the program’s initial setup); *id.* 208:19-209:15 (Burgemeister admitting it “would not be achievable to spend that much” regarding FY2026 Retail Wheeling budget). And although LUMA vaguely said it plans to obtain these funds from “the industrial and the large commercial customers” (*id.* 145:17-152:10), LUMA again provided no record evidence.

Given that LUMA has not shown a feasible path to execute this program, LUMA’s funding request should be reduced to a level closer to actual spending.

II. Generation

A. Hydroelectric Projects

PREPA proposes almost *\$1.3B* in federal funding in the rate period “for the rehabilitation of high hazard dams and to improve and correct damages to water irrigation channels used for agriculture and water supply for human consumption.” Ex.84.1, p.3. Moreover, PREPA seeks \$3.66B for hydroelectric projects overall and admits this estimate may represent only 50% of the required total, indicating a potential cost of up to *\$7.3B*, which PREPA says it will seek to federally fund. Ex.1067. Federal funding is not an unlimited resource, and once used for unnecessary or less-beneficial projects, it cannot be deployed on more-beneficial projects. *See supra* Part I.C.2.

That is certainly the case here, where the hydroelectric units comprise a minuscule portion of the generation fleet yet a massive portion of total federal funding—much of which PREPA seeks to spend on hydro assets that *cannot even generate electricity*. 11/20 Tr. 225:12-19, 226:20-24, 146:15-20, 149:11-13. PREPA’s proposal to fund these costly hydro projects, which are predominately geared toward water reservoirs and agriculture rather than electricity, should be denied for several reasons.

First, as Eng. Gonzalez noted, hydroelectric power was not included in the PSP, and LUMA did not determine that hydroelectric hazard-mitigation projects were needed. Ex.51, p.66; Ex.64, p.15.

Second, these projects mostly are not for electricity generation. *See, e.g.*, 11/20 Tr. 139:4-7 (\$50M-\$70M for “hydroelectric supply systems or hydroelectric components”), 139:17-24 (~\$300M for dredging programs—not just at facilities that will generate electricity—to “expand the amount of water available”), 140:14-22 (\$700M for “dam rehabilitation”); Ex.1091 (\$4.2M for reservoir projects); Ex.1102, p.2 (admitting that a substantial portion of new proposed hydro employees are not related to electricity generation). As the Hearing Examiner noted, *less than half* of the proposed \$1.3B would go toward projects “benefitting electric customers,” with only about \$430M “related indirectly or directly to generation projects or generation.” 11/20 Tr. 225:12-19, 226:20-24, 146:15-20, 149:11-13. Indeed, only about \$100M of the \$1.3B—a meager 7%—would go directly toward hydroelectric generation. *Id.* 225:12-19. Sullivan conceded PREPA did not conduct any cost-benefit analysis of “whether the public would be better served … by using that money towards generation in lieu of … water supply.” *Id.* 158:7-12. Nor could PREPA quantify proposed irrigation costs. Ex.1097.

Third, the federal funding proposed is grossly disproportionate to the projects' electrical system impact. Puerto Rico's small hydroelectric fleet has "a nameplate capacity of approximately 100MW," representing only ~1.5% of total generation capacity. Ex.51, p.66. And because most hydroelectric units are old and either nonoperational or unreliable, their effective capacity is still more limited. *Id.* pp.66-67. Indeed, even if all PREPA's costly hydro projects were approved, they would not add more than 30MW in generation. 11/20 Tr. 227:22-23. Combined with what's currently produced by hydroelectric facilities, that would represent "less than 1%" of total capacity. *Id.* 228:12-20. Moreover, PREPA admitted that hydroelectric generation "does not have a fixed capacity that can be consistently relied upon across all periods" (Ex.1102, p.2), and that other than 4 facilities, "[t]he remaining infrastructure is not directly associated with electric service." Ex.1092, p.2 (also admitting that 35% of reservoirs "do not support electric generation activities" and none of the remainder are being "utilized exclusively for electric power generation"). \$1.3B is a staggering sum to pay for just 30MW of additional generation.

As Hurley opined, this is not a prudent use of federal funds. Ex.51, p.67. Eng. Gonzalez agreed. Ex.64, pp.13-14, Figures 3-4. The proposed expenses should be rejected, in favor of better uses of this huge amount of federal funding. Ex.64, p.15 (Gonzalez).²⁸

There are also serious flaws with the prices PREPA charges Commonwealth entities for water—entities that, unlike PREPA, are not in bankruptcy. During cross, PREPA was unaware whether it was charging other Commonwealth entities market rates for water. 12/18 Tr. 39:2-8. Among other out-of-market terms, the 2023 PREPA-PRASA contract contains no inflation adjuster (*id.* 39:22-40:2), and caps what PRASA must pay. *Id.* 40:4-9. Tellingly, the rates PREPA

²⁸ While Sullivan speculated that FEMA or HUD might rescind certain funding if reallocated to different projects, he admittedly never studied or quantified this supposed risk. 11/20 Tr. 237:17-240:23.

charges private entities are *2.5x higher* than what it charges PRASA, and Osorio did not know why, or how, the agreement was reached (and no ratepayer representatives were involved). *Id.* 39:15-20, 41:7-13. Nor could he answer whether PRASA “[wa]s paying zero for the fix[ed] cost associated with the service” of PREPA providing water. *Id.* 44:12-18. PREB should investigate these uncompetitive pricing practices to maximize revenue for PREPA, minimize ratepayer costs, and prevent unjust subsidization of solvent government entities like PRASA.²⁹

B. Projects Potentially Eligible for Outside Funding

PREB should reduce Genera’s ratepayer request where projects may be eligible for outside funding. Hurley identified over \$117M in proposed ratepayer spending in Genera’s then-operative Constrained Budget for reallocation to the Federal Funding category. Ex.51.03b (Appendix C); *id.* p.75.³⁰ He also identified \$150.8M from Genera’s prior Optimal Budget that should either “be paid for by external funds” or were unnecessary, including \$120M of projects to reallocate to federal funding. *Id.* Additionally, he identified other projects warranting further evaluation for outside funding. Exs.51.03a, b; Ex.51, pp.73:7-75:4.

Hurley’s conclusions were later confirmed by Genera’s “Hopefulness Ranking” document—produced at the Hearing Examiner’s request—in which Genera eventually admitted the likelihood of federal funding for many of its proposed ratepayer-funded projects. Ex.910.³¹ Genera identified approximately \$17.5M of requested projects as having a *high likelihood* of

²⁹ PREPA further admitted that 3 of 20 reservoirs are “exclusively for purposes of supplying water to PRASA, irrigation, and flood control” and another seven “currently provide services solely to PRASA, irrigation, and other industrial uses.” Ex.1092, pp.1-2. Ratepayers should not fund these expenses.

³⁰ These projects appeared in lines 211, 61, 229, 32, 234, 177, 90, 178, 230, 227, 228, 231, 232, 226 and 116 of Tab D-2-Constrained of Genera’s prior proposal.

³¹ See *infra* Part XIII.A.2 for an explanation of Genera’s rankings.

federal funding and admitted it had no basis to believe any would not receive federal funding. 12/18 Tr. 122:3-10, 124:4-13, 125:3-14, 126:5-12. Genera nonetheless continues to seek ratepayer funding for several of these projects, including: (a) \$1.8M for Aguirre “Anticorrosion Coating, Structure Repair and Structural Repairs of Heat Recovery Systems,” (b) \$1.8M for Aguirre “Critical motor Acquisition for Induced, Forced & Gas Recirculation Fans (Ex.910, row 158), and (c) \$1.1M for Costa Sur Boiler Water Wall Panel. Updated RR, Annex.3.Tab.Projects, lines 193, 180, 29.³² In one example, Item 202 in the Hopefulness Ranking (Hot Section Inspection U1B), Genera seeks \$5.1M in ratepayer funds in the Optimal budget for FY2028. Updated RR, Annex.3.Tab.Projects, line 206. Even though Genera ranked that project “3”—meaning a high likelihood of receiving federal funding—Genera seeks approval to charge ratepayers *two years before the project start*, even though that would allow time to secure high-likelihood federal funding. *See, e.g.*, 12/18 Tr. 126:12-127:9 (explaining this dynamic with another project, given the incorrect sorting in Genera’s document), 138:2-13. It is neither reasonable nor prudent to seek ratepayer funding for projects that can be externally funded.

Genera further admitted that even if federal funding were not obtained, there would still be multiple funding options, including seeking an emergency rate increase, tapping the Generation Maintenance Reserve (“GMR”) or Genera Reserve Account (12/18 Tr. 143:9-144:9, 146:15-19), or potentially accessing the \$750M State Revolving Fund (Ex.1033; 12/19 Tr. 253-55). *See infra* Part XIII.

Finally, Genera failed to establish the need for ratepayer funding for its proposed projects even where there is purportedly no outside funding. Genera called the project list a “very, very long list,” and admitted that federal policies regarding funding were “pretty, pretty large,” and

³² Genera ultimately removed some other such projects after being challenged during the hearing.

Genera “still needed to gather more information … [on] the details of the projects that we don’t have right here.” 12/18 Tr. 17:17-18:4. Indeed, one Genera witness claimed it was “going to be impossible” to answer detailed questions about the projects. *Id.* The list even included nonsensical costs for materials that had been “already purchased.” 12/18 Tr. 12:14-14:2.³³ This showing is insufficient to carry Genera’s burden. *See supra* Legal Standard.

C. *LTSAs*

The record shows that the costs of the following LTSAs are speculative, lack supporting evidence, and/or are otherwise unnecessary. They should therefore be rejected.

For instance, Genera seeks \$3.1M (FY2027) and \$4.7M (FY2028) in ratepayer funding for an LTSA related to the Tesla Utility Solar Battery Project—a \$767M federally-funded project. Updated RR, Annex.3.Tab.Projects, line 234; Ex.24, p.23:11-12.³⁴ This cost would purportedly cover a contract with the manufacturer to maintain the batteries. 11/18 Tr.332:19-24. However, these batteries are *not* in commercial operation, there is no accurate implementation timeline due to ongoing delivery delays, and no system studies have been conducted for this project. *See* Ex.24 22:23-26:6; 11/18 Tr. 335:14-336:7, 336:13-367:2. Indeed, the only evidence of this LTSA is a draft contract dated [REDACTED]. Ex.918. [REDACTED]

³³ Genera’s representatives testified that if federal funds were ultimately received for any projects on the Hopefulness Ranking, it would advise PREB and seek to reimburse ratepayers. 11/20 Tr. 428:1-13. Indeed, the Hearing Examiner noted that such procedure should apply overall to LUMA, Genera, and PREPA, and that if federal funds are received, PREB should be notified “right away” so that PREB could “work statutorily to get that money[s] back.” *Id.* 428:15-24. PREB should hold Genera to that commitment and “so order” such practice with respect to LUMA, PREPA, and Genera.

³⁴ [REDACTED] (12/12 Tr. 181:4-183:6; *see also* 11/18 Tr. 343:7-21 [REDACTED], Genera was forced to remove the request from its Updated RR.

[REDACTED] . *Id.*; 12/12 Tr. 185:11-186:20. [REDACTED]

[REDACTED] 12/12 Tr. 193:3-194:24, 195:1-5, 196:8-197:18, 201:9-17, 202:5-206:7. [REDACTED]

[REDACTED] *Id.* 177:6-10, 179:3-8. [REDACTED]

[REDACTED] *Id.* 180:6-11. The proposed costs associated with the Tesla LTSA are far too speculative to charge to ratepayers.

The draft Siemens LTSA for new Peakers faces similar issues. *Id.* 241:25-242:10; Ex.909. Genera seeks \$4.3M (FY2027) and \$9.7M (FY2028) in ratepayer funds for this LTSA. Updated RR, Annex 3.Tab.Projects, line 235. [REDACTED]

[REDACTED] (12/12 Tr. 261:11-15), [REDACTED]

[REDACTED] *Id.* 278:2-9. [REDACTED]

[REDACTED] (*id.* 261:17-22), [REDACTED]

[REDACTED] (*id.* 250:14-252:4, 253:19-254:6, 258:5-23), [REDACTED]

[REDACTED] (*id.*), [REDACTED]

[REDACTED] (*id.* 266:2-9, 273:1-6), [REDACTED]

[REDACTED] *Id.* 278:2-11. This [REDACTED]

[REDACTED] one-sided LTSA should not be funded by ratepayers.

The proposed LTSA with GE— [REDACTED]

[REDACTED]—suffers similar deficiencies. Ex.908; 12/12 Tr. 281:5-282:1, 282:2-284:2.

[REDACTED]

[REDACTED] Ex.908;

12/12 Tr. 333:5-334:2, 334:11-335:17. [REDACTED]

[REDACTED] 12/12 Tr. 287:24-288:5. [REDACTED]

Id. 284:7-285:24. [REDACTED]

[REDACTED] (*id.* 322:21-323:3;

Ex.908, p.2), [REDACTED]

[REDACTED]. *Id.* 328:22-330:25. Ratepayers cannot be charged for these unsupported draft contracts.

Finally, Genera seeks ratepayer-funded maintenance costs totaling \$6.6M (FY2026), \$7.8M (FY2027), and \$15.5M (FY2028) for the Mayagüez units (Updated RR, Annex.3.Tab.Projects, lines 201-210), but no contract has been negotiated, and Genera is simply assuming—without basis—that negotiations will eventually transpire. 11/21 Tr. 104:21-105:3, 105:25-107:15.³⁵ Genera has failed to carry its burden as to the LTSAs.

D. Repairs of Outdated Generators

Genera failed to prove that its original proposal to spend hundreds of millions in ratepayer funds to repair and convert ancient generators was just and reasonable. One of Genera’s key roles

³⁵ Reflecting the speculative nature of these ratepayer-fund requests, they have changed repeatedly and materially. At the hearing, Ortiz testified they were wrong in his written testimony. 12/21 Tr. 109:15-112:21. In Genera’s late-October budget, they were approximately \$8.8M (FY2026), \$10.6M (FY2027), and \$21.1M (FY2028). Ex.887, Tab D-1-Optimal, lines 213-222. In the Updated RR, they have materially changed yet again.

is to decommission generating units when, among other reasons, they are too old. 11/18 Tr. 220:4-221:5. Fuel represents a significant cost, and new generating units are generally more efficient, with lower fuel and corrective maintenance costs. *Id.* 229:7-13, 232:4-10, 234:14-20. Yet Genera originally sought substantial funds for the repair, maintenance, and conversion of defunct generation plants, with specific emphasis on San Juan (“SJ”) Units 7-10—notwithstanding that PREB had not approved several of these projects. Exs.22.02, 22.03 REV; 11/18 Tr. 245:7-15; 11/20 Tr. 371:12-23, 374:4-22, 386:4-16. Notably, as discussed *infra* Part VII, Genera has a financial incentive to convert plants to natural gas, because its parent company sells natural gas in Puerto Rico. 11/18 Tr. 289:10-18, 289:20-25. Indeed, NFE has been strategizing to increase gas consumption in Puerto Rico for some time. Ex.948, pp.17, 19. Genera’s costly gas-conversion proposals aligned with NFE’s profit-driven strategy, but they were not a prudent use of funds.

Genera’s prior proposed budget included \$125M in ratepayer funding to convert SJ Units 7-10 to gas,³⁶ plus hundreds of millions more in project costs related to the SJ plant.³⁷ Still other items sought \$160M related to “All Plants,” which included still more costs relating to SJ Units 7-10.³⁸

But as shown at the hearing, SJ Units 7-10 are dilapidated and outdated. Unit 8 has been offline for *over two years* and Unit 10 for even longer—perhaps since *2017 or 2018*. 11/18 Tr. 249:2-17, 251:1-24, 252:16-24. Genera’s witness called these units “super old” and admitted their

³⁶ 11/18 Tr. 235:5-24, 239:24-240:23; Ex.887, Tab.D1.Optimal, line 123.

³⁷ Ex.887, Tab D.1.Optimal, lines 79, 81-87, 93, 95-96, 100-102, 105, 108, 110-111, 115-116, 119-121, 124; *see also* 11/18 Tr. 241:6-242:25, 243:6-244:24, 245:1-12, 245:24-246:4, 246:5-246:19.

³⁸ Ex.887, Tab D.1.Optimal, lines 248-275; 11/18 Tr. 246:21-247:9, 247:21-248:4-13. The Updated RR appears to reduce All Plants costs to \$117M. Updated RR, Annex.3.Tab.Projects, lines 236-263.

condition is “relatively poor.” *Id.* 255:17-20, 255:22-25, 256:2-6. Indeed, the units are 60-65 years old, and their designs are 70-75 years old. *Id.* 255:2-11.

Pouring hundreds of millions of ratepayer dollars into these relics—rather than purchasing new, more-efficient generators—would have been unjustified, especially when Genera’s witnesses could not identify *any* direct benefit to ratepayers beyond a speculative long-term emissions improvement. *Id.* 168:1-169:3. Though Genera’s witnesses initially claimed that converting these units would add 200MW of generation and thereby address capacity issues, Scutt admitted on cross that this purported benefit would not be realized for several years and would—at best—add this capacity for only a year and “may fail” anyway. *Id.* 172:5-9, 174:2-175:10.³⁹ Nor was there any evidence that Genera did a cost-benefit comparison of repairing versus decommissioning, the latter of which ultimately is a “must do.”⁴⁰ Genera also admittedly had yet to physically inspect the units and, therefore, its proposed \$125M “ballpark figure” could have been much higher. *Id.* 184:5-185:4.

Genera now appears to have removed ratepayer-funding for the SJ Units 7-10 conversions from its Updated RR—as it should. Notably, however, Genera did so only *after* the conversions were challenged in this case. For the reasons discussed above, Genera should not dissipate any federal funding on these projects either.

³⁹ Importantly, current alternatives exist for additional generation. *See id.* 414:3-415:25.

⁴⁰ Genera may be resistant to decommissioning plants because it reduces Genera’s role as private operator. 11/18 Tr. 212:18. Indeed, Genera has not decommissioned any operating plants. 12/8 Tr. Tr. 164:1-11. In any event, gas conversion would take 2.5-3 years from approval to completion, and thus would offer no new generation capacity during this rate period. 11/18 Tr. 269:23-271:23.

Similar concerns existed for Cambalache Unit 1, where the equipment was out-of-service for 14-15 years (11/20 Tr. 429:5-21, 431:18-22),⁴¹ and the Aguirre Combined Cycle units. 11/21 Tr. 37:14-38:6, 40:6-23. Further undermining Genera's ratepayer-fund requests, after Eng. Gonzalez's critical report, Genera flipped positions and now recommends consolidating its funding request for the Aguirre Combined Cycle units (11/21 Tr. 42:21-43:2, 43:20-44:20), which it also reduced from \$33M to \$22.9M after the hearing. Updated RR, Annex.3.Tab.Projects, Lines 188-200. This follows the familiar pattern where the operators' ratepayer-fund requests crumble under scrutiny.

Similarly, Genera's requested Peakers expenses are unreasonable. Genera originally proposed a substantial Peakers project that would have resulted in 5 new gas-turbine generators at 50MW/each, and 8 reciprocal-engine generators at 18MW/each, for a total capacity of ~400MW. 11/18 Tr. 422:22-423:2, 423:8-13, 423:25-424:10. Genera originally claimed the project would cost ~\$800M and would be federally funded. *Id.* 424:12-17. More recently, however, Genera has reduced the project's capacity while increasing its cost. Now, it would include 2 CTGS turbines at 50MW/each and 6 CTGs at 24MW/each, for a total capacity of only 244MW—40% less than originally proposed. *Id.* 424:25-425:25; 426:1-18. Despite the reduction in capacity, Genera now claims the project cost is materially *higher*. Ex.893; 11/18 Tr. 425:19-427:6, 429:25-430:23; Updated RR, Annex.3.Tab.Projects, lines 9, 11. That unreasonably dissipates critical federal funding and undermines the credibility of Genera's project cost estimates more generally.

⁴¹ As with the SJ Units 7-10 conversions, the Cambalache conversion appears to have been removed from the Updated RR. This pattern again undermines the operators' proposals generally: Improper requests were brought to PREB for approval and only dropped after scrutiny revealed them as such.

Genera failed to carry its burden for many other proposed projects. Its engineer, after giving a sworn answer to an ROI and attaching a list of proposed projects (Ex.361), testified multiple times during cross that he knew *nothing* about the details of various listed projects. *See e.g.*, 11/20 Tr. 412:1-15; 12/18 Tr. 244:25-245:17 (EMP Hardening), 422:12-423:13 (OTDCS Upgrades \$10M, recently raised to \$12.5M (Updated RR, Annex.3, line 245)). That does not meet the statutory standard for collecting ratepayers' money.

Genera also requested \$13M in ratepayer funds for a "Fuel Tank Interconnection Project" (Ex.250), even though funding has already been conditionally approved from the Clean Water State Revolving Fund ("CWSRF"). *Id.* 424:9-10, 427:2-25. PREB should not approve costs for which Genera cannot provide any explanation or justification, for which other funding exists, and/or that Genera itself concedes could be deferred without material consequences.

E. Executability

Genera's proposed expenses also raise executability concerns. As of June 2025, Genera had 63 ongoing federally- and non-federally-funded capex projects totaling \$1.2B, 37 of which—representing \$106M—were not completed and already past their anticipated completion date by an average of 243 days. Ex.50, pp.18-19; 11/20 Tr. 15:17-16:9. Numerous additional Genera projects failed to meet anticipated completion dates or were not on track. Ex.24, pp.19, 20, 26-27; 11/20 Tr. 72:15-104:2; Ex.23, p.27; 11/20 Tr. 110:13-116:3, 116:12-19. Genera also faces a shortage of skilled workers, along with higher-than-normal employee absentee rates, which Genera's witness recognized decreases its ability to execute. 11/20 Tr. 122:25-123:13, 124:14-24, 125:16-21, 126:6-127:14.

These executability concerns are especially acute given Genera's dramatic ramp-up in requested funding. For example, Genera's prior Optimal Budget proposal for maintenance-project funding exceeded \$767M, which represented a more than *9x increase* over its \$78M actual spend

for FY2025. 11/20 Tr. 46:4-47:24, 398:4-18; Ex.887, Tab D-2-Optimal; Ex.50, p.24. While Genera reduced that amount to \$470M in the Updated RR (Annex.3.Tab.Final-Revision), that still represents a *6x increase* from FY2025, which is not executable. *See supra* Part I.J.1.

III. Budget Process

A. PREB Adjudication of Budgets Remains Necessary

In order to discipline spending and “ensure that … rates do not exceed [] reasonable costs” (2017 Rate Order, pp.149-50), PREB established a yearly budget approval process to promote “the appropriate and efficient uses of revenue collected from [] customers.” *Order re: Determination on LUMA’s Initial Budgets*, NEPR-MI-2021-004, p.3 (5/31/2021) (“IBO”).

Yet LUMA now proposes a budget-approval process that would undermine PREB’s ability to ensure costs are not imprudently incurred. Specifically, LUMA seeks the power to reallocate funds comprising less than 5% of its budget away from critical projects, like infrastructure management and system hardening, toward administrative salaries—*without any oversight*. 11/24 Tr. 24:13-23. This would inevitably lead to less-beneficial costs and, potentially, increased costs, to the detriment of ratepayers. As LUMA’s witnesses acknowledged, if LUMA shifted 5% of its budget allocated for necessary maintenance work to some other area, then LUMA would have to ask for more ratepayer money in future budgets to complete the deferred work. *Id.* 117:6-17. Yet, under LUMA’s proposal, PREB would have no way to prevent imprudent reallocations—including from budgeted items PREB deemed necessary to core performance. PREB could only attempt to discipline LUMA for imprudently incurred expenditures after the fact, by pursuing claims for violations of LUMA’s contract or imposing fines—either of which LUMA could challenge before P3A and thereby seek to pass through to ratepayers. *Id.* 26:3-22, 36:5-17, 192:21-194:1. In fact, LUMA proposes no specific fines that PREB could impose, and its witnesses were unable to say how or whether such fines could impact LUMA. *Id.* 58:20-59:3, 62:14-63:13. As the Hearing

Examiner recognized, LUMA’s proposal amounts to “accountability with no consequence,” which is really “no accountability and no consequence.” *Id.* 109:19-110:7.

LUMA argues that greater budget flexibility is necessary to improve operational efficiency and assures it will not act imprudently. The record refutes both arguments. LUMA failed to make any concrete showing that seeking PREB approval for budget reallocations—as it has been doing—would impair operations. PREB exercises the same authority over budget reallocations for Genera, which testified that the process had not impaired its projects or operations. *Id.* 107:1-10. And while LUMA asks its regulator to trust it will not unwisely reallocate funds, the evidence is to the contrary. For instance, Burgemeister testified that LUMA stopped non-reactive VM work to pay overdue bills from vendors that are not providing VM—even though vegetation causes most outages. *Id.* 132:24-133:6. LUMA has not shown that the unprecedented power it seeks will improve efficiency or outcomes for ratepayers, and it cannot be blindly trusted to exercise such power.

Accordingly, PREB should continue the established budget review and approval processes, without exception.

B. Project Efficiencies Must Be Quantified

Under “principles of good rate design, efficient operations and investments should lower the overall utility cost of service, thus reducing revenue requirements that would need to be recovered from ratepayers.” Ex.76, 5:105-09; *see also* Ex.53, 8:115-17. Improving efficiency is thus critical to ensuring that service is provided at the lowest reasonable cost, and that rates reflect just and reasonable costs, consistent with statutory requirements. Indeed, as PREB found, “[o]ne of the most persuasive components of LUMA’s proposal when it was selected … to operate Puerto Rico’s electric grid was the efficiencies, resulting [i]n savings, that LUMA was expected to implement.” IBO, p.31. Because improvement projects generally entail costs, unless the

benefits/efficiencies achieved are also quantified, there is no way to determine the projects' efficacy. 11/24 Tr. 330:2-22. PREB has therefore "require[d] that LUMA provide annual reports on the implementation of improved efficiencies and quantification of resulting savings." IBO, p.31.

But LUMA has not complied, and therefore cannot know if it has actually achieved any promised efficiencies, let alone to what extent. Ex.919, p.117; 11/24 Tr. 421:6-9. Nor is there any quantification in LUMA's annual reports to PREB (Ex.921, 48; 11/24 Tr. 409:1-17), rendering them practically useless. LUMA admits it is *possible* to calculate dollar amounts associated with claimed efficiencies, but it has not done so. 11/24 Tr. 420:1-423:20.

Rather than rising to meet its obligations, LUMA asks for the bar to be lowered, arguing it would be costly to comply. This justification rings hollow, including because LUMA has not calculated these supposed costs. *Id.* 437:9-438:3; *see also* Ex.76, p.9. PREB should require LUMA to comply with its directives and quantify efficiencies.

IV. Customer Experience

LUMA seeks ~\$661M in ratepayer funding for the Customer Experience department—responsible for customer relations, billing, and collections—in its Optimal Budget. Ex.7, 10:101-105, 11:106-16, 20:424-28, Tables 1, 2. LUMA barely reduces this amount in its Constrained Budget: ~\$640M. *Id.* 34:713-18, Tables 6, 7. Of that, ~\$295M would be funded by the EE and PPCA riders, with the remainder funded by the base rate. The record demonstrates several projects are either unnecessary and/or lack any quantified benefits.

A. *TPOS*

The largest cost category for the department's O&M budget is TPOS, which comprises "current contracts with third-party vendors for billing and payment processing, as well as enhancements and maintenance of the CC&B system, and bill printing." Ex.7, Table 1, 32:567-

71; 33:572-74. The requested TPOS budget radically increases from \$58.8M (FY2025) to \$128.9M (FY2026) to \$162M (FY2027) to \$181.1M (FY2028). *Id.* Table 1, 574; 12/1 Tr. 65:1-25.⁴²

Hanley acknowledged that third-party vendors are more expensive than LUMA's employees and represented that LUMA aims to reduce its reliance on outsourced resources. 12/1 Tr. 65:17-66:3; LUMA Ex. 110; *cf.* Ex. 78, p.13. For instance, Hanley testified that it costs 56 cents to print each bill under LUMA's vendor contract; since 80% of LUMA's 1.5M customers receive paper bills, it costs \$672,000/month (~\$8M/year) to print bills. 12/1 Tr. 81, 94. This \$8M/year printing cost contrasts with a *\$14M/year* contract cost (nearly double the stated cost), implying a high markup by this outside vendor. *Id.* 47:24-48:19; Ex.824. Yet, Hanley conceded LUMA never analyzed whether some of the costly TPOS work could be performed in-house. 12/1 Tr. 68:25-69:11. These basic failures show LUMA's proposal is not sufficiently justified.

B. Loss Recovery Program (PBUT31)

LUMA requested \$1.7M for PBUT31 in FY2026 in its Optimal Budget, increasing to \$4.1M in FY2028. Ex. 7.00, Table 2. But Hanley conceded LUMA never analyzed whether the requested funding would result in reduced non-technical losses. 12/1 Tr. 346:7-18. Instead, without providing any objective metrics to demonstrate benefits, Hanley observed that, if the money is provided, "at least something" would be done to mitigate non-technical losses. *Id.* 346:8-347:11. "Doing something" is not justification for an expense. Nor did Hanley provide a baseline against which future performance could be measured, or an analysis suggesting it would be better

⁴² Although Hanley downplayed the significance of the nearly-half-a-billion-dollar TPOS costs—noting many relate to the Customer Programs budget, funded by the EE and PPCA charges (*id.* 68:6-14)—she conceded that the EE and PPCA charges are still paid by ratepayers: They are simply different line items on the bill. *Id.* 73:15-74:1-5. Thus, from the perspective of customers paying unjustified costs, Hanley's distinction is irrelevant.

to spend money on this program versus elsewhere (or not at all). As the Hearing Examiner noted, “the dilemma [] for the Commissioners” is that LUMA has “no idea whether” the amounts requested are worth the spend. *Id.* 347:14-25; 348:1-23. LUMA cannot carry its burden without such evidence. *Id.* 346:20-25; 347:1-11. LUMA may have removed this item from the Updated RR, though it is unclear and if so, no meaningful explanation was provided. *See* Updated RR, Tabs.D-1.⁴³

C. Voice of the Customer Program (PBCS2)

LUMA seeks nearly \$2M for PBCS2, a program involving customer surveys and voice recordings to improve customer service. Ex.7, Table 2; Ex.7.04. But Hanley conceded the program is discretionary and unnecessary to remedy any current deficiencies. 12/1 Tr. 160:14-25; 164:18-166:1-3; Ex.7, p.6. She further admitted LUMA has not estimated *any* savings from the program, whether from reduced repeat calls, improved self-service usage, or otherwise, and admitted there were no objective metrics to measure the program’s success—further underscoring the speculative, unsupported nature of LUMA’s ratepayer-fund requests. *Id.* 148:23-149:2, 164:5-17. LUMA’s failure is especially egregious given PREPA’s poor J.D. Power rankings compared to other utilities, with a customer-satisfaction score of just 200, when most others are closer to 500. Ex.1086. LUMA’s Updated RR may have removed this funding request, though if so, no explanation was provided. *See* Updated RR, Tabs.D-1.⁴⁴

D. Optimal-Budget Items

Beyond those discussed above, PREB should reject any costs in this department not included in the Constrained Budget, which is only \$25M lower than the \$661M Optimal Budget.

⁴³ *See supra* n.7.

⁴⁴ *See supra* n.7.

Ex.7. The costs eliminated or deferred under the Constrained Budget include professional services for the optimal ramp-up of the Process Development team, costs for external training and associated travel, overtime, some of the numerous requested new hires, and the EV Time-of-Use Pilot Program. Ex.7, pp.7, 28.

LUMA failed to establish that these projects are necessary to provide safe and adequate service at the lowest reasonable cost. It did not present evidence showing the projects remedy current deficiencies or that the additional \$26M will generate savings or other commensurate benefits. Rather, LUMA merely asserted a belief that, if these items are not funded, customers in the aggregate will be less satisfied (by some unknown amount), and that certain work—like billing for non-energy items—will take longer. Ex. 7, 36:741-46. LUMA also admitted that deferring full staffing of the Process Development team will merely result in slower-than-planned realization of the (wholly unquantified) “expected benefits” of process improvement. *Id.* 36:746-37:748. As to the EV Time-of-Use program, LUMA merely suggested that not performing this work would impact customer-usage data “for the small subset of customers enrolled in the program”—around 115 customers out of 1.5M. *Id.* 33:6. These vague, unsupported assertions are insufficient.

V. Multi-Utility Cost Areas

A. Communications and Compliance

Under its Optimal Budget, LUMA seeks \$11.2M (FY2026), \$11.8M (FY2027), and \$12.5M (FY2028) for Corporate Communications. Ex.14, Table 1; Updated RR, Annex.1.Tab.LUMA's.Updates.to.RR. These amounts are unjustified.

Lopez-Martinez conceded that ratepayers are shouldering costs unrelated to the grid, including employee time used for corporate purposes (12/3 Tr. 189:16-190:22), community-outreach activities like cleaning up oceanic plastic waste (*id.* 205:1-13), and counter-narratives (*i.e.*, PR) that his department puts out to combat negative press. *Id.* 282:3-284:9. LUMA never

quantified the purported benefits of these ratepayer costs. *Id.* 205:14-206:21. Nor did LUMA perform a cost-benefit analysis for the five new employees it proposes here (*id.* 254:23-255:21), despite conceding that the department, with current staffing, can “do the job and … can certainly get by with what [it has].” *Id.* 279:18-24. LUMA should be prohibited from using ratepayer funds for activities unrelated to the grid, and at most, the funding proposed in LUMA’s Constrained Budget is sufficient, as LUMA admitted. *Id.* 250:13-251:15.

B. Regulatory/Legal>Title III Costs

LUMA Regulatory. LUMA’s Regulatory Optimal Budget seeks \$28.2M (FY2026), \$29.9M (FY2027), and \$31.7M (FY2028). Ex.1, Table 6. This includes staffing costs—among them LUMA’s request to add 33 employees—totaling \$11M (FY2026), \$11.6M (FY2027), and \$12.3M (FY2028). *Id.* But Figueroa admitted LUMA never performed a cost-benefit analysis showing these employees are needed.⁴⁵ What’s more, Figueroa admitted that LUMA’s regulatory responsibilities have been handled appropriately with current staffing. 12/3 Tr. 307:18-24, 480:18-482:11. These concessions alone defeat LUMA’s funding proposal.

Beyond that, although part of LUMA’s alleged rationale for increasing headcount is internalizing work handled by contractors, LUMA’s proposed Regulatory TPOS budget nearly *doubles* from FY2025 to FY2026 and *continues to grow* over the rate period—contradicting LUMA’s rationale. *Id.* 490:18-492:8. LUMA submitted no quantitative analysis supporting its proposed TPOS budget increase or otherwise rehabilitating its contradicted position that increasing headcount will reduce contractor costs. *Id.* 493:11-25. PREB should reject this request.

⁴⁵ Figueroa also admitted that LUMA’s dispute with PREPA and P3A has increased his department’s workload, driving (at least in part) LUMA’s request for substantial ratepayer funds. *Id.* 469:8-472:22.

LUMA Legal. LUMA’s Legal Optimal Budget seeks \$9.8M (FY2026), \$10.3M (FY2027), and \$10.8M (FY2028). Ex.10, Table 1. But Rotger-Sabat’s written testimony omits any objective criteria or quantitative analysis supporting the request. Indeed, when asked whether LUMA relied on objective criteria to support its request for six new legal employees, he said he simply relied on his experience. 12/3 Tr. 351:1-8. Rotger-Sabat also admitted that ratepayers are funding some of LUMA’s legal spend relating to the OMA, such as contract interpretation and costs of appearing before PREB. *Id.* 360:24-361:22. However, LUMA never analyzed whether all such costs benefit ratepayers. *Id.* 364:24-370:15.⁴⁶ This concern is amplified by the size of LUMA’s legal expenses: It expects DLA Piper to bill almost 8,000 hours to this rate case alone in FY2026, costing ratepayers nearly \$5M. Ex.1087.1.

LUMA Title III Costs. LUMA seeks from ratepayers \$8.8M (FY2026), \$6.6M (FY2027), and \$4.4M (FY2028) for costs related to the Title III case, even though PREPA is the party-in-interest. 12/3 Tr. 389:12-17; Updated RR, Annex.1.Tab.LUMA’s.Updates.to.RR. LUMA’s justification for this huge ratepayer request do not withstand scrutiny. Figueroa claimed LUMA provides non-specific legal support in the Title III, including drafting and commenting on documents (*id.* 540:11-21), but the Title III case has been largely inactive in FY2026 to date, due to a litigation stay imposed in July 2024. *Id.* 491:4-13. In addition, Figueroa admitted LUMA is incentivized by its own financial interest in the outcome to work on the Title III proceedings. *Id.* 393:14-395:3, 545:5-18. Ratepayers should not be charged over \$20M for LUMA’s grossly inflated Title III costs.⁴⁷

⁴⁶ LUMA relies extensively on legal services from DLA Piper for appearing before PREB, Title III proceedings, and otherwise. The lawyers at DLA Piper charge LUMA up to \$1,300 per hour, which LUMA called an “outlier.” *Id.* 379:18-383:10.

⁴⁷ LUMA also receives a materially higher fee while PREPA remains in Title III, further obviating the need for these excessive legal-cost estimates. *Compare* Ex.489, Annex VIII (\$70M fixed fee

PREPA Title III Costs. PREPA similarly seeks ratepayer funding for *its* estimate of Title III costs, even though FOMB and its outside counsel, Proskauer, already represent PREPA in that forum. *Id.* 388:14-24. As the Hearing Examiner noted, PREPA’s choice to retain its own firm, on top of FOMB’s, results in duplication and needless ratepayer expenses. *Id.* 392:9-17. PREPA’s and FOMB’s fleet of law firms and outside consultants have taken hundreds of millions of dollars from Puerto Rico during the Title III cases. The bleeding must stop.

Zapata generally claimed this duplication is warranted so PREPA can influence decisions (*id.* 413:21-415:4), and Adrover claimed AAFAF requires PREPA to have its own representation (though did not cite any legal requirement for this). *Id.* 418:3-19. Even accepting AAFAF’s informal desire, this would not justify PREPA’s massive request for **\$56.6M** in estimated Title III costs over the rate period—which PREPA failed to support with any meaningful analysis⁴⁸—*on top of* a whopping **\$94.4M** in FOMB estimated advisor costs for the Title III over the same period. Updated RR, Annex.1.Tab.C-2-Optimal. PREPA also appears to have retained at least *nine* law firms, which are expected to bill over \$4M in addition to the exorbitant Title III costs. Ex.1099.

FOMB Legal. PREPA seeks **\$94.4M** in FOMB estimated advisor costs over the rate period. Updated RR, Tab.C.2.Optimal, line 42. However, PREPA/FOMB failed to provide any support for this huge request. Bondholders long ago requested support for FOMB’s supposed advisor costs (Ex.401 – 9/19/2025 ROI to PREPA), but PREPA responded that it had no insight, and even after Bondholders’ repeated follow-ups, did not obtain the information. PREPA had a

plus variable incentive fee after Title III exit), with *id.* “Puerto Rico Transmission and Distribution System Supplemental Terms Agreement” (\$115M fixed fee during Title III).

⁴⁸ Ex.35 n.3 (noting this is an “estimate based on the 2025 Certified Fiscal Plan”); 12/3 Tr. 476:21-479:14 (Adrover’s testimony regarding the estimate); 487:16-22 (Adrover testifying that he is not sure if PREPA does anything to ensure its projected legal spend is reasonable).

chance to support FOMB’s estimated legal costs and squandered it. There is no evidentiary basis to charge ratepayers this \$94.4M.

Genera Legal. The sole difference between Optimal and Constrained for Genera’s legal budget is the elimination of contingencies. 12/3 Tr. 460:11-461:17. PREB should set Genera’s legal budget at the Constrained level, at most, because ratepayers should not be charged upfront for unsupported contingencies.

C. Workers & Contractors, TPOS

LUMA Operations. LUMA’s Operations department Optimal Budget seeks \$204M (FY2026), \$214.4M (FY2027), and \$222.6M (FY2028) for TPOS. Ex.6, Table 1. Although Burgemeister speculated about the potential benefits of this spend and the potential risks of not spending, he admitted that LUMA never quantified these benefits or risks. 12/4 Tr. 23:13-24:17. Burgemeister testified that the proposed TPOS largely comprises VM and specialty contracts (Ex.6, q.46), but admitted that, with the exception of the Supply-Side Contract Administration, LUMA did not assess the costs/benefits of performing these services in-house versus outsourcing. 12/5 Tr. 26:13-28:3.⁴⁹ The additional costs should therefore be denied.

LUMA Finance. LUMA’s Finance department seeks funding to hire 34 new FTEs in FY2026 and another 14 in FY2027-2028. Ex.2, q.104. But Smith conceded that (i) his department continues to fulfill its core functions at current staffing levels, even after recently terminating 11 employees (12/4 Tr. 12:2-13:22), and (ii) LUMA never quantified the risks he speculated may result if PREB denies LUMA’s request. *Id.* 15:1-17. Nor has LUMA analyzed the department’s capacity to hire and onboard 34 new employees in one year. *Id.* 17:9-13.

⁴⁹ Burgemeister testified that the counterparty for one of the specialty contracts (contractor-augmented workforce)—valued at \$30M—might be a LUMA affiliate. *Id.* 28:20-29:9.

LUMA seeks \$7.9M (FY2026), \$8.3M (FY2027), and \$8.8M (FY2028) for Finance department TPOS. Ex.2, Table 5; Updated RR, Annex.1.Tab.LUMA's.Updates.to.RR. But while Smith claimed LUMA is focused on replacing external consultants with internal resources from 2027 onward, he admitted the Finance department is seeking *increased* levels of outsourced labor over the rate period. 12/4 Tr. 187:14-188:18. His primary justification for the increase *now* was the proposed migration from the Oracle ERP system, but because the Oracle ERP will not be end-of-life until *more than 5 years after this rate period*, Smith ultimately conceded this project could be deferred (*id.* 194:15-195:7), and it should be.

PREPA's 100 New Employees. Despite playing a minimal role in the now-privately-operated electrical system, PREPA proposes adding 100 employees. Yet Zapata conceded PREPA did not conduct a cost-benefit analysis to justify this significant expense, simply claiming—without providing specifics—that there is some compliance or regulatory need. *Id.* 142:3-13. She also testified generally that new employees are needed to operate hydro assets, but as discussed *supra* Part II.A, those assets comprise a minuscule portion of the generation fleet and many do not even generate electricity.⁵⁰ *Id.* 143:1-21. Zapata also confirmed that 33 of the proposed new employees would not be assigned to hydro and thus would not directly impact system reliability. *Id.* 144:3-11. PREPA's request should be denied.

LUMA Regulatory. LUMA seeks \$9.4M (FY2026), \$10M (FY2027), and \$10.6M (FY2028) for Regulatory department TPOS. Ex.1, Table 6. However, Figueroa admitted LUMA did not conduct any cost-benefit analysis or quantification of the need for these outsourced

⁵⁰ There are currently ~47 employees working in hydro; PREPA's proposal would add 67 new employees. *Id.* 148:2-7.

services, even though LUMA recognizes that third-party contractors cost more than in-house labor. 12/4 Tr. 181:2-9. The increased costs should be denied.

D. Materials & Equipment

Tools. LUMA seeks \$7.4M (FY2026), \$7.8M (FY2027), and \$8.2M (FY2028) for Tools Repair and Management in its Optimal Budget. Updated RR, Tab.D.1.Optimal (PBOP5). But Burgemeister testified that LUMA never (i) conducted any studies to determine whether adopting the Constrained Budget and deferring certain purchases would delay any key milestones (12/4 Tr. 201:8-202:23), or (ii) conducted any studies or quantified the risk of limiting repair and maintenance activities to specialized tools per the Constrained Budget, and whether it would affect response time. *Id.* 205:10-206:19. The Optimal Budget request should be denied.

Fleet. LUMA seeks \$46M in ratepayer funding for fleet augmentation and revitalization, including the purchase of 133 bucket trucks and 32 digger derricks, under both the Optimal and Constrained Budgets.⁵¹ Ex.18, Table 1; 12/4 Tr. 215:24-216:14. Although Burgemeister claimed LUMA needs these vehicles due to a lack of equipment, he conceded LUMA has not performed any formal or quantitative analysis indicating the extent of the supposed shortage or the quantity requested. *Id.* 217:11-218:12. Nor did LUMA analyze the cost of purchasing new vehicles versus previously leased vehicles. *Id.* 242:17-22. Burgemeister also never submitted any studies quantifying the likelihood that any of the purported risks would occur if the increased fleet budget were not approved. *Id.* 226:1-18, 227:18-228:6, 241:14-20. Indeed, Burgemeister conceded that LUMA has been able to address the deficiencies with its existing fleet and achieve 94%-96% fleet

⁵¹ LUMA used the MSRP to determine fleet budgets, which Burgemeister admitted could be elevated. *Id.* 245:4-246:5. LUMA also used the manufacturer's estimation of useful life to determine whether a vehicle should be replaced, rather than the actual condition and usefulness of each vehicle. *Id.* 233:11-22.

availability with current funding levels. *Id.* 229:2-230:16; Ex.18.02, q.10. The increased funding request should be denied.

E. Miscellaneous

Facilities. LUMA Facilities department requests \$201.6M over the rate-period (~\$67M/year) under its Optimal Budget—a roughly 2.5x increase over the FY2025 approved budget. 12/4 Tr. 285:5-286:9; Ex.17, p.15:320-29.⁵² LUMA also requests 57 new hires for FY2026 in an alleged attempt to decrease reliance on outside services, but it never performed any analysis into how much reliance on outside services would decrease or any expected savings. 12/4 Tr. 286:11-287:14. Further, when asked whether LUMA conducted any analysis to determine that furniture purchases should be prioritized over safety issues or building repairs, Sosa gave a non-responsive answer. *Id.* 281:6-16. PREB should deny the funding increases.

Utilities and Rents. Sosa admitted LUMA never analyzed whether the many government properties LUMA can use for free could offset any of its new proposed rents—an obvious oversight. *Id.* 294:25-295:13.

F. Information Technology/Operational Technology (“IT/OT”)

1. LUMA IT/OT

Under its Optimal Budget, LUMA seeks \$105M (FY2026), \$120.9M (FY2027), and \$128.7M (FY2028). Ex.11, Table 2; Updated RR, Annex.1.Tab.LUMA’s.Updates.to.RR. Although Allen claimed this budget is necessary to meet some unspecified “regulatory and contractual obligations” (Ex. 11, p.16), she could not identify any such obligations that purportedly require the funding sought. 12/2 Tr. 135:5-137:2. To the contrary, she conceded LUMA did not

⁵² Under the Constrained Budget, which Sosa admitted would be sufficient, LUMA requests an annual budget that would still more than double the FY2025 budget. *Id.* 288:23-289:2, 292:12-17.

violate any regulatory or contractual obligations in FY2025 with the approved \$45.9M IT/OT budget, belying her generalized, unsupported claim. *Id.* 137:3-10.

a. O&M Costs

LUMA initially sought \$238.5M for long-term and short-term IT service contracts across the rate period. Ex.906.1, “Summary” Tab, sum C8, D8, E8.⁵³ In response to a Bondholder ROI, LUMA produced Exhibit 906.1, which listed the service contracts it proposed to enter over the rate period, and their corresponding amounts. Lines 237-242 of the tab “Detail by Fiscal Year FY26-28” listed Value Stream Running Costs (“VSRCs”) with ratepayer-funded amounts totaling \$18.8M (FY2027) and \$24.4M (FY2028). On initial cross, Allen gave inconsistent testimony about the VSRCs, [REDACTED]

[REDACTED] 12/2 Tr.

255:5-256:4, 279:23-280:6.⁵⁴ [REDACTED]

[REDACTED] 12/2 Tr. 289:1-13.

On 12/10, only after multiple follow-ups from Bondholders by e-mail and during the hearing, LUMA’s counsel finally provided a “clarification” from Allen, which stated, “Ex. 906.1 is *accurate and complete* as submitted.” Ex.1016, p.2. Allen stated the VSRCs reflected future IT/OT support costs for various projects still in the planning or proposal stages. Because the exact amounts of these costs were unknown, Allen said, LUMA “applied a *high-level estimation methodology*, using an *industry-standard approximation of 15%* of the estimated implementation costs from the business budgets as a proxy for future ‘running costs.’” *Id.* p.1 (emphasis original).

⁵³ Ex.906.1 is the numbering on the Accion platform, though LUMA mistakenly titled the file Ex.911.

⁵⁴ Allen would later admit during cross that her testimony on this point was wrong. 12/19 Tr. 43:3-44:17.

After multiple additional follow-ups by Bondholders, LUMA agreed to have Allen appear on 12/19 for cross on her “clarification.”

Remarkably, around 9:15pm on 12/18—the night before Allen was set to testify at 8:30am—LUMA submitted Exhibit 1066: A materially changed version of Exhibit 906.1, which removed about **\$30M** from the VSRCs. 12/19 Tr. 17:2-24.⁵⁵

On cross the next morning, Allen claimed these \$30M costs were eventually removed because LUMA determined it could not execute on these initiatives during the rate period—the precise “executability” point that Bondholders and Hogan have raised from the outset. *Id.* 20:3-15. She further admitted her prior “clarification” that Exhibit 906.1 is “accurate and complete” was wrong. *Id.* 36:21-37:4.⁵⁶ She then conceded that the VSRCs each subsume a number of contracts for various discrete initiatives, and that she has another document—titled “IT/OT Roadmap Running Costs”—listing the separate contracts bundled into the VSRCs. *Id.* 45:16-22. LUMA *never produced* the IT/OT Roadmap, even though it is directly responsive to a Bondholder ROI from November.⁵⁷ When asked how PREB or the parties could calculate the “estimates”

⁵⁵ LUMA now included \$53.6M (FY2026), \$71.6M (FY2027), and \$84.5M (FY2028), totaling ~\$209.6M (vs. \$238.5M previously). Ex.1066, “Summary” Tab, sum C8, D8, E8.

⁵⁶ Per Allen, LUMA discovered the errors in Exhibit 906.1 as a result of an “iterative process” that began on 12/2 and culminated on the afternoon of 12/18—the day before she was to testify again—when the errors were supposedly first uncovered. *Id.* 25:13-32:2. At no earlier time during this so-called iterative process did LUMA or its counsel provide Bondholders with the “corrected” information or even notify such information was forthcoming.

⁵⁷ See Ex.906 (requesting that LUMA enumerate *each* contract, and its corresponding cost, reflected in Table 3 of Allen’s direct testimony). During redirect, Allen then read from the IT/OT Roadmap, despite not having produced it. 12/19 Tr. 67:11-68:25. She confirmed that she did not create the IT/OT Roadmap to aid her testimony that day, but rather it was a “working document that our IT leadership team works with our business relationship managers to keep in line” and “has a breakdown by value stream associated with program briefs.” *Id.* 80:7-9, 78:10-11. This course of conduct was a clear discovery violation, and an improper attempt by LUMA to selectively use a document without producing it and allowing confrontation. As such, PREB

reflected in the VSCR entries on Exhibit 1066, Allen could not provide any cogent explanation or point to a source in the record. She did note, however, that the VSCRs reflect costs for potential future projects that *may not occur* in FY2027 or FY2028, and that these costs may well be pushed into future years beyond the rate period. 12/19 Tr. 59:25-61:14.

This episode is emblematic of the flaws pervading the rate petition. In addition to proving that the VSCR funding requests must be denied in their entirety, it generally undermines LUMA's credibility and counsels that PREB exercise caution in approving significant funding increases.

As to the remaining IT/OT contracts in Exhibits 906.1 and 1066, other than providing a cursory, speculative account of the risks of not funding them (Ex.11, q.37), LUMA never submitted any analysis to substantiate the requested ratepayer funding and its supposed benefits, nor did it sufficiently explain the consequences of deferring or eliminating contracts.

LUMA also seeks \$15.71M (FY2026), \$16.71M (FY2027), and \$17.93M (FY2028) for 166 new hires—158 in FY2026 alone—on top of the existing 119 employees in LUMA's IT/OT department. Ex.11, Tables 2, 5.⁵⁸ Although Allen testified that LUMA's proposal to more than double the size of her department would allow LUMA to reduce its reliance on external consultants, as with other areas, LUMA has actually proposed to *grow* its TPOS budget from \$5.4M (FY2025) to \$9.4M (FY2026), and then to \$10.6M (FY2028). 12/3 Tr. 523:3-15. [REDACTED]

[REDACTED]

should strike Allen's testimony reading the document into the record and draw an adverse inference against any attempt by LUMA to rehabilitate the VSRCs.

⁵⁸ Although Allen initially said the 119 employees in her department represented the minimal structure required to sustain day-to-day operations and essential cybersecurity monitoring (*id.* q.39), [REDACTED]

she quantify in her written testimony the efficiencies that LUMA expects from the proposed hires, or include any assessment of LUMA’s ability to onboard 158 new hires in FY2026.⁵⁹

b. NFC Costs

LUMA seeks \$35.1M (FY2026), \$32M (FY2027), and \$25.6M (FY2028) for four ratepayer-funded IT/OT projects: Cybersecurity, Enablement, Asset Management, and Collaboration and Analytics. Ex.11, Tables 2, 6; Updated RR, Annex.1.Tab.D.1.Optimal. In written testimony, Allen enumerated high-level, potential risks of not receiving these funds, but she never quantified the investments’ benefits or risks of reduction, deferral, or elimination. For example, LUMA seeks \$57M-\$58M across the rate period for the Asset Management program to replace supposedly outdated hardware. 12/2 Tr. 158:1-9.⁶⁰ Allen testified that if this program is not funded, there is a risk of impacting LUMA’s reliability metrics like SAIDI and CAIDI, but she conceded that LUMA never quantified that risk, nor is it obvious how using somewhat older computer hardware would translate to more grid outages. *Id.* 159:16-161:1. That aside, LUMA has taken an expansive view of what constitutes “outdated” hardware, arguing that “computers and monitors are end of life after four years” because the *warranty* has expired, even if they still work. 12/5 Tr. 212:16-21.

Allen also sponsored Exhibit 906.2, which in tab “Q.96” lists each ratepayer-funded activity LUMA has proposed to defer, reduce, or defund under the Constrained Budget and the associated savings. Of the 41 listed projects, █████ are *more* expensive in the Constrained Budget

⁵⁹ Although Allen █████ (12/2 Tr. 274:13-276:4), it is not in the record and thus cannot support the request.

⁶⁰ The FY2025 budget for this program was under \$4M. 12/2 Tr. 137:7-11.

than the Optimal Budget, which makes no sense. Ex.906.2, “Q96” Tab, Column N. [REDACTED]

[REDACTED] 12/2 Tr. 238:3-16. No explanation

was given, rendering these expenses unjustified.

On balance, Allen’s testimony was not credible, unsupported, and fell far short of meeting LUMA’s statutory burden. PREB should keep LUMA’s IT/OT budget at FY2025 levels.

2. Genera IT/OT

Under its Constrained Budget, Genera seeks \$12.4M (FY2026), \$13.2M (FY2027), and \$14M (FY2028) for IT/OT operating expenses; and \$6M (FY2026), \$10.5M (FY2027), and \$17M (FY2028) for IT/OT capex. Ex.26, 4:4-8, 5:17-20. Vazquez-Figueroa admitted these are “gross approximations” not based on historical costs,⁶¹ and that Genera has not quantified their accuracy, although he personally believed they could be off by up to 10% (12/2 Tr. 64:1-17)—which would equate to millions of dollars in ratepayer funds.

Genera assessed three alternatives for its proposed IT/OT capex projects: (i) continued operation of the existing system with minimal upgrades; (ii) targeted upgrades to critical systems; and (iii) a comprehensive modernization strategy. Ex.214. Genera selected the comprehensive modernization strategy for each capex project (*id.*), even though Genera never quantified the risks of deferring or reducing the proposed projects. 12/2 Tr. 58:2-14, 78:23-79:10. Nor did Genera quantify the risks of deferring any of its proposed IT/OT operating expenses. *Id.* 117:9-118:20. As such, Genera’s increased IT/OT costs should be denied.

⁶¹ 12/2 Tr. 63:3-18; Ex.206, p.1; Ex.213, p.1.

VI. Emergency Reserve Account, Emergency Response Plan

A. *Emergency Reserve Account*

LUMA's and Genera's OMAs create two separate emergency reserve accounts, each for \$30M. Since the accounts' initial funding, the operators depleted them, and PREPA allegedly has not replenished them. LUMA requests in its Optimal Budget (i) \$30M to replenish its Outage Reserve Account; and (ii) approximately \$209M for alleged Outage Event Costs that LUMA claims it incurred. Ex.1, p.77; Updated RR, Annex.1.Tab.C.2.Optimal. Genera separately requests \$30M to replenish its own Reserve Account. Updated RR, Annex.3.Tab.B.1.Final.

In the PRO, PREB instead created “a single, system-wide Emergency Reserve Account [“ERA”], funded at \$15 million,” which would be made available to LUMA and Genera “for extraordinary, high-impact reliability events that exceed their normal operating budgets.” PRO p.23. The record shows this multiplicity of emergency accounts to be unnecessary. Not only do LUMA and Genera have various other sources of working capital—including the 2% reserve for excess expenditures (LUMA),⁶² the Federally Funded Capital Improvement Account (“FFCIA”) (LUMA), and the GMR (Genera)—but there are also many sources of federal and Commonwealth emergency funding, including the \$1.3B Commonwealth Emergency Reserve Fund.⁶³ Indeed, Smith testified that if LUMA’s Outage Reserve Account were funded, LUMA would be able to respond to large storms, and a separate ERA would not be needed. 12/5 Tr. 327:16-328:6. It was only after being repeatedly asked the same question by the Hearing Examiner that Smith eventually

⁶² As discussed *infra* Part IX.A, LUMA is also requesting a large, unnecessary margin. Further, as LUMA conceded, if another Category 5 hurricane or major earthquake were to hit Puerto Rico, the Governor would presumably request a major disaster declaration—providing access to federal funds—and, consistent with standard practice, invoke mutual aid, the costs of which can be federally funded. 12/5 Tr. 120:12-121:15, 112:10-17, 125:21-126:1.

⁶³ See *infra* Part XIII.A.3-4.

said the ERA could be useful because it would provide “an additional cushion of liquidity.” *Id.* 331:14-16. Of course, additional money is always good for an entity—but that is not the question here. The question is whether ratepayers should pay millions more to pre-fund yet another emergency account, when there are already numerous, overlapping sources of emergency funding. To state the question is to answer it.

Sánchez-Brás also testified that the ERA is unnecessary: “I think we should have just a Reserve Account that we have in our OMAs.” *Id.* 335:13-20; *see also id.* 334:14-22, 333:17-19, 444:1-16 (Genera not requesting funds for ERA). She further testified that in the event of a large storm, the operators would have access to federal funding and thus would only need to draw on the reserve accounts to cover local cost-share. *Id.* 332:23-333:2. She candidly observed that overfunding emergency accounts is risky, because “unfortunately, our history in Puerto Rico has been that we use monies for what we’re not supposed to be using.” *Id.* 337:16-24. Given her prior experience in the Puerto Rico government, Sánchez-Brás has a good basis to make this observation. Adrover rounded out the chorus of voices rejecting the need for the ERA. *Id.* 343:23-344:2. Utility witnesses likewise agreed that, to the extent the ERA is implemented as a “funnel” to collect and distribute funds to the reserve accounts, there must be strict guidelines to ensure that it is not abused, and that the Operators remain accountable for their spending. *Id.* 337:16-24, 354:15-18 (Genera); *id.* 339:9-19 (PREPA).

The panel also addressed Genera’s GMR (now called “Plant Maintenance Services”), for which Genera is seeking \$30.3M (FY2026), \$31.5M (FY2027), and \$33.3M (FY2028). Updated RR, Annex.3.Tab.Final.Revision. Genera describes the GMR as “an account used to pay for day-to-day operations and maintenance” (Ex.176), but, according to Sánchez-Brás, it is sometimes also used for emergency spending (12/5 Tr. 420:25-421:11), providing another source of funding for

emergencies or high-risk equipment failures (Exs.890, 904.2), and further obviating the need for so many separate sources of emergency funding.⁶⁴

The record shows there is already more than sufficient emergency funding across an array of sources—from the operators, the federal government, and the Commonwealth government—not to mention the statutory process for seeking an *emergency* rate increase before PREB. And the operators (particularly LUMA) are proposing still more duplicative sources of liquidity and working capital, all at the expense of the ratepayers, as discussed *infra* Part IX.A. If there is an emergency and the operators need more than what is on-hand, they can seek an emergency rate increase; that process exists for emergencies. And to the extent the utilities claim it would take time to receive funds from an emergency rate, they can bridge this timing gap with the various other sources of working capital discussed throughout.

Finally, with respect to LUMA’s \$209M ratepayer-funding request for supposed historical Outage Event Costs, the Hearing Examiner recounted that this request, as held in the PRO, is a “double count” because those costs were already covered with ratepayer money LUMA took from other accounts. 12/5 Tr. 461:16-462:1. Figueroa disputed this but never explained why. Figueroa also confirmed that LUMA never submitted pre-filed testimony explaining why its proposed \$209M charge is not double-counting. *Id.* 506:4-24. LUMA’s attempt to charge consumers long after the fact for amounts spent without seeking approval or giving notice may also violate the prohibition against retroactive ratemaking. LUMA’s \$209M retroactive charge should be denied.

⁶⁴ LUMA is similarly seeking for its 2% reserve for excess expenditure \$32.3M (FY2026), \$38.1M (FY2027), and \$43.4M (FY2028). This additional potential source of liquidity for LUMA confirms that the level of ratepayer emergency funding is wholly unnecessary.

B. Emergency Response Plan

PREB should deny funding beyond the Constrained Budgets, because the operators conceded there is sufficient funding in their Constrained Budgets to cover the emergency-response-related items in section VIII.B of the panel agendas, with the exception of one LUMA call center contract.⁶⁵ Specifically:

Genera testified the Constrained Budget covers: (VIII.B.1) materials and equipment to enable rapid emergency response (12/5 Tr. 12:13-23); (VIII.B.11) ensure onsite blackstart capabilities (*id.* 75:14-76:1); (VIII.B.12) maintain sufficient tank storage for hurricane season (*id.* 77:5-6); and (VIII.B.13) conduct emergency preparedness training (*id.* 88:1-7).

PREPA testified the Constrained Budget covers: (VIII.B.2) develop and maintain ERPs for hydroelectric facilities (12/5 Tr. 14:9-15:14); (VIII.B.7) maintain ready-to-execute Mutual Aid agreements (*id.* 39:5-13); (VIII.B.9) review IPPs' ERPs (*id.* 43:13-44:2); and (VIII.B.13) conduct emergency preparedness training (*id.* 87:21-25).

LUMA testified the Constrained Budget covers: (VIII.B.1) materials and equipment to enable rapid emergency response (12/5 Tr. 11:18-25); (VIII.B.3) compliance with PREB's VM orders (*id.* 15:16-16:4); (VIII.B.4) compliance with granular ETR (*id.* 18:12-19, 21:15-18); (VIII.B.8) coordinate/mobilize external support for large-scale service restoration (*id.* 40:19-41:9); (VIII.B.10) maintain and verify accuracy of critical customer lists and communication protocols during emergencies (*id.* 86:1-7); (VIII.B.13) conduct emergency preparedness training) (*id.* 88:2-14); and (VIII.B.14) ensure that LPE Customers list is accurate (*id.* 89:8-14).⁶⁶

⁶⁵ 12/5 Tr. 89:15-90:15.

⁶⁶ LUMA testified that some of the additional funding requested in the Optimal Budget would be used to replace IT equipment, including computers and monitors. However, Fraley conceded that 95% of the computers, monitors, and other equipment used in the EOC are from 2021—relatively

VII. LUMA's and Genera's Potential Conflicts of Interest

The hearing revealed self-dealing between LUMA/Genera and their affiliates, which casts a long shadow over the operators' budget requests. A vivid example of LUMA's conflicts is its continuing use of seconded employees from its parent companies. *See supra* Part I.I.2. As another example, no provisions appear to prohibit LUMA, Quanta, and ATCO from sharing executives—and LUMA's first CEO indeed returned to ATCO afterwards.⁶⁷ Moreover, Quanta was recently awarded over \$600M in T&D-related contracts. 12/8 Tr. 170:7-11. For one such contract, the LUMA affiliate purchased numerous vehicles that sat idle for years before the award (*id.* 170:24-171:20), indicating it already expected to get the contract years before it did. For many contracts, there was little competition (*see, e.g.*, 11/14 Tr. 297:24-300:15), resulting in less efficiency in utilizing FEMA funds. 11/17 Tr. 202:17-203:9, 206:9-210:14 (acknowledging that FEMA would not allow funding for projects with seconded employees); Ex.1079 (Section 2.2 allows revision of prices without P3A oversight). Finally, Genera indicated they may divert excess ratepayer funds to employee bonuses. *See* 12/4 Tr. 87:2-88:1.

Another prominent example of the conflicts here is NFE, Genera's parent company, selling billions in natural gas to the Puerto Rico generators that Genera operates. A 2024 NFE investor presentation showed that NFE has long planned to convert Puerto Rico generation units to natural gas, so that it can earn more profits. 12/8 Tr. 192:1-10; Ex.962, p.8. Genera witnesses, including its CEO, confirmed that Genera requested *ratepayer* funds to convert generation units to natural gas (*id.* 197:2-199:1), thus attempting to carry out NFE's profitable plan using money collected

new—and that the equipment does not automatically stop working after four years. *Id.* 211:18-212:10, 212:22-213:13.

⁶⁷ *See* <https://tinyurl.com/yrsmepas>; <https://tinyurl.com/577st9y9>.

from ratepayers. Unsurprisingly, Genera has a history of consistently and massively overestimating—nearly every month—the natural gas it will consume at facilities using natural gas supplied by NFE. *See* Ex.1084.1. Ratepayers must pay for such excess nominations—even though the natural gas is unused—unless the supplier is able to sell it and credit the invoice. 12/8 Tr. 288:13-292:2.

Furthermore, the record shows multiple instances where the P3A did not require a competitive bidding process or 3PPO did not oversee the contract process and Genera did not perform arm's-length negotiations—thus resulting in a non-competitive contract between Genera PR and a corporate affiliate. *See, e.g.*, 11/25 Tr. 253:14-254:10, 256:24-257:13; Ex.923; 12/3 Tr. 159:10-160:5. For example, the P3A did not conduct any bidding process with respect to operation of the TM generation units, which allowed Genera PR to contract with an affiliate and bypass a market-driven process. 11/25 Tr. 253:7-255:9. [REDACTED]

[REDACTED] 12/3 Tr. 90:6-13. [REDACTED]

[REDACTED] *Id.* 159:10-160:8. These are exactly the kind of process errors that should be prevented, and which have been identified by other parties. *See, e.g., Motion to Vacate*, NEPR-MI-2024-0005 (12/29/2025) (describing “PREPA’s procurement process, conducted before the” P3A “through the” 3PPO, as “mired by a series of compounding irregularities that calls into question the independence and the legitimacy of the process”).

The operators’ alleged safeguards against conflicts⁶⁸ have noticeable gaps. 12/8 Tr. 184:8-186:16; *see also id.* 66:3-7 (Genera) (“Q. So you are essentially trusting your executives not to be influenced by a potential conflict. Is that right? A. Si.”). The operators’ conflicted actions have

⁶⁸ *See, e.g.*, 11/14 Tr. 290:12-300:19; *id.* 264; 12/8 Tr. 22:24-29:15.

directly cost ratepayers,⁶⁹ and any proposed plans that could allow such conflicts should be disallowed, especially if FEMA funds are lost and/or ratepayer funds are improperly used. 11/18 Tr. 289:10-25.

VIII. Inter-Utility Cooperation

While the operators ask for a surge of ratepayer funding, the three entities (especially LUMA and PREPA) are fighting amongst themselves, impeding effective operations, inhibiting access to outside funding, and wasting ratepayer funds.

The record on this infighting is clear: LUMA’s CEO, Saca, characterized its relationship with PREPA as “not [] good,” “poor,” and “dysfunctional,” emphasizing “that’s a factual statement, it’s not an opinion.” 12/8 Tr. 319:14-21. PREPA’s CEO, Zapata, agreed the relationship is “not ideal.” *Id.* 350:13-15. PREPA’s CEO explained at length that LUMA did not provide needed information to PREPA, and that PREPA only heard of problems when they became major issues. *Id.* 302:6-12; 302:21-303:22; 325:19-328:3. Personnel from LUMA admitted they did not cooperate with or provide requested information to PREPA when not obligated to do so under the OMA (in their view). *Id.* 305:3-10.

This dysfunction is causing real problems: When asked whether LUMA and PREPA’s broken relationship affects LUMA’s ability to attract and retain large business customers, LUMA’s CEO responded “absolutely.” *Id.* 319:22-320:2. Furthermore, despite a directive from PREB for the CFOs of PREPA, LUMA, and Genera to meet and address the account-funding issue, they still had failed to do so as of 1/12/2026. Ex.1090.

According to LUMA, PREPA has taken actions that impede LUMA’s ability to get federal funding. *Id.* 320:12-321:6. For instance, LUMA claims that PREPA unilaterally removed several

⁶⁹ See 11/17 Tr. 202:17-203:9.

hundred LUMA projects from the Consolidated Project Plan submitted to FEMA. *Id.* 320:12-321:6. LUMA also recently had a dispute with PREPA regarding DOE funding, reportedly delaying the grant. PC Ex.733.

These inter-utility disputes are becoming more prolific, not less. LUMA, PREPA, and other Commonwealth entities are actively battling across numerous fora and cases, including: At various levels of the Commonwealth courts (e.g., Civil Nos. SJ2025-CV11093; SJ2025-CV1120; CT-2025-0003); in the Title III district court (e.g., Case No. 17-BK-3283; Adv. Pro. Nos. 25-00043; 25-00061; 25-00062); and in the First Circuit Court of Appeals (e.g., No. 25-2077; No. 25-00043).

These inter-utility disputes take time, resources, and ratepayer funds. In fact, many of LUMA's requests in the rate petition directly tie back to these disputes—for example, LUMA's emphasis here on increasing “liquidity” is rooted in its view that PREPA is not providing enough liquidity through funding LUMA's operating accounts. Ex.733. Were it not for this dispute, LUMA would not be seeking so many overlapping sources of ratepayer-funded liquidity.

As another example, LUMA is seeking to increase the personnel in the Regulatory department by roughly 60% (Ex.1.0, p.62; 12/3 Tr. 500:1-10), and to roughly double the Regulatory department's TPOS budget to \$9.4M (FY2026), \$10M (FY2027), and \$10.6M (FY2027). Ex.1.0, p.60. LUMA seeks similarly large increases for Legal Services: From \$3.2M (FY2025) to \$6.7M (FY2026), \$7.1M (FY2027), and \$7.5M (FY2028). *Id.* Figueroa acknowledged these requested increases include the team responsible for managing LUMA's relationships with PREPA and P3A, and that OMA disputes increase departmental workload. 12/3 Tr. 500:11-502:2. Figueroa also acknowledged LUMA is seeking ratepayer funds for what is essentially LUMA's lobbying. *Id.* 519:17-520:3. Similarly, Rotger-Sabat acknowledged that

ratepayer funding supports certain of LUMA’s legal disputes, including LUMA’s ongoing dispute with DACO regarding LUMA’s liability waiver. *Id.* 535:12-20. Customers should not pay for the entities’ inability to cooperate—PREB must ensure they focus on the statutory mandate rather than their individual interests.

IX. Revenue Requirement and Related Issues

A. Proposed “Margin”

LUMA requests a ratepayer-funded “margin” of \$178M (FY2026), \$175M (FY2027), and \$164M (FY2028)—a huge figure calculated by applying a 1.30 Debt Service Coverage Ratio (“DSCR”) to PREPA’s assumed debt service, consisting of pension debt and a hypothetical “Low Scenario” for PREPA’s legacy debt service. The “Low Scenario” assumes PREPA’s Title III case will require payment of only \$2.6B of the ~\$8.5B (principal and interest) in legacy bond debt owed on the Title III petition date.

LUMA initially justified its “margin” request as “necessary for PREPA to have positive cash flow to satisfy future lenders when PREPA emerges from bankruptcy.” Ex.2, pp.46-47. LUMA largely abandoned that rationale at the hearing, instead presenting margin as a ratepayer-funded “working capital facility.” 12/9 Tr. 55:20-56:4. LUMA’s proposed margin should be rejected for three reasons.

First, it would not serve its stated purpose of giving lenders confidence. PREPA is not making debt-service payments to bondholders. Raising funds to be consumed from yet another operating account—as opposed to setting them aside for debt service—does not instill lender confidence. At any rate, as Smith conceded, it is unknown when PREPA will emerge from bankruptcy, and the proposed margin would not satisfy lenders while PREPA remains in bankruptcy (meaning it cannot even issue new debt). 12/9 Tr. 58:21-59:8, 61:8-14. As Tierney explained, PREPA cannot demonstrate creditworthiness until it emerges from bankruptcy. *Id.*

22:4-7, 33:14-25. Requiring ratepayers to fund a margin for future, as-yet-unissued debt—when the rate petition does not anticipate any near-term expenditures being financed (Ex.52, pp.20-22)—would raise rates unnecessarily. 12/9 Tr. 38:1-14.

Second, the proposed margin amount lacks an evidentiary basis. Smith conceded LUMA did not independently develop the FY2026 \$178M figure; rather, it was based on a debt-service assumption PREPA provided. 12/9 Tr. 86:1-11. The margin amount need not be based on debt service at all, though LUMA never submitted any alternatives to the DSCR-based calculation. *Id.* 89:7-24. The \$2.6B “low scenario” figure is also based on an obsolete plan of adjustment, proposed by FOMB before the First Circuit ruled that Bondholders’ \$8.5B claim is fully secured by PREPA’s Net Revenues, and before the withdrawal of support by the bondholder group that FOMB had expected to provide funding under that plan.

Third, even as a “working capital facility,” LUMA’s proposed margin would duplicate various sources serving the same purpose:

2% Reserve for Excess Expenditures: LUMA requests ratepayer funding for a 2% reserve for excess expenditures sitting above LUMA’s expenditures, which under the Optimal Budget would be approximately \$32M in FY2026 alone. 12/9 Tr. 62:20-63:1, 57:17-21. LUMA conceded the 2% reserve serves the *same purpose* as margin. *Id.* 63:16-23, 69:10-25, 80:12-81:6; Ex.965, p.2.

Outage Reserve Account: In FY2026 alone, LUMA requests \$30M from ratepayers to fund its Outage Reserve Account, which if approved would provide additional liquidity, as well as \$90M to cover alleged Outage Event Costs. *Id.* 72:13-73:19.

ERA: LUMA admits the ERA, if approved, would provide additional emergency cushion for LUMA. *Id.* 74:1-14.

FFCIA: This account held around \$213M in December 2025 (and closer to \$500M historically), which LUMA can access to pursue certain federally-funded projects. *Id.* 81:8-18, 82:8-16.

Taken together, LUMA seeks what the Hearing Examiner rightly characterized as “a large sum of dollars comprised of the” above sources, all for the same purpose of having “working

capital.” *Id.* 76:3-14, 77:20-21 (observing “the whole concept associated with these additional dollars is getting pretty muddy”), 78:8-14 (“I’m pretty unsure now what is the rationale for the various positions that [] LUMA has.”). As Tierney explained, there are “sufficient numbers of accounts to handle the capital requirements of the operators in PREPA today … without a[n] incremental margin above the other reserve accounts.” *Id.* 26:4-12, 38:11-14. LUMA’s “margin” request should be entirely denied.

B. Bad Debt

In previous years, including the FY2024 and FY2025 budgets, PREB approved a bad-debt-expense factor of 1.5%. Ex.62, pp.19-20. LUMA applied that 1.5% bad-debt expense in its own prior budget requests. *Id.*; 12/9 Tr. 170:2-10.

Now, however, LUMA doubles that figure to 2.97%. Ex.1, p.45; 12/9 Tr. 170:2-17; Updated RR, Annex.1.Tab.BAD.DEBT. That factor would result in almost \$160M in additional bad-debt expenses for FY2026 under the Optimal Budget, or almost \$130M under the Constrained Budget, with similar ratepayer-funding requirements in the following two years. Ex.62, pp.18-19.

It is undisputed that the 2.97% proposed bad-debt expense lacks an evidentiary basis. 12/9 Tr. 176:3-11 (Hearing Examiner observing, “there is not an evidentiary basis”). LUMA adopted the 2.97% figure from the 2017 Rate Order, which was based on data from FY2016—before bankruptcy, Hurricane Maria, privatization, and many other intervening events. 12/9 Tr. 171:12-23. Figueroa conceded that LUMA did no quantitative analysis to determine if 2.97% is accurate, and that LUMA does not view it as an “accurate” or data-driven number. *Id.* 172:4-9, 173:21-174:14. In fact, LUMA’s expert Marzan agreed that subtracting the full amount of the extraordinary write-offs occurring in 2024 and 2025 results in exactly the 1.5% previously budgeted. *Id.* 139:17-140:6; 141:15-19 (“LUMA’s recorded bad debt accounts for 2024 and 2025

are exactly the 1.5% budgeted.”).⁷⁰ LUMA’s request is especially egregious in light of its lackluster collection efforts, with non-technical losses from billing errors and theft ranging from 3.3% to 5%. Ex.1082.

LUMA’s request to double the bad-debt factor should be denied.⁷¹ Instead, PREB should follow its consultants’ recommendations and maintain the approved bad-debt factor of 1.5%—which is still on the higher end for utilities. *Id.* 213:23-214:13.

X. Recordkeeping

The utilities should be required to develop recordkeeping systems that follow FERC’s Uniform System of Accounts (USoA) and allow for accurate cost-benefit analysis of proposed expenditures. The benefits of a uniform accounting system are undisputed. *See* 11/24 Tr. 41:20-42:9. However, LUMA has taken only “very high-level and theoretical” steps—and “done no concrete work”—to transition to FERC accounting, and its system is outdated and unsupported. *Id.* 42:10-44:3.

Inefficiencies associated with the current accounting framework are improperly costing ratepayers. For example, utility witnesses agreed that the lack of systems integration and standardization results in inefficiency. 12/10 Tr. 237:9-242:2. LUMA has not developed policies or procedures in important areas, such as for most transactional accounts and accounting estimates.

⁷⁰ LUMA argued that this data, excluding 2025, resulted in an average bad-debt number of 2.86%. However, as LUMA itself made clear, in addition to including historical write-offs in 2024, this data is unaudited, “incomplete and inaccurate,” and “subject to change,” rendering it inherently unreliable. Ex.1.08, pp.1-2; *id.* (“[A]ny bad debt figure put forward by LUMA based on existing data would be unreliable.”).

⁷¹ That is particularly true because LUMA represents it has improved its collection process. 12/9 Tr. 166:4-168:13. LUMA anticipates that, over time, these improvements will reduce the bad-debt factor. *Id.* 168:14-19, 169:16-20, 178:19-179:1. Yet LUMA did *not* propose for the bad-debt factor to decline during the rate period. *Id.* 179:2-19.

Id. 143:13-18, 146:7-12, 148:2-15. LUMA also has ongoing inefficiencies in its financial-auditing processes, which affects the operators and increases rates. *Id.* 148:17-151:1. Consolidating PREPA’s financial statements is “far more complicated, convoluted, and time-consuming than it should be,” and complications and miscommunications between PREPA and its advisors likewise increase costs and rates. *Id.* 148:23-149:5, 149:6-150:18. The inefficient consolidation process also diverts LUMA’s resources away from operations. *Id.* 150:20-151:1.

Another issue with the existing recordkeeping systems is significant revenue leakage. For example, although the amount of energy municipalities can consume for free under CILT is capped by statute, LUMA’s billing system lacks the statutory CILT consumption limits, so municipalities are *not* automatically billed when they exceed the cap. *Id.* 165:6-16. And LUMA does not manually bill for that excess consumption, resulting in an unbilled amount of at least \$9M, which may never be collectable according to LUMA. *Id.* 157:22-159:5, 166:5-168:14, 189:2-16, 168:11-16; Ex.1046.

XI. Pensions

PREPA’s request to charge pension liabilities to ratepayers should be denied for three reasons.

First, as Bondholders have explained—and will address in their forthcoming legal-issues brief—legacy pension liabilities and debts arising from pre-bankruptcy employment contracts may not lawfully be paid ahead of PREPA’s legacy bond debt.⁷² Prepetition pension liabilities are not Current Expenses (as defined in the Trust Agreement) and therefore are junior to PREPA’s legacy bond debt. Whether pensions will ultimately be paid—and in what priority—is a matter for

⁷² See generally *Bondholders’ Response to HE 10/27/2025 Order*, NEPR-AP-2023-0003 (12/5/2025).

PREPA’s Title III case. Payment of legacy pension obligations also likely violates the automatic stay.⁷³

Second, even assuming pension liabilities could be included in rates—they cannot—PREPA has failed to meet its statutory burden. PREPA proposed a rate that accounts for aggregate pension liabilities of \$307.5M (FY2026), \$298.7M (FY2027), and \$298.4M (FY2028). Ex.85.04; Updated RR, Annex.1.Tab.C.2.Optimal. Yet PREPA has not provided an evidentiary basis for these alleged costs. The largest component of the FY2026 request is over “\$282 million in regular retiree and surviving spouse benefits.” Ex.85.01, p.7; *see also* Ex.85.04. However, despite repeated opportunities at the hearing and an admonition by the Chairman, Rivera-Rodríguez could not point to *any* evidence supporting that figure or even explain “how this number was arrived at,” other than to note it is comprised of monthly ~\$23M costs. *See* 12/11 Tr. 67:17-22.⁷⁴ Nor is there *any* record evidence for the projected pension liabilities for FY2026 and FY2027—no actuarial reports, statements of accounts and liabilities, or explanations of the number, identity, and current employment status of the pensioners to whom payments are assertedly owed. This dearth of evidence is further confounded by the fact that PREPA and PREPA ERS have “comingled” budgets, despite being “separate legal entit[ies].” *Id.* 140:23-141:1.

Nor has PREPA substantiated the additional \$11.9M in ratepayer funding it seeks to administer PREPA ERS. Ex.85.01, p.8. Facially, it defies logic for a legacy pension system that is running off its liabilities, does not anticipate many new entrants, and will likely be closed to new

⁷³ *Id.* p.13.

⁷⁴ In response to this questioning, Adrover also directed the parties to Ex.349, which reflects this ~\$23M/month figure but does not provide any buildup thereto—in other words, it is merely a number lacking an evidentiary basis.

entrants in the near future to need an *increased* administrative budget. PREPA failed to explain that obvious discrepancy or justify this cost.

Of the \$11.9M, just under \$1.5M represents labor costs, while \$2.5M is earmarked for non-labor administrative costs—*i.e.*, the costs of “about 26” different outside vendors/contractors. 12/10 Tr. 350:1-10. But PREPA admittedly conducted no cost-benefit analysis “to determine whether it could save the ratepayers money by bringing some of these contracted services in-house.” *Id.* 171:10-16. The number and type of contracts is also dubious. For example, PREPA asks customers to pay \$325,000 for investment-management services, even though PREPA’s investment portfolio has been depleted and does not need management. *Id.* 177:3-178:1-11; *see also, e.g., id.* 186-88 (proposing legal costs related to mortgages when the pension system no longer does mortgages). PREPA also seeks funding to employ an additional 10 employees to administer the legacy retirement system without proffering *any* analysis demonstrating such cost is justified—and its witness effectively admitted it is not. *Id.* 77:5-80:1-13, 167 (citing day-to-day work as minor ministerial matters such as changing pensioners’ account numbers or addresses, and testifying that each employee only receives 2-3 requests per day).

Finally, even assuming PREPA had substantiated its proposal—it has not—PREPA has not shown pensions cannot be covered by the Commonwealth to alleviate ratepayer burden. And they can. The record shows that PREPA recently, and repeatedly, borrowed significant funds from the Commonwealth to satisfy pension obligations on “favorable terms,” including “low or no interest, and very low principal payments paid over a long period of time.” 12/10 Tr. 367:23-368:1. That loan has been amended and may be amended again to eliminate the need for payments from a bankrupt entity to a super-solvent one. Ex.1105. There is also a long history of PREPA receiving cash infusions from the Commonwealth government, including to fund over a billion

dollars of system-operator accounts. 12/18 Tr. 255:16-256:9. This is unsurprising, given that PREPA is a bankrupt entity whereas the Commonwealth government consistently holds over \$10B in cash. 1/2/2026 Treasury Single Account Report, p.4. Instead of pursuing Commonwealth funding,⁷⁵ PREPA proposes that ratepayers subsidize Commonwealth agencies: The evidence shows agencies have completely failed to remit their employer contributions to the pension system. Ex.1104. PREB should not allow PREPA to charge ratepayers for its pension costs when there are other funding options available that PREPA has not bothered to pursue.⁷⁶

For these reasons—and the reasons in Bondholders’ forthcoming legal-issues brief—PREPA’s pension liabilities and administrative costs should not be included in rates.⁷⁷

XII. Practicability

“Affordability” and “practicability” are distinct concepts: The former concerns a particular customer’s ability to pay,⁷⁸ and has no role in calculating the revenue requirement under standard ratemaking practice. As Tierney testified, affordability is addressed at the cost-allocation or rate design phase *after* calculating the revenue requirement, and includes applying subsidies and

⁷⁵ 12/10 Tr. 403:11-19.

⁷⁶ It is no answer to say, as PREPA’s witness attempted to, that FOMB directed PREPA to include pension costs in its rate request. 12/10 Tr. 363:11-365:1. The referenced FOMB letter does not purport to determine PREB’s treatment of pension costs, does not cite any legal requirement for pension costs to be covered by ratepayers, and ultimately reflects nothing more than FOMB’s unsupported policy opinions. *See* Ex.1101, pp.2-3. What’s more, despite a lengthy period for intervention and its awareness of this rate case, FOMB chose not to intervene, depriving the case participants of their due process rights to confront FOMB. For these reasons, the FOMB letter carries no weight and cannot provide an evidentiary basis for charging pension costs to ratepayers.

⁷⁷ PREPA has already been collecting from ratepayers a provisional pension rider. Yet, as its witness admitted, PREPA has *double-collected \$100M* from ratepayers for amounts that overlapped with one of the Commonwealth loans. 12/11 Tr. 236:5-23.

⁷⁸ Ex.612; *Hearing Examiner’s Order on Cross-Examination, November 25 Plan, and Misc. Items* (11/24/2025) (“11/24 Order”).

shifting cost allocations between customer classes. 12/11 Tr. 417:4-418:6; Ex.52, pp.25-28. That testimony went unrebutted and unchallenged by cross. Even Cao—ICSE’s expert—testified he had never seen a situation where affordability was considered in determining the revenue requirement. 12/11 Tr. 356:11-17. This is consistent with PREB’s approach in the PRO. *See* Ex.52, pp.26-27. There is an important reason for this: If affordability-based reductions were considered at the revenue requirement stage, a utility would not get the money needed. 12/11 Tr. 418:17-419:3; Ex.52, p.26.

As for practicability, which concerns whether the proposed rate increase will increase revenues or result in reduced consumption (11/24 Order), no witness raised competent concerns. Cao—who never worked for an electric utility and is not a ratemaking expert (12/11 Tr. 297:11-14, 299:3-6, 355:25-356:5)—said PREB should use “affordability” to impose an artificial cap on (or reduce) the revenue requirement. Cao’s testimony, however, was speculative and admittedly unsupported by proper studies or analyses, rendering his opinions unreliable and deserving no weight.

For instance, Cao’s theory that the proposed revenue requirement would cause severe economic consequences in Puerto Rico, increasing the likelihood of a “utility death spiral” (Ex.54, p.13; 12/11 Tr. 331:447-332:3), suffers from several fatal flaws.

First, Cao admittedly failed to estimate the effects of the proposed rate increases on real GNP, total employment, and electricity demand, due to alleged time constraints and data unavailability. 12/11 Tr. 299:15-300:1; Ex.54, p.11. Nor did he quantify supposed customer conservation efforts or customer departure due to rate increases. 12/11 Tr. 344:3-22.

Second, Cao admitted—as Tierney testified—that there has never been a utility death spiral resulting from increased utility rates in the U.S. Ex.52, pp.29-30; 12/11 Tr. 332:5-10.

Third, Cao conducted no studies on the possibility of a death spiral. 12/11 Tr. 333:11-17.

Fourth, while Cao claimed that the Puerto Rico economy was in a structural contraction with negative growth rates every year (Ex.54, p.11; 12/11 Tr. 319:25-320:10), he admitted during cross that it grew in 2020 and 2021, and modest growth was also anticipated in FY2025-FY2026 based on “official numbers.” 12/11 Tr. 321:23-322:15.

Fifth, Cao cherry-picked data to describe the Puerto Rico economy, admitting during cross that he ignored significant positive economic data (which he does not dispute) showing that: (1) unemployment has generally declined (*id.* 328:15-330:12, 331:11-19); and (2) Puerto Rico’s GDP, gross national income, number of employed persons, labor market participation rates, and civilian labor force have all trended upward (*id.* 324:13-326:8, 326:16-24, 331:11-19).⁷⁹

Finally, Cao used stale 2019 data to save time, but that data did not consider significant later events, including the growth of solar, changes in electricity demand since the pandemic, and rising temperatures. Ex.54, p.3; 12/11 Tr. 300:21-301:11. This resulted in what Cao conceded were “unacceptably high errors” and unreliable conclusions. Ex.54 p.16; 12/11 Tr. 301:15-302:24. Although Cao abandoned that approach, he failed to conduct any revised analysis. 12/11 Tr. 301:15-302:3, 303:1-4.

Cao also suggested—without support—that the proposed rate increases would raise intermediate costs and consumer prices. Ex.54, p.14; 12/11 Tr. 284:22-285:3. But he never performed *any* analysis concerning the increased benefits of grid reliability or the rate increases’ impact on prices. 12/11 Tr. 304:21-24, 305:15-20. He simply *assumed* businesses would pass *all* increased costs to consumers, ignoring the possibilities they could absorb cost increases or lower

⁷⁹ Cao—citing no data—initially stated that electricity demand shows a long-term decline. Ex.54, p.4; 12/11 Tr. 337:16-339:12. But during cross, he admitted that electricity consumption increased in 2022 and 2023. 12/11 Tr. 343:15-17.

other costs. *Id.* 305:22-306:4-9. Moreover, Cao admitted electricity is only a small factor in the Puerto Rico Labor Bureau’s calculation of the Consumer Price Index. Ex.54, p.29, Appendix 5; 12/11 Tr. 287:15-22, 290:24-291:9.

Cao also testified that proposed rate increases could significantly raise input costs across key industrial sectors, potentially impacting Puerto Rico’s economy. 12/11 Tr. 277:10-25. But he used outdated input/output transactional analysis from 2013 (*id.* 278:1-18, 289:8-24, 306:11-17), even though a 2017 input/output matrix existed. 12/11 Tr. 281:4-283:13. He admitted he could have used the 2017 data but claimed not to have time or resources. *Id.* 312:5-11, 313:3-10.

Cao also briefly discussed a 6% wallet-share mechanism to determine the maximum amount residential customers should pay for electricity (Ex.54, p.7). However, Cao admitted that *FOMB* (which elected not to intervene in this case, *see supra* n.76) suggested the wallet-share limitation in the Title III, and it was “not necessarily” his view. Ex.54, p.7; 12/11 Tr. 345:8-19. Nor could Cao explain why a 6% share-of-wallet would be appropriate, after the Hearing Examiner identified a “vulnerability” in the limitation, *i.e.* “there will be people who are blessed with sufficient wealth or income that a revenue requirement that is influenced by a 6% share of wallet would be getting a break … on their rates that they wouldn’t need.” 12/11 Tr. 364:10-369:21. Cao also failed to cite a single instance where this share-of-wallet limitation was used for ratemaking. 12/11 Tr. 355:17-23; *see also id.* 419:6-420:10 (Tierney confirming it is not used in ratemaking). And he acknowledged that many low-income households are already subsidized, making a 6% share-of-wallet limitation irrelevant to them. *Id.* 365:1-368:5.

Nor should LUMA’s load projections negatively impact the revenue requirement. Estrada and Tierney confirmed the prevailing view that electricity demand is inelastic, particularly over a three-year term. 12/11 Tr. 435:19-21; 12/12 Tr. 15:24-16:4; Ex.72, p.13. Although Cao criticized

LUMA for not considering price elasticity, he conducted no elasticity analysis of his own. 12/11 Tr. 294:16-295:3. There is no competent evidence suggesting a rate increase will negatively impact energy demand.

If anything, Estrada's load forecast calculations *understate* expected future load. **First**, Estrada's calculations admittedly do not account for the possibility that Act 17 energy efficiency targets will be unmet, eliminated, or modified, resulting in increased load. 12/15 Tr. 164:1-167:2. **Second**, PREPA/FOMB required Estrada to use macroeconomic data she did not independently verify (and that continues a longstanding trend of pessimistic projections), even though she wished to use multiple sources. 12/15 Tr. 180:2-15, 190:3-24.

Importantly, Estrada admits that LUMA's previous load projections consistently understated actual load, and there is no reason to believe that trend will end. 12/15 Tr. 191:3-14. Cross revealed numerous examples of LUMA under-projecting electricity usage. Ex.4, Tables 2-5 & p.21; Ex.978; 12/15 Tr. 191:16-202:19. As Estrada acknowledged, LUMA also presented higher load projections for the rate period in its IRP submission than here. 12/15 Tr. 202:21-203:15; *id.* 211:12-20 (noting the "more optimistic approach" to load forecasting in the IRP); Ex.979. Meléndez stated—and Estrada agreed—that the rate case "must plan for a lower scenario [than IRP load] to ensure enough revenue to cover system costs" (Ex.979; 12/15 Tr. 206:22-207:15), suggesting an intentional decision by LUMA to suppress its rate case load forecast to increase liquidity. Yet lower demand forecasts, as used here, unnecessarily cause higher base rates for customers. 12/15 Tr. 230:14-232:4. In sum, there is no record evidence that LUMA's load projections are improperly elevated; rather, they appear to be purposefully understated. The projections therefore do not support the existence of practicability issues.

XIII. Federal Funds

A. *Potential for Non-Ratepayer Funding*

LUMA's, Genera's, and PREPA's requests for ratepayer funding suffer several fatal defects, including that many projects are not necessary, lack evidentiary support, and/or are eligible for outside funding.

1. *Not All Capital Projects Are Necessary*

Although the utilities each claimed all their proposed capital projects "are necessary and critical to improving the reliability and stability of the electric system," (12/18 Tr. 10:3-19), a cursory review belies this claim. 12/8 Tr. 10:3-19; 238:19-239-10. [REDACTED]
[REDACTED]

Id. 240:7-19; Ex.2.05, "Non-Federal Capital" Tab, Rows 218-220, 223, 239. Genera seeks \$0.25M for an "EMP hardening" project to protect assets from electromagnetic pulses caused by speculative risks like nuclear explosions and solar flares so severe they can impact earthly electronics. 12/8 Tr. 245:18-25; Updated RR, Annex.1.Tab.D.2.Optimal. The utilities provided no evidence that they critically assessed these projects' necessity—because they plainly are not necessary.

2. *Hopefulness Exhibits*

LUMA's and Genera's "Hopefulness Exhibits" show the impropriety of their requests for ratepayer-funding of many proposed projects. Ex.1047; Ex.910; *see also supra* Parts I.A.2.b, I.E.1, II.B.

| | Genera Ex.910 | LUMA Ex.1047 |
|---|----------------------|--|
| 0 | Not Eligible | Not eligible for federal funding. Note: FEMA has final authority on eligibility. |

| | Genera Ex.910 | LUMA Ex.1047 |
|---|--|---|
| 1 | Eligible: No Available Funds have been identified from any federal source. These projects have not been included by PREPA in FEMA's Consolidated List of projects. | Eligible for federal funding, but not pursuing due to limited federal funding. |
| 2 | Eligible: PREPA agreed to include these projects as part of FEMA's Consolidated List or the State Revolving Fund if approved by PREB. | Eligible for federal funding and currently or will be pursuing, but require NFC funding due to system urgency. |
| 3 | Eligible: Federal Funds identified and in formulation process. These projects have a high likelihood of being covered with federal funds. | Eligible for federal funding. Pursuing, but no available funds have been identified from any federal source. Excluded by PREPA in FEMA's Consolidated List of projects. |

These rankings reveal a host of problems. For instance, LUMA narrowly considers only FEMA funding, entirely disregarding DOE and other sources (*see supra* n.8), while Genera considers FEMA and DOE but disregards everything else. 12/18 Tr. 63:7-25, 157:22-158:7. The exhibits also do not explain how LUMA or Genera ranked each project, and the witnesses struggled to justify the rankings. *Id.* 65:9-18, 19:15-22:16, 27:18-28:4, 373:18-374:6; 12/19 Tr. 85:7-87:2. For example, LUMA witnesses testified that projects may have been ranked “0” because they are not linked to a qualified disaster or have already been funded by another source (e.g., insurance). 12/18 Tr. 60:4-62:2. But DOE and HMGP funding are not contingent on a declared disaster. *Id.* 63:7-13. Nor could Meléndez and Smith definitively state whether any 0s reflect duplicate-funding situations as suggested, with Smith conceding that any such entries would be errors. *Id.* 66:13-24, 70:4-18.

a. LUMA

Although LUMA coded 74 projects totaling \$926M as “1”—seeking ratepayer funding due to purportedly limited federal funding—the record shows there are ample federal funds available for such projects. Meléndez conceded there is more than \$10B in FEMA funding allocated just to

the T&D system, and that LUMA did not analyze (and does not know) when the federal funding limit will be reached—but does not expect it to occur for at least another decade. 12/18 Tr. 82:14-18, 83:17-87:1, 87:7-23; *see also supra* Part I.C.1. And there is ~\$636M in unallocated FEMA funds that could be applied to such projects. *Id.* 162:21-163:2; *see infra* Part XIII.A.3. Moreover, while LUMA seeks ~\$422M in ratepayer funding for projects ranked “1” in FY2028 (*id.* 107:2-12), Meléndez conceded LUMA could instead work to obtain federal funds for these projects over the next 1-2 years—but LUMA is not taking that approach. *Id.* 107:13-25. Meléndez further conceded that federal funds allocated for projects between FY2029 and FY2035 could be moved earlier to cover ratepayer-funded projects.⁸⁰ *Id.* 95:9-20.

The fourteen projects coded “2” are eligible for federal funding, but, per LUMA, require ratepayer funding due to urgency. Ex.1047. However, as discussed *infra* Part XIII.A.3-4, ratepayer funding is unnecessary because there are other sources available to progress these projects. There is only one project coded “3” in Ex.1047.

b. Genera

Although Cintrón testified that the projects coded “3”—totaling \$17.5M—have a high likelihood of federal coverage, Genera refuses to remove them from its revenue requirement until funds are obligated. 12/18 Tr. 115:4-13, 122:12-123:12. However, Sánchez-Brás admitted Genera has no reason to believe such projects will not be approved, and Genera’s requests for FEMA funding have been approved at a 96% rate, undermining Genera’s rationale. 12/18 Tr. 124:4-13, 149:16-17. Genera’s position is also inconsistent with its past practice: Genera removed cost-share dollars from its revenue requirement based on its belief that it would receive additional HUD

⁸⁰ Meléndez also agreed that because the purchasing power of federal funds decreases over time, it is better to utilize them sooner. 12/19 Tr. 386:14-23.

Community Development Block Grant-Disaster Recovery (“CDBG-DR”) funding, even though Genera did not know when it would arrive. 12/19 Tr. 273:8-276:15; Ex.890. Nor should ratepayers fund costs that are not expected to accrue until FY2027 or FY2028, given Genera’s high confidence of securing federal funding. 12/18 Tr. 126:16-129:6. Pallens’ sole explanation was the worry that Genera might have to request an emergency rate in the unlikely event funding does not arrive, but that is speculative. *Id.* 129:10-130:21.

There are only three projects coded “2.” Because they are included in the consolidated list or the State Revolving Fund—pending PREB’s approval—there is no reason to charge ratepayers.

As to projects coded “1,” Cintrón conceded that just because federal funds have yet to be identified, it does *not* mean they are ineligible, and Genera continues to seek federal funding. *Id.* 154:22-155:12. Per Cintrón, if federal funds were to be reallocated from, for example, hydro to generation, additional projects could be removed from this category and included in the consolidated list. *Id.* 156:19-157:20.

3. Other Federal Funding

As Hurley testified, the utilities have ample sources of federal funding, and there are special measures in Puerto Rico to promote its use, yet LUMA and PREPA have underutilized it. Ex.51, pp.15,22,36.

FEMA Funding. FEMA Public Assistance (“PA”) Funding (sections 406 and 428) provides assistance for short-term emergency work responding to a disaster and long-term permanent work for disaster recovery. The FAASt program is a PA initiative unique to Puerto Rico and permits similar projects to be grouped, accelerating fund disbursement. Ex.79, p.27. The initial FAASt award of nearly \$9.5B was issued in September 2020. Ex.595, p.6. And FEMA HMGP funding (section 404) mitigates future disaster losses; to date, FEMA has approved \$660M

in hazard-mitigation proposals.⁸¹ *Id.* All told, approximately \$16B in PA and HMGP funds have been made available to the utilities. 12/18 Tr. 77:2-7.

Smith acknowledged LUMA underspent its federal budget by about \$1.5B between FY2022 and FY2025. *Id.* 364:7-24; Ex.51, p.45; Ex. 79. Indeed, since LUMA commenced, it has deployed only ~\$2B in federal funds. 12/19 Tr. 391:23-392:17. The underspending is so egregious that in June 2025, FEMA sent PREPA a letter advising that, after nearly five years, there are \$3.6B in unallocated FAASt funds needing to be used. Ex.595, p.6. Even after PREPA submitted a list of projects to FEMA, there are still \$636M in unallocated FAASt funds—an intentional decision by PREPA because, in its view, there are not enough sufficiently advanced LUMA projects. 12/18 Tr. 161:22-162:19, 360:17-361:9.⁸² LUMA disagrees. Its witnesses testified it is important to maximize federal funding, meaning these unallocated funds should not lay fallow, and there are numerous projects eligible for funding. *Id.* 167:21-168:3, 412:9-413:24.

DOE Funding. The DOE administers the \$1B Puerto Rico Energy Resilience Fund (“PR-ERF”), which recently allocated \$365M to grid upgrades (Ex.1094), of which \$157M was awarded to LUMA and \$187M to Genera. 12/18 Tr. 181:24-182:3; 12/19 Tr. 268:19-22. Upon receiving the funds, Genera submitted a revised revenue requirement reclassifying 12 projects—totaling \$83M (Constrained) and \$93M (Optimal)—from NFC to federally-funded, with the remainder allocated to forced-outage projects. Exs.890, 1048.1. Although LUMA acknowledged it could

⁸¹ Additionally, \$385M in HMGP funding has been made available to PREPA to date—\$280M is associated with a single project that has been withdrawn by PREPA, and thus should be eligible for reallocation. Ex.1093. Approximately \$3B in HMGP funding has been made available to Puerto Rico’s government because of Hurricane Maria. *Id.*

⁸² Cintrón agreed it is prudent to keep a balance of unallocated funds but conceded this amount could be reduced. *Id.* 167:6-17.

use \$44M of its DOE award to reduce its proposed NFC spend, it did not. 12/18 Tr. 187:1-23; *see also supra* Part I.A.2.b.

The DOE also administers the Grid Resilience State/Tribal Formula Grants Program, but Meléndez admitted he does not know what steps (if any) LUMA has taken to ascertain whether it could obtain such funding. 12/18 Tr. 436:7-24.

HUD Funding. HUD has allocated ~\$1.8B in CDBG-DR funds to the grid. Of that amount, \$500M has been earmarked to cover FEMA local cost-share (ER1), and about \$1.3B has been earmarked for electric system reliability, affordability, and resiliency enhancements (ER2). *Id.* 425:1-8. HUD has disbursed \$81M in ER1 funds, leaving \$419M for FEMA cost-share.⁸³ 12/18 Tr. 428:5-10. Although Smith attempted to downplay the likelihood of LUMA receiving ER1 funds—saying LUMA has not yet received any despite submitting 95 projects (Ex.79, p.33:731-33)—the evidence shows otherwise. In fact, LUMA understood that HUD had approved all 95 projects, but LUMA submitted a request to replace and add projects to the ER1 program *before* funding could be awarded. Ex.1049; 12/18 Tr. 268:25-273:3. As of the hearing, LUMA had been awarded ~\$6M in ER1 funding (12/18 Tr. 427:3-428:3), and PREPA had not received any awards from the ER2 program—thus, the entire \$1.3B may remain available. *Id.* 429:10-430:2.

Despite the large sums available for cost-share, Genera seeks an additional \$30M for federal cost-share in the Updated RR. The operators should draw on ER1 funds to cover FEMA cost-share, and other sources—including Commonwealth funds in the FFCIA (LUMA), reserve accounts (LUMA and Genera), and the GMR (Genera)—to cover the DOE 1% cost-share.

⁸³ Indeed, Genera understands that additional ER1 funds are forthcoming. Ex.890, p.3.

EPA Funding. The EPA funds the CWSRF, which PREPA can use for hydropower projects. The EPA has also conditionally approved \$13M for a Genera project, which nonetheless improperly remains in the revenue requirement. *See supra* Part II.D.

4. Commonwealth Funding

COR3 WCAs. The WCAs developed by COR3 provide cash advances for approved permanent work, instead of reimbursing subrecipients after costs are incurred. LUMA and Genera can request startup funds to cover a project's obligated federal share in 25% tranches. According to Smith, the WCAs are a way to address liquidity issues pending FEMA reimbursement and to bridge timing gaps. Ex.79, pp.32, 38; 12/18 Tr. 249:9-252:18, 304:2-7. As of 10/31/2025, LUMA had received ~\$1.1B in WCAs, of which it had invested \$807M and converted \$360M into validated reimbursements. Ex.79, p.31.⁸⁴ Importantly, there is *no cap* on WCA funding, other than the approximately \$12B in FEMA funding. 12/18 Tr. 305:17-306:2.

Although Smith contends WCAs do not fully resolve LUMA's liquidity concerns because of purported procedural hurdles (*id.* 250:13-20), he volunteered that LUMA could shave two months off this process simply by screenshotting proof of payment instead of waiting for Hacienda to confirm receipt. *Id.* 311:10-16. Importantly, Genera has not experienced these purported delays. *Id.* 312:9-18; 12/19 Tr. 387:13-388:2. And there are many other sources the Operators could deploy to help bridge any timing gaps.

FFCIA. WCAs allocated to FEMA-obligated LUMA projects are deposited into LUMA's FFCIA. Smith testified there is currently \$203M in the FFCIA (12/18 Tr. 255:2-7), with the caveat

⁸⁴ In fact, LUMA had even more WCA funds but was required to return them. *See* <https://tinyurl.com/5f9f5ar3>; PREPA's Motion for the Bureau to Reconsider HE Order on FTI Report (1/1/2026). The Hearing Examiner precluded a COR3 witness from testifying on this topic despite PREPA's offer. 11/14 Tr. 485:20-25.

that this balance fluctuates. Ex.79, p.32:714. The FFCIA had an average balance of \$591.1M over the last year. Ex.522. Although Smith testified that LUMA cannot access WCAs from the FFCIA without PREPA's preapproval, he could not identify any instance of PREPA denying approval. 12/18 Tr. 259:12-23.

Of the \$203M in the FFCIA, about \$40M-\$43M consists of Commonwealth funds for federal projects, which are not tied to specific obligated projects and therefore "more flexible in their use." *Id.* 255:13-257:6, 258:3-7, 261:13-262:6. It is unrestricted working capital that can be used to advance any federal project, including potentially cost-share. *Id.* 261:13-262:23. Smith testified that since its inception, several hundred million dollars of Commonwealth funding have been reimbursed by FEMA and cycled back through the FFCIA. *Id.* 258:14-25.

Energy Sector Reserve ("ESR"). The ESR contains \$683M. Although Smith contends it is controlled by the Commonwealth and "requires government action to deploy" (Ex.79, p.33), he conceded LUMA has never requested funding from it. 12/18 Tr. 278:19-22.

Emergency Reserve Fund. This is a disaster-related fund controlled by the Puerto Rico Treasury with a balance of ~\$1.3B. Smith testified that although he is generally aware of its existence, LUMA never bothered to learn about the possible conditions for accessing these funds. *Id.* 440:13-441:4.

\$750M State Revolving Fund. In November 2025, the Governor signed JR42, which amended JR85-2020 to extend its effective period and expand its scope to enable issuance of loans, credit facilities, or advances for recovery and reconstruction of critical infrastructure to central government agencies, *public corporations* (such as PREPA and potentially its agents), instrumentalities, municipalities, *and other eligible entities* (potentially the operators). Ex.1033. Although Smith believes the program guidelines have yet to be set (12/18 Tr. 213:13-214:9),

Cortes-Rosario testified that if the operators had access, it would assuage his liquidity concerns and obviate the need for the federally funded capital account he had recommended. *Id.* 237:4-15; *see also id.* 248:20-249:7 (Smith agreeing that if this fund is accessible, it would be another source of liquidity to bridge timing gaps).

B. Scenario Analysis

1. PREB Moves Project from NFC to FF, Reduces ARR

The projects the operators deem eligible for outside funding should be removed from NFC, and corresponding adjustments to labor and O&M should be implemented. At minimum, any project identified as obligated in Ex.1032 should be moved from NFC to FF.

The utilities agreed that when considering whether to reclassify an NFC project, PREB should assess the eligibility and availability of federal funds, and whether sufficient liquidity exists to bridge any funding gaps. 12/19 Tr. 130:5-13 (Cintrón); 130:17-132:09 (Meléndez); 133:04-19 (Diaz). Meléndez further agreed that NFC projects should be moved to the FF bucket when federal funds are received or even obligated. *Id.* 236:18-237:12; 238:13-239:2. This is also consistent with Genera's approach to ER1 funding. *See supra* Part XIII.A.2.b. Moreover, as noted above, there is ample outside funding available to advance the projects the operators identified as eligible in the Hopefulness Rankings and to bridge any timing gaps. *See supra* Part XIII.A. Ratepayers should not bear these expenses.

2. PREB Moves Project from NFC to FF, Reduces ARR, Then Federal or Commonwealth Funds Arrive on Time

LUMA and Genera witnesses agreed no further action from PREB is required if a project is reclassified as FF and outside funds arrive on time. 12/19 Tr. 146:24-148:11, 157:9-158:4, 157:10-158:4.

3. *PREB Moves Project from NFC to FF, Reduces ARR, Federal Funds Are Approved but Are Delayed*

In this scenario, the project would need to be put on hold or special liquidity funds would need to be deployed *only* if there were no other source of liquidity. 12/19 Tr. 247:7-12. However, as discussed, there are ample sources of liquidity that the utilities could deploy. *Id.* 247:14-254:7; *see supra* Part XIII.A.

4. *PREB Moves Project from NFC to FF, Reduces ARR, but Then No Federal or Commonwealth Funds Arrive*

Meléndez and Cintrón testified that this hypothetical is unlikely. Meléndez could not recall a *single* instance where LUMA expected a project to be federally funded but the funding was permanently denied. 12/19 Tr. 254:23-255:23. He also admittedly had no basis to believe LUMA would not receive federal funding for a material amount of its eligible projects. *Id.* 256:22-257:2. Cintrón similarly testified that Genera is highly successful in obtaining federal reimbursement, and the average time for reimbursement is just 45-60 days. *Id.* 257:5-24, 258:2-10. And Pallens confirmed there have been no denials. *Id.* 260:12-20.

5. *PREB Leaves Funds in NFC, but Then Non-Ratepayer Funds Later Arrive*

Bondholders will address this scenario in the legal-issues brief. In short, any NFC project that is charged to ratepayers and later receives outside funds should be reimbursed to ratepayers, rather than being kept and reallocated to other NFC projects, as LUMA proposes. 12/19 Tr. 219:16-220:13; *see supra* I.A.2.b. Nor should Genera be permitted to keep as profits any portion of such outside funding, as it initially proposed. 11/25 Tr. 105:2-107:10 (arguing federal funding on a ratepayer-funded project constitutes “savings” under Genera’s OMA, entitling it to keep half as profit).

CONCLUSION

Bondholders respectfully request that PREB modify the rate request as discussed herein, and carefully scrutinize all remaining proposed spending, including regarding executability, necessity, amount, and potential availability of outside funding.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this brief, exclusive of the portions exempted in the Hearing Examiner's 12/22/2025 Order (caption, table of contents, signature blocks, and service information) and the Spanish summary required by standing order, contains 31,857 words per the word-processing program's word count feature.

/s/ Corey K. Brady

Corey K. Brady

Dated: January 23, 2026

RESPECTFULLY SUBMITTED,

THIS 23rd DAY OF JANUARY 2026

CERTIFICATE OF SERVICE: We hereby certify that the foregoing petition was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System, and courtesy copies were sent via electronic means to mvalle@gmlex.net; arivera@gmlex.net; jmartinez@gmlex.net; jgonzalez@gmlex.net; katiuska.bolanos-lugo@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; carolyn.clarkin@us.dlapiper.com; andrea.chambers@us.dlapiper.com; sromero@sbgbaw.com; gcastrodad@sbgbaw.com; jennalvarez@sbgbaw.com; jfr@sbgbaw.com; regulatory@genera-pr.com; legal@genera-pr.com; hrivera@jrsp.pr.gov; 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; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; jdiaz@sbgbaw.com; javrúa@sesapr.org; Brett.ingerman@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; 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; thomas.curtin@cwt.com; escalera@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; dmonserrat@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com; Julia@londonconomics.com; Brian@londonconomics.com; luke@londonconomics.com; juan@londonconomics.com; mestrada@gibsondunn.com; LShelfer@gibsondunn.com; jnieves@cstlawpr.com; arrivera@nuenergypr.com; apc@mcvpr.com; shempling@scotthemplinglaw.com; rsmithla@aol.com; guy@maxetaenergy.com; jorge@maxetaenergy.com; rafael@maxetaenergy.com; dawn.bisdorf@gmail.com; msdady@gmail.com; mcranston29@gmail.com; ahopkins@synapse-energy.com; clane@synapse-energy.com; kbailey@acciongroup.com; hjudd@acciongroup.com; zachary.ming@ethree.com; PREBconsultants@acciongroup.com; carl.pechman@keylogic.com; bernard.neenan@keylogic.com; tara.hamilton@ethree.com; aryeh.goldparker@ethree.com; roger@maxetaenergy.com; Shadi@acciongroup.com.

ADSUAR

By: /s/ Eric Pérez-Ochoa

Eric Pérez-Ochoa
P.R. Bar No. 9739
Luis Oliver-Fraticelli
P.R. Bar No. 10764
Alexandra Casellas-Cabrera
P.R. Bar No. 18912
PO Box 70294
San Juan, PR 00936-8294
Telephone: 787.756.9000
Facsimile: 787.756.9010
Email: epo@amgprlaw.com
loliver@amgprlaw.com
acasellas@amgprlaw.com

WEIL, GOTSHAL & MANGES LLP

By: /s/ Robert Berezin

Matthew S. Barr
Robert Berezin (admitted *pro hac vice*)
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Email: matt.barr@weil.com
robert.berezin@weil.com

Gabriel A. Morgan
700 Louisiana Street, Suite 1700
Houston, TX 77002
Telephone: (713) 546-5000
Facsimile: (713) 224-9511
Email: gabriel.morgan@weil.com

Corey Brady (admitted *pro hac vice*)
1395 Brickell Avenue
Suite 1200, Miami, FL 33131
Telephone: (305) 577-3225
Facsimile: (305) 374-7159
Email: corey.brady@weil.com

Co-Counsel for National Public Finance Guarantee Corporation

RAMOS CRUZ LEGAL

By: /s/ Lydia M. Ramos Cruz
Lydia M. Ramos Cruz
P.R. Bar No. 12301
1509 López Landrón Street
American Airlines Building, PH
San Juan, Puerto Rico 00911
Tel.: (787) 508-2525
Email: lramos@ramoscruzlegal.com

WHITE & CASE LLP

By: /s/ Thomas E Lauria
Thomas E Lauria
Glenn M. Kurtz
Claudine Columbres
Isaac Glassman
Thomas E. MacWright
1221 Avenue of the Americas
New York, New York 10036
Tel.: (212) 819-8200
Fax: (212) 354-8113
Email: tlauria@whitecase.com
gkurtz@whitecase.com
ccolumbres@whitecase.com
iglassman@whitecase.com
tmacwright@whitecase.com

John K. Cunningham
Michael C. Shepherd
Jesse L. Green
200 S. Biscayne Blvd., Suite 4900
Miami, Florida 33131
Tel.: (305) 371-2700
Fax: (305) 358-5744
Email: jcunningham@whitecase.com
mshepherd@whitecase.com
jgreen@whitecase.com

Co-Counsel for GoldenTree Asset Management LP

CASELLAS ALCOVER & BURGOS P.S.C.

By: /s/ Heriberto Burgos Pérez

Heriberto Burgos Pérez
P.R. Bar No. 8746
Diana Pérez-Seda
P.R. Bar No. 17734
P.O. Box 364924
San Juan, Puerto Rico 00936-4924
Telephone: (787) 756-1400
Facsimile: (787) 756-1401
Email: hbburgos@cabprlaw.com
dperez@cabprlaw.com

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Miguel A. Estrada

Miguel A. Estrada (*pro hac vice* application pending)
Lochlan F. Shelfer (admitted *pro hac vice*)
1700 M Street, N.W.
Washington, D.C. 20036-4504
Tel.: (202) 955-8500
Fax: (202) 530-9662
Email: mestrada@gibsondunn.com
lshelfer@gibsondunn.com

CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ William J. Natbony

Casey J. Servais (admitted *pro hac vice*)
William J. Natbony (admitted *pro hac vice*)
Thomas J. Curtin (admitted *pro hac vice*)
200 Liberty Street
New York, New York 10281
Telephone: (212) 504-6000
Facsimile: (212) 504-6666
Email: casey.servais@cwt.com
bill.natbony@cwt.com
thomas.curtin@cwt.com

Co-Counsel for Assured Guaranty Inc.

TORO COLÓN MULLET P.S.C.
P.O. Box 195383
San Juan, PR 00919-5383
Tel.: (787) 751-8999
Fax: (787) 763-7760

/s/ Manuel Fernández-Bared
MANUEL FERNÁNDEZ-BARED
USDC-PR No. 204204
Email: mfb@tcm.law

/s/ Linette Figueroa-Torres
LINETTE FIGUEROA-TORRES
USDC-PR No. 227104
Email: lft@tcm.law

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, New York 10019
Tel.: (212) 373-3000
Fax: (212) 757-3990

/s/ Andrew N. Rosenberg
Andrew N. Rosenberg
Paul D. Brachman
Karen R. Zeituni
Samantha Wintner

Email: arosenberg@paulweiss.com
pbrachman@paulweiss.com
kzeituni@paulweiss.com
swinter@paulweiss.com

Co-Counsel for the Majority Member Ad Hoc Group

REICHARD & ESCALERA, LLC

By: /s/ Rafael Escalera

Rafael Escalera
P.R. Bar No. 5610

By: /s/ Sylvia M. Arizmendi

Sylvia M. Arizmendi
P.R. Bar No. 10337

By: /s/ Carlos R. Rivera-Ortiz

Carlos R. Rivera-Ortiz
P.R. Bar No. 22308
255 Ponce de León Avenue
MCS Plaza, 10th Floor
San Juan, Puerto Rico 00917-1913
Tel.: (787) 777-8888
Fax: (787) 765-4225
Email: escalara@reichardescalera.com
arizmendis@reichardescalera.com
riverac@reichardescalera.com

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: /s/ Susheel Kirpalani

Susheel Kirpalani
Eric Kay
295 Fifth Avenue
New York, New York 10016
Tel.: (212) 849-7000
Fax: (212) 849-7100
Email: susheelkirpalani@quinnemanuel.com
erickay@quinnemanuel.com

Co-Counsel for Syncora Guarantee, Inc.

**MONSERRATE SIMONET &
GIERBOLINI, LLC**

By: /s/ Dora L. Monserrate-Peñagarícano
Dora L. Monserrate-Peñagarícano
P.R. Bar No. 11661
Fernando J. Gierbolini-González
P.R. Bar No. 11375
Richard J. Schell
P.R. Bar No. 21041
101 San Patricio Ave., Suite 1120
Guaynabo, Puerto Rico 00968
Phone: (787) 620-5300
Facsimile: (787) 620-5305
Email: dmonserrate@msglawpr.com
fgierbolini@msglawpr.com
rschell@msglawpr.com

DECHERT LLP

By: /s/ David A. Herman
David A. Herman (admitted *pro hac vice*)
G. Eric Brunstad, Jr.
Stephen D. Zide
1095 Avenue of the Americas
New York, New York 10036
Phone: (212) 698-3500
Facsimile: (212) 698-3599
Email: eric.brunstad@dechert.com
stephen.zide@dechert.com
david.herman@dechert.com

Michael Doluisio
Stuart Steinberg
2929 Arch Street
Philadelphia, PA 19104
Phone: (215) 994-4000
Facsimile: (215) 994-2222
Email: michael.doluisio@dechert.com
stuart.steinberg@dechert.com

Co-Counsel for the PREPA Ad Hoc Group

RESUMEN DE: ESCRITO INICIAL POSTERIOR A LA AUDIENCIA DE LOS BONISTAS SOBRE LOS REQUISITOS DE INGRESOS

AL NEGOCIADO DE ENERGÍA DE PUERTO RICO:

National Public Finance Guarantee Corporation, GoldenTree Asset Management LP, Syncora Guarantee, Inc., Assured Guaranty Inc. y el Grupo Ad Hoc de PREPA (Bonistas) sostienen que múltiples partidas solicitadas por LUMA, PREPA y Genera para el período fiscal 2026–2028 no cumplen con el estándar legal de ‘costos justos, razonables y necesarios’ y, por tanto, no deben cargarse a los abonados. La utilidad tiene la responsabilidad de probar que la tarifa propuesta es justa y razonable y que provee servicio seguro y adecuado al menor costo razonable (22 L.P.R.A. § 1054x). Los operadores no aportaron evidencia suficiente y, en varios renglones, descansan en aseveraciones generales sin análisis cuantitativo.

Los Bonistas impugnan solicitudes de financiación no federales por sobreestimación y falta de sustento, duplicidad con fondos federales/estatales disponibles y problemas de ejecutabilidad. El NEPR debe reclasificar a fondos externos proyectos elegibles y limitar la financiación no federal a lo estrictamente inaplazable. Según el escrito, varios proyectos sustituyen equipos aún operativos, carecen de ingeniería detallada o base de costos, o podrían ser financiados externamente; además, los ritmos de ejecución propuestos exceden precedentes y capacidades reales.

Se cuestionan incrementos sustanciales en servicios profesionales tercerizados sin cuantificar beneficios, ahorros o reducción efectiva de consultores. Los Bonistas destacan la remoción tardía de \$30M en costos por falta de ejecutabilidad. Además, objetan los contratos especulativos, las inversiones cuantiosas en unidades envejecidas y los proyectos hidroeléctricos por baja aportación a capacidad frente a altos costos federales propuestos.

Los Bonistas piden mantener la supervisión anual de presupuestos por el NEPR y exigir cuantificación de eficiencias y ahorros prometidos para sustentar inversiones. Sin embargo, se considera innecesaria la multiplicidad de cuentas de reserva/capacidad de liquidez dada la existencia de otras fuentes.

Se advierte que disputas entre LUMA, PREPA y Genera afectan la ejecución y el acceso a fondos externos. Los Bonistas solicitan denegar el 'Margen' propuesto por carecer de base probatoria y por duplicar otros mecanismos de liquidez. Por otro lado, piden mantener el factor en 1.5% y rechazar el 2.97% propuesto por falta de evidencia y por inconsistencias con datos recientes.

Los Bonistas solicitan excluir pasivos y costos administrativos de pensiones por falta de sustento y por cuestiones de prioridad y financiamiento alterno. Se sostiene que la asequibilidad y el diseño de subsidios se atienden en la etapa de diseño tarifario. Se argumenta, también, que existen recursos suficientes para cubrir una parte sustantiva de las inversiones por lo que proyectos elegibles deben trabajarse con fondos externos.

Finalmente, solicitan lo siguiente:

- Reclasificar a fondos federales/externos todos los proyectos elegibles.
- Limitar el financiamiento de fondos no federales a proyectos inaplazables, con evidencia de necesidad, alcance, costos y ejecutabilidad.
- Mantener la revisión y aprobación anual de presupuestos por el NEPR; denegar facultades de reprogramación sin supervisión.
- Exigir cuantificación de eficiencias y ahorros asociados a inversiones, y planes para sustituir consultores de forma costo-efectiva.

- Denegar el ‘margen’ propuesto y otras cuentas de liquidez duplicadas; utilizar mecanismos existentes en emergencias.
- Mantener el factor de incobrables en 1.5%.
- Excluir costos de pensiones por falta de sustento y por disponibilidad de fuentes alternas.

Según los Bonistas, el expediente demuestra que una porción significativa de los costos propuestos carece de sustento, no es ejecutable o puede cubrirse con fondos externos, por lo que el NEPR debe priorizar proyectos con mayor impacto en confiabilidad al menor costo razonable.