

**GOVERNMENT OF PUERTO RICO  
PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

**NEPR**

**Received:**

**Feb 17, 2026**

**5:02 PM**

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

**CASE NUM. NEPR-AP-2023-0003**

**Subject:**

**SUN-SESA Brief on Rate Design**

**JOINT SUN-SESA BRIEF ON RATE DESIGN**

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**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

Comes now SOLAR UNITED NEIGHBORS and the SOLAR AND ENERGY STORAGE ASSOCIATION OF PUERTO RICO, represented by the undersigned attorneys, and very respectfully STATE, ALLEGE and PRAY:

**INTRODUCTION**

1. SOLAR UNITED NEIGHBORS (“SUN”) is a nonprofit corporation dedicated to creating a clean, equitable, resilient energy system that benefits everyone. It helps people go solar, join, and fight for their energy rights. SUN’s vision is a clean, equitable energy system that directs control and benefits back to local communities, with solar on every roof and money in every pocket.

2. The SOLAR AND ENERGY STORAGE ASSOCIATION OF PUERTO RICO (“SESA”) is a nonprofit association representing Puerto Rico’s solar and energy storage industry. SESA advocates solar and storage technologies as a central solution to Puerto Rico’s energy needs, promoting and advocating public policy that will benefit the growth of these industries.

3. The first review of the Puerto Rico Electric Power Authority's rates was conducted in 2015. *In re: Puerto Rico Electric Power Authority Rate Review*, Case No. CEPR-AP-2015-0001.

4. On June 30, 2023, this Honorable Energy Bureau issued a *Resolution and Order* opening the docket of reference to initiate the second adjudicative process to review PREPA's rates.

5. On May 29, 2025, this Honorable Energy Bureau issued a *Resolution and Order* establishing rate design filing requirements for this proceeding.

6. On July 3<sup>rd</sup>, 2025, LUMA Energy filed a *Motion Submitting Rate Review Petition*.

7. On July 3<sup>rd</sup>, 2025, SESA filed a *Motion to Intervene in Rate Review Proceeding and Request for Notice*.

8. Later, on August 21, 2025, SUN filed a *Motion to Intervene* in this proceeding.

9. The appearing parties' motions for intervention were granted by the Hearing Examiner.

10. On September 8, 2025, SESA filed its *Motion to Submit the Direct Testimony of E. Kyle Datta* ("Datta Testimony", SESA Exh. 55). On that same date, SUN filed its *Motion Submitting Expert Testimony of Dr. Ahamad Faruqui* ("Faruqui Testimony", SUN Exh. 56).

11. Later, on October 27, 2025, SESA filed SESA Exh. 69 (rebuttal testimony, Datta), and SUN filed SUN Exh. 68 (rebuttal testimony, Faruqui).

12. SUN and SESA's main point of contention with LUMA Energy and its experts was their negative references to net metering, distributed generation, and so-called "solar policies" or "solar issues" during this rate case.

13. Exhibit D of the *Hearing Examiner’s Order Establishing (a) Agenda for the September 29 Conference, and (b) Certain Procedures for the Evidentiary Hearing* (September 29, 2025), established the Hearing Examiner’s position on “solar issues”.

Hearing Examiner Scott Hempling stated that

“Various parties and their witnesses—LUMA, SESA, SUN, and Victor González—have presented positions that involve the intersection between rate design policy and solar energy policy. The breadth of some of these presentations suggests a need to define carefully what issues are within and outside this proceeding. I offer the following tentative views to get the parties’ reactions. I then will make a decision—which, like all my decisions, parties may appeal to the Commissioners.

[...]

In the *rate design phase*, there are two questions relevant to solar: The first question is how various rate designs affect solar penetration. The second question is how those changes in solar penetration affect the demand (kW) and consumption (kWh) billing determinants that the Energy Bureau will use to set rates.”

(emphasis added).

14. On October 1<sup>st</sup>, 2025, a *Hearing Examiner’s Order on Rate Case Procedures* was issued. On that order, the Hearing Examiner stated that, regarding “solar issues” raised by LUMA, SUN, SESA, and Mr. Victor Gonzalez,

“LUMA counsel will talk with SUN and SESA counsel to determine what, if any, substance should be excluded from the latter two parties’ prefiled testimony.”

15. On October 21<sup>st</sup>, 2025, LUMA, SUN, SESA filed a *Joint Motion on Agreements to Revise Testimonies on Solar Issues* (a revised version was filed on October 23 2025).

The parties agreed to delete any reference to “solar issues” and “solar policies” from their expert’s direct and rebuttal testimonies. The revised, redlined versions of testimonies submitted by E. Kyle Datta, Ahmad Faruqui, Sam Shannon, Ed Balbis, and Andrew Smith – deleting references to “solar issues” – were submitted.

16. Corrected redlined versions of the testimonies from Datta and Faruqui were later filed on October 23<sup>rd</sup>, October 27, and December 14, 2025.

17. On October 30, 2025, expert witnesses for LUMA filed surrebuttal testimonies that address Datta and Dr. Faruqui's testimonies. LUMA Exh. 70-73.

18. Accordingly, the direct testimony, rebuttal testimony, and cross-examinations of the experts engaged by SUN and SESA presently focus on matters other than the impact of LUMA's proposed rate review on solar policies. As noted by the Hearing Examiner, issues related to solar policy ("solar issues") are to be addressed in separate dockets before the regulator or by the Legislative Assembly. That said, SUN and SESA reserve the right to rebut arguments from LUMA or the intervenors that attempt to address "solar issues", such as net metering policies and distributed energy.

19. The cross-examination of Dr. Faruqui and Mr. Datta was conducted on December 16, 2025.

20. On December 22<sup>nd</sup>, 2025, the *Hearing Examiner's Order on Exhibits, Miscellaneous Post-Hearing Matters, and Legal Issues* ordered SESA and SUN to file a joint brief.

21. SUN and SESA hereby file this joint brief to address several issues related to rate design in this proceeding.

## I. RATE REVIEW PROCESS

The Puerto Rico Energy Bureau (PREB) is an independent energy regulator established pursuant to the Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014, as amended. The public policy of the Government of Puerto Rico is “that an independent electric power regulatory entity with broad powers and duties shall be created to ensure [...] that energy costs are just and reasonable by overseeing and reviewing the rates of electric power service companies.” Section 1.2 of Act No. 57-2014 (22 L.P.R.A §1051).

Section 6.3(c) of Act No. 57-2014 (22 L.P.R.A §1054b(c)) states that the Puerto Rico Energy Bureau has the authority to

“[e]stablish and implement regulations and the necessary regulatory actions to guarantee the capacity, reliability, safety, efficiency, *and reasonability of the rates of Puerto Rico’s electrical system*, and establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities”. (emphasis added).

A rate review process, presided over by the PREB, was established under Section 6.25(c) of Act No. 57-2014 (22 L.P.R.A. § 1054x(c)). Section 6.25(c) of the Act governs all elements required for the rate review process:

*“During any rate review process, the burden of proof shall lie on the requesting electric power service company **to show that 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.* The requesting electric power service company shall submit all the information requested by the Energy Bureau, including, as applicable, but not limited to, evidence and documents related to:

- (1) the efficiency, capacity, and suitability of the facilities and service;
- (2) direct and indirect costs related to the generation, transmission, and distribution of energy, including marginal costs, stranded costs, and costs attributable to the loss of energy due to theft or inefficiency;
- (3) the expenditures related to the Authority’s debt repayment, itemizing separately the cost of bonds and other obligations that shall be part of the

securitization provided in Chapter IV of the Electric Power Authority Revitalization Act;

(4) all charges and costs included under the 'Fuel Adjustment' as of the effective date of this Energy Transformation and RELIEF Act;

(5) the requesting electric power service company's capacity to improve the service provided and its facilities;

(6) the conservation of energy and the efficient use of alternative energy resources and compliance with the Renewable Portfolio Standard;

(7) data related to the effect of special laws, subsidies, and contributions; and

(8) any other data or information that the Energy Bureau deems to be necessary to evaluate and approve rates. (emphasis added).

## II. PRINCIPLES OF RATE DESIGN

Lazar and González state that

“[t]he design of rates begins with a functional evaluation of the costs incurred by the utility to provide service to its customers. A foundational notion of rate design is to charge customers in relation to the costs incurred to serve them. A critical step is the allocation of costs among different customer classes — residential, commercial, industrial, and others. Customer cost allocations determine what piece of the utility revenue requirement pie a specific class will be charged. In reaching a cost allocation determination, regulators usually will consider different approaches (embedded cost vs. marginal cost, single peak hour or multiple peak hours, etc.) and review different cost of service studies. The end result is often some blend of the different approaches that hopefully match the overarching priorities of the state.”<sup>1</sup>

Economically efficient rate design requires the existence of the following elements,

as laid out by James Bonbright, Garfield, and Lovejoy:

- Be forward-looking and reflect long-run marginal costs;
- Focus on the usage components of service, which are the most cost- and price-sensitive;
- Be simple and understandable;
- Recover system costs in proportion to how much customers use, and when they use it;

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<sup>1</sup> Jim Lazar & Wilson González, *Smart Rate Design for a Smart Future*, 36 (2015) Regulatory Assistance Project <http://www.raponline.org/document/download/id/7680> (visited on January 29, 2026).

- Give consumers appropriate information and the opportunity to respond by adjusting usage; and
- Where possible, be temporally and geographically dynamic.<sup>2</sup>

According to Lazar and Gonzalez, “modern rate design should adhere to three basic principles:

- Principle 1: A customer should be able to connect to the grid for no more than the cost of connecting to the grid;
- Principle 2: Customers should pay for grid services and power supply in proportion to how much they use these services, and how much power they consume; and
- Principle 3: Customers that supply power to the grid should be fairly compensated for the full value of the power they supply.”<sup>3</sup>

Expert witnesses Datta (SESA) and Shannon (LUMA) propose to adhere to the rate design principles described by James Bonbright.<sup>4</sup> Datta volunteers an articulation of the ‘Bonbright Principles’ in reviewing LUMA’s rate proposals for this case:

- Rates should be characterized by simplicity, understandability, public acceptability, and feasibility of application and interpretation;
- Rates should be effective in yielding total revenue requirements;
- Rates should support revenue and cash flow stability from year to year;
- Rate levels should be stable in themselves, with minimal unexpected changes that are seriously adverse to existing customers;
- Rates should be fair in apportioning the cost of service among different consumers;
- Rate design and application should avoid undue discrimination;

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<sup>2</sup> James C. Bonbright, *PRINCIPLES OF PUBLIC UTILITY RATES* (1961) and Paul J. Garfield & Wallace F. Lovejoy, *PUBLIC UTILITY ECONOMICS* (1964), as cited in Lazar & González, *Id.*, at 23.

<sup>3</sup> Lazar & González, *supra* note 1, at 24.

<sup>4</sup> Bonbright, *supra* note 1. Please see *Direct Testimony of Sam Shannon*, pages 21-22, lines 494-514 (October 23<sup>rd</sup>, 2025), Exh. 20.

- Rates should advance economic efficiency, promote the efficient use of energy, and support market growth for competing products and services.<sup>5</sup>

Datta further states that “LUMA’s proposed rates [...] should be simple, understandable, acceptable, free from controversy in interpretation, stable, reasonable, non-discriminatory, and should advance economic efficiency. **LUMA’s proposals fail in several ways** [...].” (emphasis added).

SESA and SUN respectfully submit that LUMA’s proposals fail to meet relevant rate design principles.

### III. LUMA ENERGY’S PROPOSALS ON RATE DESIGN

LUMA seeks to restructure its rate design by shifting revenue recovery away from volumetric charges and toward higher fixed monthly charges imposed on all customers.<sup>6</sup> LUMA asserts that this shift is justified by its cost-of-service study, which classifies a broad range of costs as “customer-related,” defined as investments allegedly incurred primarily to enable customer connection to the electric system and the collection of payments thereafter.<sup>7</sup> As part of this proposal, LUMA also seeks to reclassify the existing CILT and SUBA riders from volumetric to fixed charges, while introducing two additional fixed riders: the Storm Outage Recovery rider and the Legacy Pension rider.<sup>8</sup>

At present, the fixed monthly charge is \$4. LUMA proposes to increase the fixed monthly charges from \$4 to over \$29 per month, exclusive of any residential outage recovery allocations.<sup>9</sup> This \$29 figure reflects LUMA’s proposal to reclassify the CILT and

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<sup>5</sup> *Direct Testimony of E. Kyle Datta*, page 5, lines 6-21 (September 8, 2025), Exh. 55.

<sup>6</sup> *Id.*, at pages 23, lines 23-26, page 24, lines 1-4.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*, at page 26, lines 2-10. See also, LUMA’s Revised Motion in Compliance with July 31st Order Regarding Revision of Pension Rider (26/11/2025), (referencing \$10.89/month charge for the GRS class),

SUBA (subsidy) components from volumetric to fixed charges. These new fixed charges are not currently included in the base rate. Now, as proposed recently by LUMA, PREPA pension fund charges are to be added as a fixed charge (\$10.89). Therefore, the proposed fixed fee rate hike actually jumps from \$4 to at least \$40.29. And that \$40.29 is a minimum number, which can be substantially higher since it does not include the as of yet undetermined amounts to be added as fixed fees that will correspond to outage recovery and PREPA's legacy debt.

LUMA seeks to rebalance the allocation of revenues among fixed, demand, and energy charges.<sup>10</sup> LUMA explains that it aims to collect a larger portion of revenue through fixed and demand charges to provide revenue stability and enable the utility to better withstand declines in energy consumption.<sup>11</sup>

#### IV. INCREASING THE FIXED CHARGE IS NOT THE SOLUTION AND IT VIOLATES ACT NO. 114-2007

SESA and SUN respectfully submit their opposition to LUMA's proposal for raising the base rate. Expert opposition to the proposed increase to the fixed fee underscores these concerns. Expert witness Mr. Datta, appearing on behalf of SESA, and Dr. Faruqi, on behalf of Solar United Neighbors, both offered testimony highlighting the disproportionate impact on residential customers and the questionable allocation of customer-related costs to fixed charges. Their analysis demonstrates that the proposed increase would shift costs unfairly and would not be justified based on actual cost

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<https://energia.pr.gov/wp-content/uploads/sites/7/2025/11/20251125-AP20230003-LUMAs-Revised-Motion.pdf>.

<sup>10</sup> Id. See also *Shannon, supra note 4, at page 22*.

<sup>11</sup> Id.

causation, supporting the position that alternative mechanisms for revenue stability should be pursued.

Expert witness Mr. Datta appeared on behalf of SESA. Mr. Datta's direct testimony was offered, *inter alia*, to oppose LUMA's proposal to increase monthly customer fixed charges.<sup>12</sup> Dr. Faruqui, appearing on behalf of Solar United Neighbors, joined Mr. Datta in opposing that proposal.

LUMA's proposals to increase fixed monthly charges are part of their broader plan to rebalance revenue collection among fixed, demand, and energy charges. While revenue stability is a legitimate concern, raising the fixed charge imposes disproportionate burdens on low net consumption customers (which include net metering customers and low-income customers) and does not address underlying inefficiencies in cost recovery or system operations.

LUMA classifies certain costs as "customer-related," which it defines as the costs necessary to enable customers to connect to the power system. These include meters, customer billing, account management, service drops, marketing and sales, and, notably, *a portion of distribution assets*. The inclusion of *distribution assets* is beyond the norm of many utilities and requires careful justification, as these costs would not ordinarily be incurred solely to maintain customer connection if no energy is used.<sup>13</sup>

According to Datta,

"[...] this appears to be a thinly veiled attempt to transfer far more overheads and distribution system expenses as fixed costs to residential and NEM customers beyond the actual costs of interconnecting, metering, billing and account management—and is far more expensive than typical fixed charges for these functions in other US utilities as discussed in the testimony of Ahmad Faruqui."<sup>14</sup>

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<sup>12</sup> *Datta, supra* note 5.

<sup>13</sup> *Id.*, at page 26, lines 11-16.

<sup>14</sup> *Id.*, at page 27, lines 19-26.

Dr. Faruqui stated on that subject that

“The fixed charge should only be used to recover the cost of metering, billing and customer care. In some cases, it is also used to recover a portion of the cost of the power line that runs from the house to the transformer. **The fixed charge cannot be used to recover all fixed costs of the utility.** In the US, as of two years ago, the median fixed charge for residential customers was under \$10.84 a month across 171 investor-owned utilities. The proposed charge would be way out of line with the median charge.”<sup>15</sup> (emphasis added).

LUMA’s classification of costs as “customer-related” exceeds the scope of its own definition and directly drives its proposal to raise the fixed residential customer charge. While it is reasonable to recover properly classified customer costs through the fixed customer charge, LUMA is offering to include all costs of its Customer Service Department, portions of General and Administrative costs, and a share of the Operation and Maintenance expenses for the distribution system. This allocation goes well beyond meters, interconnection, and bad debt, extending into costs that are not traditionally considered customer related.<sup>16</sup>

Dr. Faruqui explains that fixed charges are not intended to recover all customer-related costs. Rather, they are meant to cover only metering, billing, customer care, and in some cases, a portion of the cost to connect the customer to the nearest transformer.<sup>17</sup>

Significant rate changes can be difficult to implement over a short period. The ratemaking principle of *gradualism* calls for adjusting rates in smaller increments to avoid abrupt or dramatic increases that can burden customers. LUMA’s proposed increase in the residential fixed customer charge—from \$4 to at least \$40.29 per month—is a large,

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<sup>15</sup> *Direct Testimony of Ahmad Faruqui*, at page 11, lines 199-201 (September 8, 2025), Exh. 56. Id., page 12, lines 205-211, Exh. 56.

<sup>16</sup> *Datta*, *supra* note 5, at page 28, lines 4-10.

<sup>17</sup> *Rebuttal Testimony of Ahmad Faruqui*, page 1, lines 18-22, (October 25, 2025), Exh. 68.

immediate shift that violates this principle. By moving such a substantial portion of costs to fixed charges all at once, LUMA imposes disproportionate financial impacts on low- and moderate-income customers and undermines the gradual, predictable transition that rate design principles are intended to ensure.

Addressing the concept of gradualism, Dr. Faruqui submits that

“[...] gradualism is a well-established principle of rate design. The fixed charge, even if it is cost reflective, cannot be increased by a factor of 10 in a couple of years. High fixed charges will raise bills for low consumers of electricity. These tend to be people living by themselves in apartments or couples living in small or energy efficient homes. They also include people who have installed solar panels. All of these customers should be rewarded for contributing to Puerto Rico’s energy goals, not penalized.”<sup>18</sup>

Furthermore, Section 4 of Act 114-2007 (22 L.P.R.A. § 1014) establishes key legal guardrails relevant to this topic that preclude the establishment of fixed fees as proposed: (1) charges applicable to net-metering customers may not modify the export credit formula or net-consumption structure; (2) the Energy Bureau may not approve direct or indirect charges on renewable generation, (3) nor approve any charge that discourages participation in net metering. Each of these guardrails is implicated by LUMA’s proposal.

*i. The Proposed Fixed Fees Do Not Modify the Export Credit Formula, but Do Alter the Functional Application of Net Consumption*

Section 4(b) of Act 114-2007 requires that net-metering export credits and charges be based on “net consumption.”<sup>19</sup> In LUMA’s own words, “the credit for energy exported is equal to the total per-kilowatt hour energy charges under the applicable base tariff and

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<sup>18</sup> Id., page 13, lines 213-218.

<sup>19</sup> Note that LUMA, via Mr. Alejandro Figueroa, has agreed to modify the language to their net metering tariff accordingly (Tariff Schedule O-2 Tariff, Sheet 3.6, Schedule LR); See, ROI ROI\_\_SESA-of-LUMA-DST-110 (Exhibit SESA Ex.1012).

riders”.<sup>20</sup> Though it is true that fixed fees do not change the export credit value, nor redefine net consumption as set forth in the statute, it is equally true that by shifting recovery from a per-kWh charge to fixed monthly fees, said rate design shift effectively decouples part of a customer’s bill from consumption entirely, thereby diminishing the economic value of net metering for customers, customers that offset important portions of their load with their solar generation. Although this does not constitute a modification to the statutory formula, it has consequences expressly addressed in Section 4(c) of this statute: indirect charges and discouragement of net metering.

ii. *The Proposed Fixed Fees Function as a Prohibited “Indirect Charge” on Renewable Generation Under Section 4(c)*

Section 4(c) of Act 114-2007 states unequivocally that “[n]o direct or indirect charge shall be imposed on the generation of renewable energy by prosumers.” 22 L.P.R.A. § 1014. As such, customers with low net consumption—a usage pattern associated with net-metering participants (as well as others, such as low income customers and highly efficient customers), are penalized by dramatic bill increases under the proposed high fixed rate, as that design shifts cost responsibility from volumetric recovery (which aligns with consumption) to fixed fees (which do not). Conversely, high energy consumers are not penalized when volumetric charges are transferred to fixed fees.

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<sup>20</sup> Id; SESA and SUN respectfully submit this Offer of Proof to establish the admissibility of LUMA’s Response to ROI SESA-of-LUMA-DST-110. The response is verified by LUMA’s authorized representative, who attests that the information is “complete, true, and accurate” and that he would provide the same testimony under oath. Under Federal Rule of Evidence 801(d)(2)(A)–(D) and Puerto Rico Rule of Evidence 803, statements offered against a party and made by that party are admissible as substantive evidence. As such, SESA and SUN humbly request this ROI Response to be included in the record to preserve our rights for appellate review.

Because solar customers reduce their net consumption by producing renewable energy, a fixed charge that penalizes their low net consumption is functionally equivalent to imposing a charge on the renewable generation itself, certainly a proscribed indirect charge. Therefore, the proposed fixed rider triggers Section 4(c)'s prohibition on indirect charges tied to renewable self-generation.

*iii. The Proposed Fixed Rider Is Likely to "Discourage" Participation in Net Metering in Violation of Section 4(c)*

Section 4(c) of Act 114-2007 also provides that: "the rate approved by the Bureau for net metering customers shall not be discriminatory or discourage entering into net metering agreements."

By dramatically increasing the bills of customers who generate much of their own energy, fixed fees materially alter the payback period and economic value of distributed solar, naturally discouraging adoption. Besides discriminating between net-metered/low consumption customers, this outcome is precisely the type of "discouragement" that Section 4(c) prohibits. A charge that overwhelmingly increases costs for those who self-generate renewable energy is inherently discouraging by design. Thus, Section 4(c)'s second prohibition is triggered.

As Section 4(c) prohibits the Energy Bureau from approving any charge that is discriminatory, or indirectly charges renewable generation, or discourages participation in net metering, the Bureau should maintain the current \$4.00 minimum bill, to avoid Act 114-2007 breaches.

In conclusion, SESA and SUN respectfully request that this Honorable Energy Bureau **reject LUMA's proposed increases to the base rate** for the following reasons:

- LUMA’s proposal violates the principle of gradualism;
- Fixed charges that include costs which vary with demand are inefficient and send perverse price signals, encouraging inefficient use of electric service;
- High fixed charges that recover costs which vary with demand force low-energy users—often low-income customers—to subsidize larger users within the class;
- Such charges penalize customers who invest in energy efficiency, net energy metering (NEM), behavioral reductions, or other measures to lower their electric bills, by increasing the share of the bill that is non-bypassable;
- Including demand-variant costs in fixed charges sends inefficient price signals to the utility, encouraging unnecessary spending, artificially enhancing revenue stability, and reducing the marginal revenue effect associated with actual usage; and <sup>21</sup>
- The proposed high fixed charges violate Section 4(c) of Act No. 114-2007 as they constitute illegal indirect charges on prosumer’s renewable generation and because these charges effectively discourage net metered solar adoption by changing the value proposition of solar, discouragement that is banned by the statute.

#### V. A PATH FORWARD

SESA and SUN submit that, while they oppose LUMA’s proposed increase to the base rate, they stand ready to offer constructive recommendations to support a more efficient and resilient energy system in Puerto Rico.

Datta and Dr. Faruqui both support *revenue decoupling*. However, Dr. Faruqui stresses that “decoupling should not be used as a pretext to request rate increases”. <sup>22</sup> Agreeing with Datta, Dr. Faruqui states that “rates should be based on prudentially incurred costs, not on projected lost revenues”.<sup>23</sup>

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<sup>21</sup> *Rebuttal Faruqui*, supra note 17, at page 28, lines 14-30.

<sup>22</sup> *Faruqui*, supra note 15, at page 14, lines 237-242.

<sup>23</sup> *Id.*

Datta recommends creating

“a revenue decoupling approach that is prudent and ensures LUMA’s management and fiscal accountability. Second, deny LUMA rate structure proposals that hinder capital investment and formation by customers and keep monthly charges the same with no decrease of volumetric charges unless revenue requirements decrease.”<sup>24</sup>

It is important to note that Mr. Datta supports the adoption of revenue decoupling under a framework that differs from LUMA’s proposal. According to Mr. Datta, the implementation of revenue decoupling in Puerto Rico should be subject to the following conditions:

- *Scope*: Applies only the LUMA base distribution, excludes all fuel and other pass through riders;
- *No outage recovery*: Prohibit inclusion of sales lost from utility caused outages;
- *No duplicative charges*: PUC should reject proposed changes to rate structure that increase fixed charges as these are duplicative for revenue certainty;
- *Bidirectional*: Require symmetric true-ups with deadbands and caps on annual adjustments; and
- *Performance Incentives*: Pair with utility service, quality metrics and penalties, linked or in addition to LUMA contract.<sup>25</sup>

Dr. Faruqui and Datta both agree on the adoption of *inclining block rates (IBRs)*. IBR’s “make sense when energy costs rise with usage, and when power outages are common, as they do in Puerto Rico. IBRs are one of several ways to promote the efficient use of electricity and optimize the use of scarce energy resources.”<sup>26</sup> IBRs constitute a

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<sup>24</sup> *Datta, supra* note 5, at page 36, lines 3-9.

<sup>25</sup> *Datta, supra* note 5, at page 37, lines 13-26.

<sup>26</sup> *Faruqui, supra* note 15, at page 13, lines 231-233. See also *Datta, Id.*, at page 40, lines 1-3.

tiered pricing mechanism wherein the per-kilowatt-hour charge escalates with incremental consumption levels, thereby incentivizing demand-side management and safeguarding affordability for low-usage residential consumers. Such structures advance core objectives of energy policy, including conservation and equitable cost allocation. With IBRs 'the more you consume, the more you pay'.

Accordingly, we respectfully urge the Honorable Bureau to initiate a formal, professionally moderated stakeholder engagement process - whether integrated into the instant docket (NEPR-AP-2023-0003) or established as a discrete proceeding - with a clearly prescribed timeline that will culminate in the submission of a draft IBR proposal for the Bureau's formal review and deliberation.

CONCLUSION

**WHEREFORE**, SOLAR UNITED NEIGHBORS and SOLAR AND ENERGY STORAGE ASSOCIATION OF PUERTO RICO respectfully request that this Honorable Bureau REJECTS LUMA's proposal of raising the base rate.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17<sup>th</sup> day of February 2026.

**FOR SOLAR UNITED NEIGHBORS:**

**RL LEGAL & CONSULTING SERVICES, LLC**  
381 Ave. Felisa Rincon de  
Apt. 209  
San Juan, Puerto Rico, 00926

**s/Ramón Luis Nieves**  
RUA 13526  
ramonluisnieves@rlnlegal.com  
Tel. (787) 607-7093

**FOR SOLAR AND ENERGY STORAGE ASSOCIATION OF PUERTO RICO:**

**McCONNELL VALDÉS LLC**  
PO Box 364225  
San Juan, Puerto Rico 00936-4225  
270 Muñoz Rivera Avenue  
San Juan, Puerto Rico 00918

**s/Carlos J. Fernández Lugo**  
PR Supreme Court ID No.11033  
Carlos J. Fernández Lugo  
cfl@mcvpr.com  
(787) 250-5669

**s/André J. Palerm Colón**  
apc@mcvpr.com  
André J. Palerm Colón  
PR Supreme Court ID No. 21196  
(787) 250-5636

**SOLAR & ENERGY STORAGE  
ASSOCIATION OF PUERTO RICO**

**s/Javier Rúa Jovet**  
Javier Rúa Jovet  
PR Supreme Court ID No.12602  
javrua@sesapr.org  
(787) 396-6511

CERTIFICATE OF COMPLIANCE WITH WORD-COUNT LIMIT

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***s/Ramón Luis Nieves***  
***s/Carlos J. Fernández Lugo***  
***s/André J. Palerm Colón***

CERTIFICATION

WE HEREBY CERTIFY that this motion was filed using the Energy Bureau's electronic filing system and that electronic copies of this motion will be notified to the Hearing Examiner, Scott Hempling, via [shempling@scotthemplinglaw.com](mailto:shempling@scotthemplinglaw.com); and to the attorneys of the parties of record: [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com); [carolyn.clarkin@us.dlapiper.com](mailto:carolyn.clarkin@us.dlapiper.com); [chambers@us.dlapiper.com](mailto:chambers@us.dlapiper.com); [mvalle@gmlex.net](mailto:mvalle@gmlex.net); [jgonzalez@gmlex.net](mailto:jgonzalez@gmlex.net); [arivera@gmlex.net](mailto:arivera@gmlex.net); [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [legal@genera-pr.com](mailto:legal@genera-pr.com)

**Parties and Intervenors:**

[alexis.rivera@prepa.pr.gov](mailto:alexis.rivera@prepa.pr.gov); [jmartinez@gmlex.net](mailto:jmartinez@gmlex.net);  
[nzayas@gmlex.net](mailto:nzayas@gmlex.net); [Gerard.Gil@ankura.com](mailto:Gerard.Gil@ankura.com);  
[Jorge.SanMiguel@ankura.com](mailto:Jorge.SanMiguel@ankura.com); [Lucas.Porter@ankura.com](mailto:Lucas.Porter@ankura.com); [mdiconza@omm.com](mailto:mdiconza@omm.com);  
[golivera@omm.com](mailto:golivera@omm.com); [pfriedman@omm.com](mailto:pfriedman@omm.com); [msyassin@omm.com](mailto:msyassin@omm.com); [katiuska.bolanos-lugo@us.dlapiper.com](mailto:katiuska.bolanos-lugo@us.dlapiper.com);  
[Yahaira.delarosa@us.dlapiper.com](mailto:Yahaira.delarosa@us.dlapiper.com);  
[carolyn.clarkin@us.dlapiper.com](mailto:carolyn.clarkin@us.dlapiper.com);  
[regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [legal@genera-pr.com](mailto:legal@genera-pr.com); [m vazquez@vvlawpr.com](mailto:m vazquez@vvlawpr.com);  
[gvilanova@vvlawpr.com](mailto:gvilanova@vvlawpr.com); [dbilloch@vvlawpr.com](mailto:dbilloch@vvlawpr.com); [ratecase@genera-pr.com](mailto:ratecase@genera-pr.com);  
[jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov); [gerardo\\_cosme@solartekpr.net](mailto:gerardo_cosme@solartekpr.net); [contratistas@jrsp.pr.gov](mailto:contratistas@jrsp.pr.gov); [victorluisgonzalez@yahoo.com](mailto:victorluisgonzalez@yahoo.com); [Cfl@mcvpr.com](mailto:Cfl@mcvpr.com); [nancy@emmanuelli.law](mailto:nancy@emmanuelli.law);  
[jrinconlopez@guidehouse.com](mailto:jrinconlopez@guidehouse.com); [Josh.Llamas@fticonsulting.com](mailto:Josh.Llamas@fticonsulting.com);  
[Anu.Sen@fticonsulting.com](mailto:Anu.Sen@fticonsulting.com); [Ellen.Smith@fticonsulting.com](mailto:Ellen.Smith@fticonsulting.com); [Intisarul.Islam@weil.com](mailto:Intisarul.Islam@weil.com);  
[alexis.ramsey@weil.com](mailto:alexis.ramsey@weil.com); [kara.smith@weil.com](mailto:kara.smith@weil.com); [rafael.ortiz.mendoza@gmail.com](mailto:rafael.ortiz.mendoza@gmail.com);  
[rolando@emmanuelli.law](mailto:rolando@emmanuelli.law); [monica@emmanuelli.law](mailto:monica@emmanuelli.law); [cristian@emmanuelli.law](mailto:cristian@emmanuelli.law);  
[luis@emmanuelli.law](mailto:luis@emmanuelli.law); [jan.albinolopez@us.dlapiper.com](mailto:jan.albinolopez@us.dlapiper.com);  
[Rachel.Albanese@us.dlapiper.com](mailto:Rachel.Albanese@us.dlapiper.com); [varoon.sachdev@whitecase.com](mailto:varoon.sachdev@whitecase.com);  
[javrua@sesapr.org](mailto:javrua@sesapr.org); [Brett.ingerman@us.dlapiper.com](mailto:Brett.ingerman@us.dlapiper.com); [brett.solberg@us.dlapiper.com](mailto:brett.solberg@us.dlapiper.com);  
[agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com); [jpouroman@outlook.com](mailto:jpouroman@outlook.com);  
[epo@amgprlaw.com](mailto:epo@amgprlaw.com); [loliver@amgprlaw.com](mailto:loliver@amgprlaw.com); [acasellas@amgprlaw.com](mailto:acasellas@amgprlaw.com);  
[matt.barr@weil.com](mailto:matt.barr@weil.com);  
[Robert.berezin@weil.com](mailto:Robert.berezin@weil.com); [Gabriel.morgan@weil.com](mailto:Gabriel.morgan@weil.com); [corey.brady@weil.com](mailto:corey.brady@weil.com);  
[lindsay.greenbaum@analysisgroup.com](mailto:lindsay.greenbaum@analysisgroup.com); [harrison.holtz@analysisgroup.com](mailto:harrison.holtz@analysisgroup.com);  
[charles.wu@analysisgroup.com](mailto:charles.wu@analysisgroup.com); [Brian.Gorin@analysisgroup.com](mailto:Brian.Gorin@analysisgroup.com);  
[Bhumika.Sharma@analysisgroup.com](mailto:Bhumika.Sharma@analysisgroup.com); [Rachel.Anderson@analysisgroup.com](mailto:Rachel.Anderson@analysisgroup.com);  
[Iramos@ramoscruzlegal.com](mailto:Iramos@ramoscruzlegal.com); [tlauria@whitecase.com](mailto:tlauria@whitecase.com); [gkurtz@whitecase.com](mailto:gkurtz@whitecase.com);  
[ccolumbres@whitecase.com](mailto:ccolumbres@whitecase.com); [isaac.glassman@whitecase.com](mailto:isaac.glassman@whitecase.com);  
[tmacwright@whitecase.com](mailto:tmacwright@whitecase.com); [jcunningham@whitecase.com](mailto:jcunningham@whitecase.com);  
[mshpherd@whitecase.com](mailto:mshpherd@whitecase.com); [jgreen@whitecase.com](mailto:jgreen@whitecase.com); [hburgos@cabprlaw.com](mailto:hburgos@cabprlaw.com);  
[dperez@cabprlaw.com](mailto:dperez@cabprlaw.com); [howard.hawkins@cwt.com](mailto:howard.hawkins@cwt.com); [mark.ellenberg@cwt.com](mailto:mark.ellenberg@cwt.com);  
[casey.servais@cwt.com](mailto:casey.servais@cwt.com); [bill.natbony@cwt.com](mailto:bill.natbony@cwt.com); [zack.schrieber@cwt.com](mailto:zack.schrieber@cwt.com);  
[thomas.curtin@cwt.com](mailto:thomas.curtin@cwt.com); [escalera@reichardescalera.com](mailto:escalera@reichardescalera.com);  
[riverac@reichardescalera.com](mailto:riverac@reichardescalera.com); [susheelkirpalani@quinnemanuel.com](mailto:susheelkirpalani@quinnemanuel.com);  
[erickay@quinnemanuel.com](mailto:erickay@quinnemanuel.com); [dmonserrate@msslglawpr.com](mailto:dmonserrate@msslglawpr.com); [fgierbolini@msslglawpr.com](mailto:fgierbolini@msslglawpr.com);  
[rschell@msslglawpr.com](mailto:rschell@msslglawpr.com); [eric.brunstad@dechert.com](mailto:eric.brunstad@dechert.com); [Stephen.zide@dechert.com](mailto:Stephen.zide@dechert.com);  
[David.herman@dechert.com](mailto:David.herman@dechert.com); [Isaac.Stevens@dechert.com](mailto:Isaac.Stevens@dechert.com);  
[James.Moser@dechert.com](mailto:James.Moser@dechert.com); [michael.doluisio@dechert.com](mailto:michael.doluisio@dechert.com);

Kayla.Yoon@dechert.com; mfb@tcm.law; lft@tcm.law; arosenberg@paulweiss.com;  
pbrachman@paulweiss.com; swintner@paulweiss.com; kzeituni@paulweiss.com;  
Julia@londoneconomics.com; Brian@londoneconomics.com;  
luke@londoneconomics.com; juan@londoneconomics.com; mmcgill@gibsondunn.com;  
LShelfer@gibsondunn.com; jcasillas@cstlawpr.com; jnieves@cstlawpr.com;  
pedrojimenez@paulhastings.com; ericstolze@paulhastings.com;  
arrivera@nuenergypr.com; apc@mcvpr.com; kbailey@acciongroup.com

**PREB Consultants:**

rsmithla@aol.com; guy@maxetaenergy.com;  
jorge@maxetaenergy.com; rafael@maxetaenergy.com; dawn.bisdorf@gmail.com;  
msdady@gmail.com; mcraanston29@gmail.com; ahopkins@synapse-energy.com;  
clane@synapse-energy.com; kbailey@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;  
MWhited@synapse-energy.com