

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

NEPR

Received:

Feb 17, 2026

9:04 PM

In re:

PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW

Case. No.: NEPR-AP-2023-0003

PREPA'S REPLY BRIEF ON REVENUE REQUIREMENT

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TO THE HONORABLE ENERGY BUREAU,

COMES NOW, the Puerto Rico Electric Power Authority ("PREPA"), through its undersigned legal counsel, and, very respectfully, states and prays as follows:

I. PRELIMINARY STATEMENT

PREPA does not seek a rate increase in this proceeding to satisfy its proposed revenue requirement. Instead, it respectfully requests that the Energy Bureau of the Puerto Rico Service Regulatory Board ("Energy Bureau") exercise its ratemaking authority to redistribute available funds within the existing rate structure to ensure the lawful and prudent recovery of necessary expenses. The present Rate Case is not a vehicle to expand the burden on ratepayers, but to align available revenues with statutory obligations and operational necessities.

Before any rate increase is even contemplated, the Energy Bureau should require the private operators to secure, reconcile, and properly deploy all available federal funds. Ratepayer dollars cannot and should not be used to substitute for federal funding that remains obtainable, unreconciled, or

improperly administered. To do otherwise would invert the regulatory order of priorities and shift avoidable costs onto the public.

The “just and reasonable” standard established under the *Puerto Rico Energy Transformation and RELIEF Act*, Act No. 57-2014, as amended, mandates precisely this disciplined approach. Rates must reflect prudent and necessary costs --not inefficiencies, omissions, or funding that should first be sourced from federal programs. Any rate increase must therefore be a measure of last resort, adopted only after all other lawful and available funding mechanisms have been fully exhausted.

II. INTRODUCTION

1.1. On January 23, 2026, applicants LUMA Energy, LLC, and LUMA Energy ServCo, LLC (jointly “LUMA”), Genera PR LLC (“Genera”), and intervenors 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”); the Independent Consumer Protection Office (hereinafter, in its Spanish acronym “ICPO”); and Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica (“SREAE”), submitted their respective post-hearing briefs on revenue requirement to the Energy Bureau.

¹ Per the Bondholders, the members of the PREPA Ad Hoc Group are listed in the *Ninth Verified Statement of the PREPA Ad Hoc Group Pursuant to Bankruptcy Rule 2019*, ECF No. 5797, filed in *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, Case No. 17-04780-LTS (D.P.R. Aug. 28, 2025).

1.2. PREPA submits this Reply Brief to address and rebut the principal factual and legal misconceptions advanced by the ICPO, the Bondholders, and LUMA regarding PREPA's revenue requirement and the proper scope of this proceeding. At bottom, the opposing briefs invite the Energy Bureau to (i) unwind a federally negotiated and Bureau-approved disaster-recovery funding structure for PREPA's water-asset portfolio; (ii) narrow PREPA's statutory mandate under Act No. 83 to a simplistic "megawatt-only" test divorced from public safety, water security, and the safe operation of PREPA's facilities and properties; (iii) disregard record evidence demonstrating the necessity of targeted headcount increases to restore minimum institutional capacity to comply with PREPA's legal, governance, and federal-funding oversight obligations; (iv) eliminate PayGo pension funding and required Pension Loan repayment, (v) deprive PREPA of Title III legal budget (to which it is entitled under federal law); (vi) adopt speculative rate design constructs tied to legacy debt that the Title III Court has not yet determined; (vii) attribute to PREPA administrative decisions taken by FEMA that were triggered by LUMA's own failures; and (viii) authorize reimbursement and subsequent replenishment of outage reserve funds without a lawful funding mechanism, evidentiary support, or adequate oversight safeguards.

1.3. First, the record demonstrates that PREPA's proposed use of approximately \$1.3 billion in FEMA Accelerated Award Strategy ("FAAST") funding, together with interdependent federal co-funding, to rehabilitate dams, reservoirs, irrigation canals, and hydroelectric facilities is prudent, necessary, and

consistent with the integrated federal award structure presented to and accepted by Federal Emergency Management Administration (“FEMA”), U.S. Department of Housing and Urban Development (“HUD”), Central Office of Recovery, Reconstruction and Resiliency in Puerto Rico (“COR3”), and Congress, and with the Energy Bureau’s prior approvals in Case No. NEPR-MI-2021-0002. The ICPO’s claim that these funds should be redirected to other “grid reliability” purposes and the Bondholders’ characterization of these projects as unrelated to the electric system ignore the evidentiary record establishing that water-asset rehabilitation is foundational to hydroelectric viability, black-start resilience, protection of downstream electric infrastructure, and the preservation of time-sensitive federal funding that is at risk of de-obligation if disrupted. The arguments for reallocation are not merely impractical; they would jeopardize billions in layered federal investments, shift unavoidable costs onto ratepayers, and materially increase preventable life-safety risks associated with high-hazard dams.

1.4. Second, PREPA explains that Act 83 does not confine the reasonableness of PREPA’s expenditures --or the Energy Bureau’s ratemaking authority-- to incremental MW output. Act 83 expressly authorizes PREPA to propose rates sufficient to cover reasonable expenses incurred in the development, improvement, extension, repair, conservation, and safe operation of PREPA’s facilities and properties, including the water infrastructure that supports electric service, water supply for human consumption, flood protection, and agricultural activity. The restrictive reading urged by the Bondholders and the

ICPO would improperly disregard the Legislature's mandate and undermine PREPA's ability to meet its legal obligations while protecting the People of Puerto Rico and the integrity of essential public infrastructure.

1.5. Third, PREPA addresses the Bondholders' challenge to PREPA's request for additional headcount. The record shows that PREPA's targeted FTE requests are not an expansion of discretionary staffing, but a compliance and risk-mitigation measure necessary to remedy material deficiencies in financial controls, audit readiness, ERP implementation capacity, cybersecurity, procurement, asset management, federal-funding administration, and the safe operation of hydroelectric and water facilities. Experience also confirms that PREPA is best positioned to coordinate with FEMA, HUD, DOE, and COR3 to ensure timely compliance by PREPA and its private operators and to advance the successful obtention and use of federal funds for reliability and safety—functions that cannot be sustained at current staffing levels.

1.6. Fourth, PREPA addresses LUMA's assertion that PREPA "unilaterally" requested FEMA to deactivate certain T&D projects. The cited testimony confirms that FEMA—not PREPA—controls project deactivation and reactivation. The record further shows that the 224 projects at issue were administratively deactivated by FEMA because they remained in preliminary stages and lacked detailed scopes of work submitted by LUMA, despite LUMA having served as T&D operator since 2021. Thus, the evidentiary record demonstrates that LUMA's failure to secure federal funding for these projects stems from its own deficiencies and

lack of diligence, not from any action by PREPA. PREPA therefore submits that no rate increase should be authorized to compensate for LUMA's inefficiency in obtaining federal funds. Moreover, the Energy Bureau should require LUMA to secure and prudently deploy all available federal funds—including the more than half a billion dollars in federal funds that remain unreconciled—before authorizing any rate increase or allocating ratepayer monies for the same purposes.

1.7. Fifth, PREPA addresses LUMA's claim that PREPA "failed" to replenish the Outage Event Reserve Account ("OERA") by \$239 million. The record establishes that PREPA fully satisfied its contractual funding obligations under the T&D OMA, providing the \$90 million in funding required during the relevant period. Any subsequent replenishment depended upon an Energy Bureau-approved funding mechanism that was not in place. Multiple witnesses --including LUMA's own Chief Financial Officer --acknowledged that no rate mechanism currently exists to direct funds into the OERA. The asserted "deficiency" therefore arises not from noncompliance by PREPA, but from the absence of an approved budgetary mechanism and LUMA's failure to request one. Furthermore, LUMA admits that it has already paid certain outage costs from its Operating Account using ratepayer funds, rendering its request for "reimbursement" both illogical and unsupported by evidence of prudence. PREPA submits that any prospective OERA funding must be subject to strict pre-approval, reporting, and prudence review requirements, and that the Energy Bureau should require full reconciliation

and reporting of all historical outage event costs to ensure accountability and protection of ratepayer funds.

1.8. Sixth, PREPA demonstrates that the evidentiary record supports inclusion of PayGo pension funding and required Pension Loan repayment amounts in the revenue requirement, that PREPA has not “double-collected,” and that any timing issues are addressed through the provisional-to-permanent reconciliation process.

1.9. Seventh, PREPA explains that its Title III professional costs are reasonable, non-duplicative, subject to multiple layers of oversight, and declining over time – and are authorized under PROMESA section 316, which explicitly authorizes debtors to retain debtor professionals separate from the Oversight Board in connection with Title III cases.

1.10. Finally, PREPA explains that any attempt to include a DSCR-based “margin” tied to legacy debt is premature and speculative until the Title III Court determines the amount and manner of payment of legacy obligations.

1.11. For these reasons, and as set forth below, the Energy Bureau should reject the creditor-driven and record-contradicted narratives advanced by the opposing parties, adhere to its prior approvals on federal funds for PREPA’s water assets and the evidentiary record, and adopt a revenue requirement that is just, reasonable and aligned with PREPA’s statutory duties and Puerto Rico’s public-safety and disaster-recovery imperatives.

III. DISCUSSION

A. PREPA's use of \$1.3 billion of FAASf funding and related co-funding for the rehabilitation of its water assets

1.12. The ICPO argues that the use of \$1.3 billion of FAASf and related co-funding to rehabilitate PREPA's water-assets is "not a prudent use of available federal funds" because, according to the ICPO, said funds "could be used for other purposes that improve grid reliability."²

1.13. On their part, the Bondholders assert that PREPA seeks to "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."³

1.14. The Bondholders' arguments should be evaluated in light of their overriding objective in the Title III proceeding: to preserve and redirect as much ratepayer revenue as possible toward creditor recoveries, even if doing so requires the Energy Bureau to deprioritize projects that protect public safety, public health, and essential community lifelines. Moreover, The Bondholders provide no evidentiary support for their irrelevant, inflammatory allegations that regarding expense projections in PREPA's 2023 Certified Fiscal Plan and 2025 Certified Fiscal Plan.⁴ What is important here is the evidence submitted in the Rate Case and the detailed record herein, not what may have been submitted in

² See ICPO's Revenue Requirement Brief, p. 41.

³ See Bondholder's Revenue Requirement Brief, pp. 2-3.

⁴ See *Bondholders' Initial Post-Hearing Brief* at 3.

support of fiscal plans over a year and three years ago. As a result, the Energy Bureau should not give any weight to these statements on page three from the Bondholders' Initial Post-Hearing Brief.

1.15. The Bondholder's creditor-driven framework is evident in their attempt to divert FAASf and related co-funding from PREPA's water-asset portfolio --including hydroelectric plants, dams, irrigation canals, and reservoirs-- despite overwhelming evidence that these projects are necessary to safeguard surrounding communities, protect public health and safety, protect electric infrastructure from water damage, and ensure continued eligibility for federal assistance in future disasters.⁵ Far from being harmless, this belated reallocation threatens the outright loss of federal funds through de-obligation.

1.16. The record demonstrates that the FAASf funding and its associated federal co-funding were not conceived, negotiated, or awarded as a grid-exclusive recovery mechanism, but rather as part of an integrated asset portfolio central to Puerto Rico's disaster-recovery framework.⁶ As explained by PREPA witnesses William Sullivan and Eng. Fernando Osorio, dam rehabilitation, hydroelectric facilities, and reservoirs were foundational components of PREPA's original federal funding strategy and were expressly included in the scope presented to and accepted by FEMA, the U.S. Department of Housing and Urban Development ("HUD"), the Central Office for Recovery, Reconstruction and

⁵ See PREPA Exhibit 84.01 - PREPA Rebuttal Written Testimony to the Puerto Rico Energy Bureau's Consultant Eng. Justo González's Expert Report on the Matter of Generation, dated October, pp. 7-8 (hereinafter, "PREPA Rebuttal Written Testimony").

⁶ See PREPA Rebuttal Written Testimony, pp. 4-5.

Resiliency (“COR3”), and the broader federal recovery framework presented to the United States Congress.⁷ Moreover, these projects were transparently incorporated into PREPA’s 10-Year Infrastructure Plan and were evaluated and approved by the Energy Bureau in *In re: Review of the Puerto Rico Electric Power Authority’s 10-Year Infrastructure Plan*, Case No. NEPR-MI-2021-0002, including PREPA’s proposed scope of work and its use of federal funds to repair and rehabilitate water assets. In approving the use of the federal funds for these projects, the Energy Bureau “DETERMINE[D] that the projects presented are necessary to improve the reliability of the system”.⁸

1.17. Mr. Sullivan testified that the FAAS^t award was structured around this comprehensive portfolio, encompassing more than 19 dams and 10 hydroelectric facilities, with anticipated co-investment from HUD Community Development Block Grant Mitigation (“CDBG-MIT”), FEMA Hazard Mitigation Grant Program (“HMGP”), and Natural Resources Conservation Services (“NRCS”) watershed initiatives, and others all of which were contingent upon FAAS^t participation.⁹ On its part, Eng. Osorio further confirmed that the rehabilitation of dams and reservoirs is not ancillary to electric-system recovery, but rather a prerequisite to the safe

⁷ See PREPA Rebuttal Written Testimony, pp. 4–5.

⁸ See PREPA Rebuttal Written Testimony, pp. 4–5. See *In re: Review of the Puerto Rico Electric Power Authority’s 10-Year Infrastructure Plan*, Case No. NEPR-MI-2021-0002, Resolutions and Orders of September 8, 2021 and September 28, 2021.

⁹ See PREPA Rebuttal Written Testimony, pp. 4–5; see Evidentiary Hearing Tr., Nov. 20, 2025, pp. 202-203; 272-273.

operation, regulatory compliance, and continued viability of PREPA's hydroelectric assets.¹⁰

1.18. Any attempt to retroactively recharacterize FAASt and related co-funds as a grid-only funding source therefore ignores the negotiated federal award structure, contradicts the Energy Bureau's prior approvals in Case No. NEPR-MI-2021-0002, and risks unraveling the interlocking federal funding commitments that were expressly predicated on the execution of PREPA's water-asset projects.¹¹

1.19. The evidentiary record establishes that attempting to reallocate any portion of the approximately \$1.3 billion in FAASt funding at this stage may not be feasible and would risk obtaining no obligation or deobligation of funds.¹² As explained during the evidentiary hearing, FAASt funding is subject to FEMA's period-of-performance requirements, and any extension of those deadlines is discretionary and subject to FEMA's approval, which is neither automatic nor guaranteed.¹³ Mr. Sullivan explained that the Energy Bureau's decision to revisit or seek a reallocation of the FAASt funds --nearly five years after approving the original allocation, would not constitute a valid or recognized basis for FEMA to grant an extension of the applicable deadlines for obligating or expending those funds. He testified that FEMA's extension determinations are driven by federal

¹⁰ See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 147–149, 163–166; PREPA LFE – Reservoir System Projects, Jan. 12, 2026, pp. 2–4; PREPA Rebuttal Written Testimony, pp. 8–12.

¹¹ See PREPA Rebuttal Written Testimony, pp. 4–5.

¹² See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 275-279.

¹³ See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 275-279.

program requirements and demonstrated project progress, not by post hoc regulatory reconsideration at the local level, and that the current FAASt funding represents a limited, time-sensitive opportunity that may not be available again. Accordingly, reopening or redirecting the approved allocation at this stage would place the funding at risk of expiration rather than preserve it through an extension.

1.20. Disrupting the existing FAASt allocation structure would not only jeopardize the availability of FAASt funding itself but would also jeopardize companion federal funding that is expressly designed to operate in coordination with FAASt, placing at risk substantial co-funding associated with dam, irrigation, and hydroelectric projects.¹⁴ The evidentiary record establishes that the federal funding structure supporting PREPA's water-asset portfolio is layered and interdependent, such that the FAASt allocations are expressly tied to additional federal mitigation and recovery funding streams. As explained by PREPA's witnesses, the FAASt funds function as a foundational component that enables and conditions the availability of complementary federal co-investment, including HMGP funds, Section 406 mitigation funds, and CDBG-MIT resources. When considered collectively, the total federal investment associated with PREPA's dam, reservoir, irrigation, and hydroelectric rehabilitation projects approaches approximately three billion dollars, and any reallocation or disruption

¹⁴ See PREPA Rebuttal Written Testimony, pp. 4–5; see Evidentiary Hearing Tr., Nov. 20, 2025, pp. 202-203; 272-273.

of the FAASt component would place substantial portions of that companion federal funding at risk.¹⁵ In sum, reallocating FAASt funds away from these projects would result in the immediate loss of companion federal co-investments and a net reduction in federal disaster-recovery resources available to Puerto Rico.

1.21. Because there are no alternative federal funding sources currently available to replace these funds, any attempt at reallocation would not result in substitution but rather in the loss of funding altogether.¹⁶

1.22. As if the foregoing were not sufficient, the evidentiary record further establishes that, absent repair or rehabilitation using currently available federal funds, PREPA's water assets would become ineligible for federal assistance in future disasters, thereby shifting the full cost of rehabilitation or replacement directly onto ratepayers.¹⁷ Federal disaster policy requires that damaged facilities be repaired in accordance with applicable codes and standards in order to remain eligible for public assistance in future catastrophic events, meaning that failure to act now forecloses future federal funding altogether.¹⁸ As such, PREPA's proposal to utilize federal funds for the rehabilitation of dams, reservoirs, irrigation canals, and hydroelectric facilities is expressly designed to protect ratepayers

¹⁵ See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 142–143; 203-205; PREPA's Rebuttal Written Testimony, Nov. 13, 2025, pp. 4–6; 18-19; PREPA LFE – Reservoir System Projects, pp. 2–5.

¹⁶ See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 162-163; 272-273.

¹⁷ See PREPA Rebuttal Written Testimony, pp. 7–8.

¹⁸ See PREPA Rebuttal Written Testimony, pp. 7–8; Evidentiary Hearing Tr., Nov. 20, 2025, pp. 190-192.

from having to finance multi-billion-dollar infrastructure projects while still benefiting from their rehabilitation and continued operation.

1.23. If these water assets --particularly high-hazard dams-- are not repaired, nearby communities will face increased and unacceptable life-safety risks, as well as degradation in water storage, flood control, and water collection capacity that directly affects public health and economic stability.¹⁹ During the evidentiary hearing, Mr. Sullivan testified that, if the Guayabal Dam is not repaired, a structural failure would expose downstream communities to a catastrophic flooding event that could result in loss of life, placing approximately 8,000 people at risk of death. His testimony made clear that timely rehabilitation of the dam is necessary to prevent a foreseeable and fatal outcome.²⁰ Accordingly, proposals by the Bondholders and the ICPO to reallocate the approximately \$1.3 billion in FAASt funding, together with related federal co-funding, would materially increase the risk of preventable deaths by delaying or jeopardizing the repairs required to safeguard human life.

1.24. The record further reflects that continued deterioration of reservoirs and irrigation systems will exacerbate sedimentation and operational constraints, impairing hydroelectric performance and preventing the restoration of additional generation capacity of approximately 25 MW while causing the continued loss of existing megawatt output.²¹

¹⁹ See PREPA Rebuttal Written Testimony, pp. 9–10; Evidentiary Hearing Tr., Nov. 20, 2025, pp. 182-184.

²⁰ See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 197-198.

²¹ See PREPA Rebuttal Written Testimony, pp. 8–14; PREPA LFE – Reservoir System Projects, Jan. 12, 2026, pp. 2–3.

1.25. The record further shows that failure to complete required rehabilitation exposes PREPA to regulatory consequences that may preclude license renewal by the Federal Energy Regulatory Commission (“FERC”) and compel the permanent decommissioning and removal of hydroelectric facilities, thereby shifting significant and unnecessary costs to ratepayers. The Río Blanco facility exemplifies this risk, as the inability to secure relicensing would require ratepayers to finance the removal of the hydroelectric system from federally protected property within El Yunque National Forest at a cost dramatically greater than that of rehabilitation.²² In short, declining to repair PREPA’s water assets does not avoid costs, but instead defers and magnifies them, ultimately transferring financial responsibility from federal programs to ratepayers while exposing surrounding communities to heightened safety, reliability, and environmental risks.

1.26. The Bondholders’ contention that PREPA’s water assets generate only a “pittance” of electricity reflects a fundamental misunderstanding of how those assets function within Puerto Rico’s electric system and within the broader framework of essential public infrastructure.

1.27. PREPA’s water assets are not single-purpose generation facilities; they are integrated, multi-use systems that support electric generation, water storage,

²² See PREPA Rebuttal Written Testimony, p. 11; Evidentiary Hearing Tr., Nov. 20, 2025, pp. 165–167 (Eng. Fernando Osorio confirmed that rehabilitation of Río Blanco would cost approximately \$23 million and restore generation, while decommissioning would cost approximately \$178 million, which he described as a reasonable ballpark estimate.).

flood control, agricultural irrigation, and the provision and storage of drinking water for human consumption. Evaluating these assets solely by reference to their direct MW output ignores the indispensable role they play in protecting public health, system reliability, and community safety, as established by Act No. 83 of May 12, 1941, as amended, known as the “Puerto Rico Electric Power Authority Act,” 22 L.P.R.A. § 191 et seq. (“Act 83”) and other statutes.

1.28. PREPA’s reservoirs and dams are integral to the operation and reliability of Puerto Rico’s electric system. They supply water required for combustion and other operational processes at thermal generation facilities, regulate water flows necessary for hydroelectric operations through an integrated reservoir cascade system, and preserve storage capacity essential to maintaining generation during drought conditions and emergency events.

1.29. At present, PREPA’s hydroelectric facilities provide approximately 25 MW of renewable baseload capacity; however, the evidentiary record establishes that this output is materially constrained by deferred maintenance, sedimentation, and structural deficiencies in associated dams and reservoirs -- conditions that the federally funded rehabilitation and mitigation projects are specifically designed to correct. Upon completion of these rehabilitation and mitigation projects, PREPA’s hydroelectric system is expected to restore and expand its dependable baseload capacity to approximately 50 MW.²³ This increase will significantly enhance the contribution of clean, renewable baseload

²³ See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 148–150; PREPA Rebuttal Written Testimony, pp. 8–10

generation to the grid, while also improving system flexibility and resilience. As explained by PREPA's witnesses, these improvements support critical black-start capability for system restoration following major outages and reduce reliance on fossil fuels during normal operations, thereby advancing both reliability and public-policy objectives.

1.30. During the evidentiary hearing, Eng. Osorio testified that PREPA's dam and reservoir rehabilitation projects are intended to mitigate flood risk and ensure the safe operation of upstream water assets whose failure would place downstream communities and system infrastructure at risk. He explained that rehabilitating these upstream assets would therefore protect dependent generation infrastructure located downstream, including thermal plants located in low-lying and flood-prone areas, from flood-related and operational risks.²⁴

1.31. Accordingly, the record makes clear that the use of federal funds for PREPA's water assets delivers direct and indirect benefits to electric generation, black-start capability, and grid reliability that transcend a narrow focus on MW generation. At the same time, PREPA's reservoirs and dams serve essential non-generation functions by storing and conveying potable water for human consumption and supporting agricultural irrigation and flood-mitigation activities that are vital to economic stability and public safety.²⁵ These multi-purpose functions further reinforce system resilience and emergency response capability,

²⁴ See Evidentiary Hearing Tr., Nov. 20, 2025, pp. 282-283.

²⁵ See PREPA LFE – Reservoir System Projects, pp. 3–5; PREPA Rebuttal Written Testimony, pp. 9–11.

even where their benefits are not captured solely through incremental MW output.

1.32. Finally, the evidentiary record reflects that more than fifty percent (50%) of the design and scope of work for PREPA's dam dredging projects has already been developed, including the completion of hydrological, geotechnical, and related technical studies required for formulation with FEMA. Given the technical complexity of dam rehabilitation and dredging initiatives, each of which requires detailed engineering, environmental coordination, and FEMA formulation, this level of design completion demonstrates that these projects are in an advanced stage of development.²⁶

B. Act 83: PREPA's statutory responsibility to request rates to the development, improvement, repair, conservation, and safe operation of its facilities and properties, including water infrastructure

1.33. The Bondholders' and ICPO's positions are further premised on the erroneous assumption that the use of federal funds is "reasonable" only to the extent that it results in additional MW generation. That premise finds no support in Act No. 83.

1.34. PREPA's statutory mandate is not confined to maximizing installed generation capacity; it expressly encompasses the development, improvement, repair, conservation, and safe operation of its facilities and properties, including water infrastructure that provides drinking water for human consumption, supports electric generation, sustains agricultural activity, and protects

²⁶ See Evidentiary Hearing Tr., Dec.19 2025, pp. 445.

communities from flooding. Section 5(1) of Act No. 83, 22 L.P.R.A. § 196 (PREPA has the power and authority “[t]o propose and collect just, reasonable, nondiscriminatory rates and fees, and other charges approved by the Bureau, for the use of the facilities of the Authority, or for electric power services, or other commodities sold, loaned, or provided by the Authority, that are sufficient to cover reasonable expenses incurred by the Authority in the development, improvement, extension, repair, conservation, and operation of its facilities and properties...”).

1.35. Pursuant to Act 83, PREPA has a statutory obligation to incur reasonable expenses for the development, improvement, extension, repair, conservation, and operation of its facilities and properties, including its hydroelectric and related water assets, and is further authorized to seek rates sufficient to accomplish those ends. The statute does not confine PREPA’s power or authority to seek rates solely to its MW capacity.

1.36. In compliance with its statutory duties and in an effort to alleviate the burden on ratepayers, PREPA proposed --and the Energy Bureau has already approved-- the use of approximately \$1.3 billion in federal funds, together with related federal co-funding, for the rehabilitation of dams, reservoirs, and irrigation canals through multiple projects. This approach fulfills PREPA’s statutory obligations to develop, improve, extend, repair, conserve, and operate its facilities and properties; to ensure that its assets are safe and serve the People of Puerto Rico; and to preserve the continued eligibility of those assets for federal

assistance in future emergencies, all while protecting ratepayers from having to bear these substantial costs.

1.37. Act 83 recognizes PREPA as the owner and steward of a substantial portion of Puerto Rico's water infrastructure and assigns responsibilities that extend well beyond electric power generation. Those responsibilities include ensuring the structural safety of dams, maintaining reservoirs that supply potable water for human consumption, preserving irrigation systems essential to food production, and managing flood-control infrastructure that protects life and property. Nothing in Act 83 conditions the reasonableness of PREPA's expenditures on a showing that such expenditures directly translate into increased MW output.

1.38. Correspondingly, the Energy Bureau's statutory role is not limited to approving rates that support electric generation in isolation. Act 83 requires the Energy Bureau to approve just and reasonable rates sufficient to allow PREPA to carry out all of its statutory functions, including the safe operation and maintenance of hydroelectric facilities, dams, reservoirs, and irrigation canals that provide electric reliability, drinking water for human consumption, flood protection, and public safety. Adopting the Bondholders' and ICPO's restrictive interpretation would improperly ignore the legislative mandate of Act 83 and undermine PREPA's ability to meet its legal obligations.

C. PREPA's Request for additional headcount to comply with its legal and operational duties

1.39. The Bondholders also challenge PREPA's request for additional headcount claiming such increase is improper because, according to them,

PREPA plays “a minimal role in the now-privately-operated electrical system”. The Bondholder’s position is incorrect and underestimates PREPA’s current role.

1.40. PREPA is requesting thirty (30) additional full-time employees (“FTEs”) for HoldCo beginning in FY 2026, as part of a broader request for one hundred (100) additional FTEs distributed across HoldCo, the Retirement System, and HydroCo.²⁷ PREPA explained that this request does not constitute an expansion of its workforce, but rather a targeted effort to remediate critical compliance, governance, and operational deficiencies that emerged following the post-transition reduction of PREPA’s staffing levels approved by fiscal and regulatory oversight entities; reductions that ultimately failed to align with PREPA’s actual responsibilities following the transformation to a public-private partnership structure and left it non-operational.²⁸ PREPA further demonstrated that its existing HoldCo staffing is insufficient to satisfy minimum institutional requirements related to financial controls, regulatory compliance, and corporate oversight functions required under among other statutes Act 83, Act 120-2018, and applicable oversight by the Financial Oversight and Management Board and the Puerto Rico Energy Bureau.²⁹

1.41. Specifically, PREPA identified material deficiencies in segregation of duties, financial reconciliation, audit readiness, and ERP implementation

²⁷ See Energy Bureau Consultant’s Exhibit 823 - PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 1-2.

²⁸ See Energy Bureau Consultant’s Exhibit 823 - PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 8-9. See also Evidentiary Hearing Tr., Dec.4 2025, pp. 33-35.

²⁹ See Energy Bureau Consultant’s Exhibit 823 - PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 9-10 (hereinafter, “PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109”).

capacity that expose the corporation to recurring audit findings and delays in the issuance of audited financial statements absent additional HoldCo personnel. These deficiencies are not attributable to any lack of skill, diligence, or performance by PREPA's existing personnel, but rather to insufficient staffing levels to meet the breadth and volume of PREPA's current statutory, regulatory, and operational responsibilities.³⁰

1.42. PREPA further demonstrated that insufficient HoldCo staffing undermines its ability to administer and oversee federal funding programs, including FEMA, HUD, the Department of Energy, and COR3. Experience has shown that PREPA is the entity best positioned to work with these agencies to ensure timely compliance, by both the operators and PREPA itself, with applicable federal requirements thereby advancing the successful obtention and use of federal funds to improve grid reliability and safety. PREPA has served as the leader in the obtention of federal funds, achieving a reimbursement rate exceeding ninety percent (90%) and completing one hundred percent (100%) of the reconciliations corresponding to the Working Capital Advances it has received.³¹ Conversely, LUMA's federal reimbursement rate has remained unacceptably low due, in great part, to its poor formulation of the projects and its insistence of using seconded labor instead of contracted labor³² and poor performance in the reconciliation process. As Ms. Suzzette Díaz, PREPA's federal

³⁰ See Energy Bureau Consultant's Exhibit 823 - PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 10-11.

³¹ See Evidentiary Hearing Tr., Dec.19 2025, pp. 445-446.

³² See Evidentiary Hearing Tr., Dec.19 2025, pp. 307-309.

funding expert, testified during the evidentiary hearings, as of December 12, 2025, LUMA had only reconciled about \$444 million out of the over \$1 billion dollars of funding that they have received.³³ Accordingly, PREPA's proposal for additional personnel to sustain and strengthen its federal funding efforts, and ensure that its private operators continue to secure, properly administer, and effectively deploy such funds is both reasonable and fully justified.³⁴

1.43. PREPA also demonstrated that insufficient staffing across core functions --including legal affairs, regulatory compliance, information technology, cybersecurity, procurement, asset management, corporate security, and human resources--, materially increases PREPA's legal, regulatory, and operational risk, and that the proposed thirty (30) HoldCo FTEs are required to restore minimum institutional capacity.³⁵ PREPA established that its current staffing levels are inadequate to meet existing legal, regulatory, and operational obligations, resulting in excessive workloads that impair the timely performance of essential functions.³⁶ PREPA explained that deficiencies in segregation of duties, financial reconciliations, audit support, and regulatory reporting are not the result of inefficiency, but rather of personnel being required to cover multiple critical functions simultaneously due to understaffing.³⁷ LUMA's lack of cooperation in critical tasks, such as the timely compilation of information necessary to complete

³³ See Evidentiary Hearing Tr., Dec.19 2025, pp. 343-344.

³⁴ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 11-12; Evidentiary Hearing Tr., Dec.19 2025, pp. 155-156.

³⁵ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 8-9.

³⁶ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 8-9.

³⁷ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 9-11.

the audit of its financial statements, has imposed additional burdens on PREPA personnel. As a result, PREPA staff and external contractors are required to engage in repeated follow-ups, issue multiple communications, and attend additional meetings merely to obtain the information necessary to advance the audit process.³⁸

1.44. With respect to the Retirement System specifically, the record shows that existing employees are “overworked,” managing excessive caseloads that have already resulted in delays in the processing of pensions applications and benefits payments, thereby placing PREPA at risk of non-compliance with regulatory timelines and audit requirements.³⁹ During the evidentiary hearings, PREPA’s Executive Director, Eng. Mary. Carmen Zapata, testified that these workload pressures are exacerbated by staffing reductions imposed following the post-transition downsizing approved by oversight entities, which reduced PREPA’s

³⁸ See Energy Bureau Consultants’ Exhibit 768 – PREPA Response to ROI# LUMA-of-PREPA-FIN-29 (“PREPA does, however, rely on external consultants to conduct its financial audits. It is worth noting that, as part of the audit process, PREPA has incurred unnecessary and unbudgeted expenses because its consultants have had to correct material errors and deficiencies in the unaudited financial statements prepared by LUMA.”). PREPA notes that Mr. Juan Carlos Adrover’s sworn testimony on this matter, provided through the above-cited response to an ROI, was precluded by the Hearing Examiner in an Order dated Monday, November 24, 2025. In that Order, the Hearing Examiner granted LUMA’s objection to Energy Bureau Consultants’ Exhibit 768, which LUMA had filed on Saturday, November 22, 2025. The Hearing Examiner afforded PREPA no meaningful opportunity to respond or oppose the objection, granting zero working days to do so. The objection was sustained with the following conclusion: “I sustain LUMA’s objection to the portion of LUMA-of-PREPA-FIN-29 that contains what LUMA describes as conclusory and inflammatory. This type of pie-throwing is evidentially useless.” PREPA respectfully moves the Energy Bureau to reconsider this determination as it lacks support in applicable law. The cited response is highly relevant and reflects an undisputed fact attested to under oath by a PREPA witness. Specifically, it demonstrates that LUMA’s lack of cooperation has required PREPA to incur additional costs, increase its reliance on contractors, and devote additional personnel resources to address deficiencies in LUMA’s unaudited financial statements.

³⁹ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at p. 16; Evidentiary Hearing Transcript, Dec. 11, 2025, testimony of Brenda Rivera at pp.101-108.

workforce below what PREPA had previously identified as the minimum operational level necessary for compliant and efficient operations.⁴⁰

1.45. In the context of HydroCo, the record shows that the request for 67 additional HydroCo FTEs is driven by critical operational, regulatory, and public-safety deficiencies resulting from significant staffing vacancies at PREPA's hydroelectric plants, reservoirs, and irrigation systems.⁴¹ PREPA demonstrated that HydroCo's existing workforce is insufficient to safely and reliably operate hydroelectric facilities and associated dams and reservoirs, many of which are currently operating without required technical supervision, including the absence of supervising engineers at multiple major hydroelectric complexes.⁴²

1.46. The record further establishes that these staffing gaps create material occupational safety and regulatory compliance risks, including non-compliance with Occupational Safety and Health Administration ("OSHA") requirements and U.S. Army Corps of Engineers dam-safety guidelines, thereby exposing PREPA and surrounding communities to heightened public-safety risks.⁴³ PREPA also showed that certain hydroelectric regions lack designated compliance supervisors altogether, leaving critical facilities without proper regulatory oversight and increasing the likelihood of violations, enforcement actions, or forced operational shutdowns.⁴⁴

⁴⁰ See Evidentiary Hearing Transcript, Dec. 4, 2025, testimony of Eng. Mary Carmen Zapata-Acosta at pp. 34–36.

⁴¹ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 17–18.

⁴² See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 18–19.

⁴³ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 19–20.

⁴⁴ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 20–21.

1.47. Finally, PREPA established that HydroCo faces an impending wave of retirements that will further erode technical capacity and institutional knowledge if not proactively addressed, making the requested 67 FTEs essential to ensure continuity of operations, knowledge transfer, and sustained compliance with safety and environmental regulations.⁴⁵ PREPA therefore demonstrated that the HydroCo headcount request is a risk-mitigation and compliance measure, not an expansion of discretionary staffing, and is necessary to protect public safety, preserve hydroelectric generation assets, and maintain regulatory compliance.⁴⁶

D. Administrative deactivation of LUMA T&D projects

1.48. On its Brief on Revenue Requirement, LUMA asserts that “PREPA chose to unilaterally ask FEMA to deactivate several crucial T&D projects”.⁴⁷ LUMA’s assertion is contradicted by the cited supporting testimony of its own witness, which reads as follows:

MR. BRETT SOLDBERG: Was the deactivation within your control?

MR. ANDREW SMITH: No.

MR. BRETT SOLDBERG: Who has control of the deactivation slash reactivation?

*MR. ANDREW SMITH: FEMA.*⁴⁸

1.49. The cited testimony does not support LUMA’s contention that PREPA requested FEMA to deactivate LUMA’s projects. The testimony does not even mention PREPA. It merely states that it is FEMA the entity that has the power to

⁴⁵ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 21–22.

⁴⁶ See PREPA Response to ROI No. LUMA-of-PREPA-NONPHYS_OPS-109 at pp. 22–23.

⁴⁷ See LUMA Brief at pp. 139.

⁴⁸ See Evidentiary Hearing Transcript, Dec. 18, 2025, at pp. 325-326.

deactivate and reactivate the currently deactivated LUMA T&D projects. As such, LUMA is attempting to mislead the Energy Bureau.

1.50. What the record does reflect is that Ms. Suzette Díaz explained that those 224 projects were administratively deactivated by FEMA because most, if not all of them, “were projects that were in their very initial stages and no detailed scope of works were presented by LUMA for FEMA determination.”⁴⁹ The record unequivocally shows that FEMA decided to deactivate these 224 projects because LUMA failed to comply with its duty of submitting detailed scopes of work for FEMA consideration despite being the T&D operator since 2021.

1.51. The foregoing demonstrates that LUMA's failure to secure federal funding is attributable to its own deficiencies and lack of diligence. Accordingly, PREPA respectfully submits that no rate increase should be authorized to compensate for LUMA's inefficiency in obtaining federal funds. Moreover, ratepayer funds should not be allocated to cure or subsidize the consequences of LUMA's mismanagement.

1.52. PREPA further submits that the Energy Bureau should require LUMA to secure and prudently deploy all available federal funds --including the more than half a billion dollars in federal funds that remain unreconciled-- before authorizing any rate increase or allocating ratepayer monies for the same purposes. Rate relief should not serve as a substitute for federal funding that is available but not diligently pursued, reconciled, and utilized.

⁴⁹ See Evidentiary Hearing Transcript, Dec. 18, 2025, at pp. 207.

E. LUMA's Outage Reserve Account

1.53. LUMA's assertion that PREPA "failed" to replenish the Outage Event Reserve Account ("OERA") by \$239 million is neither legally nor factually supported by the evidentiary record.

1.54. The record demonstrates that PREPA fully satisfied its contractual funding obligations under the T&D OMA and that any subsequent replenishment necessarily depended upon an approved budgetary mechanism that was not in place. As established during the December 5, 2025 hearing, the OERA "was funded with 30 million dollars at inception. It was subsequently funded on two additional instances with the same 30 million dollars, so a total of 90 million dollars of funding," before being drawn down to zero by LUMA.⁵⁰ Thus, PREPA did not neglect its funding obligations; it provided the full \$90 million in funding that was contractually required during that period.

1.55. The deficiency identified by LUMA does not stem from any noncompliance by PREPA, but rather from the absence of an approved funding mechanism. This shortfall is the result of LUMA's failure to seek the necessary budgetary allocation from the Energy Bureau and the Financial Oversight and Management Board ("FOMB") for that purpose. Absent an Energy Bureau-approved budget line-item authorizing collection and allocation of funds for the OERA, PREPA lacks a lawful mechanism through which additional replenishment could occur.

⁵⁰ See Evidentiary Hearing Transcript, Dec. 5, 2025 at pp. 464.

1.56. PREPA's witnesses Juan C. Adrover-Ramírez, Lucas Porter and Gerard Gil testified that outage expenses have not been considered or presented as part of the budgets requests to the Energy Bureau, and Mr. Adrover further explained that while "the OMAs established the source mechanism for all service account funding... the OMAs does not explicitly say that for the outage or reserve accounts."⁵¹ PREPA witness Lucas Porter confirmed the same constraint, testifying plainly: "There's no source of funding for this currently and, and that's a problem."⁵² Importantly, LUMA's own Chief Financial Officer, Andrew Smith, acknowledged this reality during the hearing, stating that PREPA's position that "there's no mechanism to fund it... is a fair point... There's nothing in rates today for PREPA to... direct funds into that Outage Event Account".⁵³

1.57. As the T&D operator, it is LUMA's responsibility to request this budgetary allocation but failed to do so. The issue is therefore one of negligence by LUMA in requesting the necessary budget allocations, not one contractual nonperformance by PREPA.

1.58. In its Brief on Revenue Requirement, LUMA stated that it is seeking "reimbursement" of funds for Outage Event Costs, but then also clearly stated that "LUMA has had to pay from the Operating Account rather than from the OERA due to lack of available funds." LUMA thereby admitted that these expenses have already been paid for with ratepayer funds, specifically from the

⁵¹ See Evidentiary Hearing Transcript, Dec. 5, 2025 at pp. 339, 341, 398 and 405.

⁵² See Evidentiary Hearing Transcript, Dec. 5, 2025 at pp. 339.

⁵³ See Evidentiary Hearing Transcript, Dec. 5, 2025 at pp. 322.

T&D Operating Account, rendering its argument for “reimbursement” illogical and unfounded. Further, LUMA has provided no material evidence that past Outage Event costs for which it seeks “reimbursement” were reasonably or prudently incurred. As such, PREPA opposes LUMA’s “reimbursement” request.

1.59. Moreover, PREPA urges the Energy Bureau to open an investigation and order LUMA to report and reconcile all historical outage event costs.

1.60. With regards to LUMA’s funding request for prospective use of the OERA, PREPA submits that the Energy Bureau should put in place an oversight mechanisms on the usage of these funds which should include, among others requirements: (a) notice by LUMA to the Energy Bureau on the Outage Event costs it expects to incur; (b) preliminary approval by the Energy Bureau of LUMA’s petition, and (c) final review to determine whether the costs incurred were prudent and reasonable.⁵⁴

1.61. PREPA witness Lucas Porter identified “accountability and reporting of outage event costs” as a material concern, noting that over \$300 million in outage event costs “had not been previously budgeted or reported to the [Energy Bureau]”.⁵⁵ To guarantee that there is proper oversight on LUMA’s use of OERA funds, Mr. Porter emphasized it was important to “creat[e] a structure in

⁵⁴ See PREB Consultant report Ex. 62, the illustrative summary of the FPL Storm Cost Recovery Charge process which serves as a useful example of a normal and reasonable utility standard. In this example, the Investor-Owned Utility *notifies* the utility commission that it expects to incur Outage Event costs and the PSC acknowledges and provides a preliminary approval of the utility’s petition, then afterward reviews for prudence and reasonableness, then makes a final determination.

⁵⁵ See Evidentiary Hearing Transcript, Dec. 5, 2025 at pp. 339, 5-15.

which there's preapproval and reporting to the [Energy Bureau] and oversight and control of how ratepayer money is spent".⁵⁶

F. Pensions

i. Evidentiary Record for Inclusion of Pension Funding

1.62. Contrary to Bondholders' assertions,⁵⁷ the evidentiary record supports inclusion of the PayGo funding⁵⁸ in the revenue requirement. PREPA Exhibit 1105 clearly documents the calculation methodology for PayGo funding: projected pension-related cash outflows minus projected internal inflows, plus loan repayments. PREPA Exhibit 1105, which PREPA provided in accordance with the *Hearing Examiner's Order on Exhibits, Miscellaneous Post-Hearing Matters, and Legal Issues*,⁵⁹ amends earlier submissions to account for (1) fiscal year 2026 pension payments made with the loan ("Pension Loan") from the Government of Puerto Rico (the "Government") to sustain funding of the pension payments while a long-term solution is put in place,⁶⁰ and (2) amounts necessary to repay a portion of that loan in accordance with the terms of the loan.⁶¹

1.63. As set forth in PREPA Exhibit 1105, detailed projections for FY2026-FY2028 show total outflows and other transfer and payment obligations, which increase the total pension revenue requirement, and offsetting inflows, which

⁵⁶ See Evidentiary Hearing Transcript, Dec. 5, 2025 at pp. 339, 16-19.

⁵⁷ See *Bondholders' Initial Post-Hearing Brief* at 91.

⁵⁸ "PayGo" funding refers to go-forward, non-legacy obligation pension payments for PREPA's pensioners.

⁵⁹ See Hearing Examiner's Order on Exhibits, *Miscellaneous Post-Hearing Matters, and Legal Issues*, *In re Puerto Rico Electric Power Authority Rate Review*, No. NEPR-AP-2023-0003 (Dec. 22, 2025).

⁶⁰ See PREPA'S Motion in Compliance with Hearing Examiner's Order Regarding PREPA Testimony and Legal Discussion on Pensions, *In re Puerto Rico Electric Power Authority Rate Review*, No. NEPR-AP-2023-0003 (Nov. 21, 2025) at ¶¶ 45–54.

⁶¹ See PREPA Exs. 1039–1043.

reduce the total pension revenue requirement. The PayGo requirements for each fiscal year and corresponding subcomponents are as follows:

FY2026 (\$211,146,063)

Projected Outflows and Other Transfer & Payment Obligations (\$229,692,168):

- \$188,226,160 for regular retiree and surviving spouse benefit payroll
- \$8,800,000 for Annual Salary Benefits (Retired Death Benefit)
- \$8,000,000 for Refunds and Rollovers of member contributions
- \$1,035,400 for Summer Bonuses
- \$4,102,000 for Christmas Bonuses
- \$12,000,000 for other benefits including funeral benefits, disability payments, and COLAs
- \$3,153,608 Employer (PREPA) Contribution
- \$4,375,000 Principal Payment on Government Loan

Projected Inflows (\$18,546,105):

- \$3,002,529 in Employer Contributions
- \$7,019,584 for Member Contributions
- \$2,799,992 for Personal Loan Payments
- \$4,004,000 for Mortgage Payments
- \$1,720,000 for Other Cash Receipts

FY2027 (\$307,408,581)

Projected Outflows and Other Transfer & Payment Obligations (\$335,008,547):

- \$282,789,935 for regular retiree and surviving spouse benefit payroll
- \$13,200,000 for Annual Salary Benefits (Retired Death Benefit)
- \$2,400,000 for Refunds and Rollovers of member contributions
- \$1,035,400 for Summer Bonuses
- \$4,102,800 for Christmas Bonuses
- \$18,000,000 for other benefits including funeral benefits, disability payments, and COLAs
- \$4,730,412 Employer (PREPA) Contribution
- \$8,750,000 Principal Payments on Government Loan

Projected Inflows (\$27,599,966):

- \$4,491,956 in Employer Contributions
- \$10,424,082 for Member Contributions
- \$4,157,988 for Personal Loan Payments
- \$5,945,940 for Mortgage Payments
- \$2,580,000 for Other Cash Receipts

FY2028 (\$307,188,608)

Projected Outflows and Other Transfer & Payment Obligations (\$334,446,337):

- \$283,427,725 for regular retiree and surviving spouse benefit payroll
- \$12,000,000 for Annual Salary Benefits (Retired Death Benefit)
- \$2,400,000 for Refunds and Rollovers of member contributions
- \$1,035,400 for Summer Bonuses
- \$4,102,800 for Christmas Bonuses
- \$18,000,000 for other benefits including funeral benefits, disability payments, and COLAs
- \$4,730,412 Employer (PREPA) Contribution
- \$8,750,000 Principal Payments on Government Loan

Projected Inflows (\$27,257,729):

- \$4,519,229 in Employer Contributions
- \$10,215,612 for Member Contributions
- \$4,116,408 for Personal Loan Payments
- \$5,886,480 for Mortgage Payments
- \$2,520,000 for Other Cash Receipts

1.64. PREPA Exhibit 1105 also takes into account payments on account of principal due on the Pension Loan. The Pension Loan consists of an original \$300 million loan, and four subsequent amendments that raised the loan amount to \$475 million.⁶² Only \$457 million was drawn from the Pension Loan. Repayment of principal under the original \$300 million Pension Loan will not commence earlier than July 2059, at which time interest shall begin to accrue at a rate of 2.5%.⁶³ PREPA Exhibit 1105 demonstrates the semi-annual principal repayments required under amendments 1 – 4 of the Pension Loan.⁶⁴ The repayments consist of

⁶² See PREPA Ex. 1039–43; PREPA RESPONSE TO ROI# LUMA-of-PREPA-FIN-22.

⁶³ See PREPA Ex. 1105 at 3 n. 3; PREPA Ex. 1039.

⁶⁴ See PREPA Ex. 1105 at 3.

\$4,375,000 each July and January of each calendar year,⁶⁵ for a total \$8,750,000 each fiscal year.⁶⁶

1.65. Furthermore, the evidentiary record establishes that PREPA must repay the Pension Loan. The Hearing Examiner asked, [s]o the total loan from the government was 425 million, roughly? . . . And you have to pay that loan back in its entirety. Correct?" and PREPA's representative answered, "Correct."⁶⁷ The Hearing Examiner then asked: "unless the Energy Bureau reflects in the revenue requirement for PREPA the portion of the \$8 million [of principal and interest for the Pension Loan] that is due between now and June 30th, you're going to be short that money and will have to take the money from someplace else, some other activity, in order to pay the loan," and PREPA confirmed, "Right."⁶⁸ He asked PREPA to confirm that the repayment "would need to be added to the revenue requirement . . . to cover the terms of [the Pension Loan]," and PREPA's witnesses acknowledged, "Very much, yes" and "Yes."⁶⁹ The record also establishes that this obligation is incremental to the ongoing PayGo funding, with PREPA confirming that repayment of the Pension Loan "is on top of the 307" million annual pension cost.⁷⁰ Consistent with this testimony, PREPA filed PREPA Exhibit 1105, which includes the projection of pension costs and plus annual repayment amounts in accordance with the terms of the Pension Loan. These are the figures

⁶⁵ *Id.*

⁶⁶ FY2026 only includes a single \$4,375,000 payment. See Exhibit 1105 at 3.

⁶⁷ Dec. 10, 2025 Hr. Tr. at 373:1–375:25.

⁶⁸ *Id.* at 375:1–376:25

⁶⁹ *Id.* at 391:1–13.

⁷⁰ *Id.* at 377:8–378:23

the Energy Bureau should rely on when setting the revenue requirement for the pension rider—\$211,146,063 for FY2026, \$307,408,581 for FY2027, and \$307,188,608 for FY2028—not earlier-filed numbers.⁷¹

1.66. The SREAEE's witness, José Fernández-Canal, a seasoned actuary with 45 years of experience working with the retirement system, testified that the initial FY2026 \$307 million amount—prior to the amendments made in PREPA Exhibit 1105—is “a reasonable number” based on his independent analysis using data from Cavanaugh McDonald, the system's actuary, and his own three-year projections.⁷² PREPA's financial advisor, Lucas Porter, further testified that historical actual figures closely matched the projections, stating that the monthly and annual projections used to size the Pension Loan and fund pension obligations were “extremely close” to the amounts actually needed to pay monthly pension obligations—“about \$300 million per year, \$25 million per month.”⁷³

1.67. As to derivation, the acting Auxiliary Division Chief of the SREAEE, Brenda E. Rivera Rodríguez—a role to which she was designated by the PREPA Executive Director—testified that the types of benefit obligations SREAEE funds each month includes: monthly retiree annuity payments, surviving spouse benefits, death benefits, Christmas and summer bonuses, refunds of employee contributions, retiree payroll withholdings, health insurance reimbursements, and funeral benefits.⁷⁴

⁷¹ PREPA Ex. 1105 at 3.

⁷² See Dec. 10, 2025 Hr. Tr. at 324:6–326:4.

⁷³ See Dec. 11, 2025 Hr. Tr. at 229:14–17.

⁷⁴ See Exhibit 85.01, PREPA's Written Testimony of Brenda E. Rivera Rodríguez on Behalf of the Puerto Rico

ii. PREPA Will Not Double-Collect

1.68. As demonstrated above, PREPA reduced its pension funding revenue requirement request for FY2026 by approximately \$96 million, but the hearing record establishes that there will not be a multi-million dollar “double-collection” of pension costs from ratepayers under the provisional rate. The evidence shows the provisional pension rider will bill for ten months while only eight months of pension costs will be recovered in rates due to the timing of rider implementation.⁷⁵ PREPA’s witnesses explained this timing issue on the record. In addition, PREPA’s witnesses explained that the total pension amount to be recovered in FY2026 will be adjusted through the provisional-to-permanent reconciliation process.⁷⁶

1.69. Arguments that there is a \$100 million “double-collection” from ratepayers for pension costs⁷⁷ reflect a misunderstanding of the reconciliation process. The record establishes that the provisional pension rider bills ten months in FY2026 following its September 1, 2025 effective date, but only eight months of pension costs will be recovered in FY2026.⁷⁸ The Pension Loan covered four months of FY2026 pension payments—July, August, September, and October—while the rider was being implemented and cash flow normalized.⁷⁹ PREPA’s

Electric Power Authority Regarding the Prepa Employees' Retirement System (“Rivera Testimony”) at 4:7–17.

⁷⁵ See Dec. 11, 2025 Hr. Tr. at 233:8–12 (“And I think the pension rider went into effect September 1. And so there are ten months of billed amounts for pensions, but only eight months we expect of costs to be recovered, of costs that are, are to be recovered are to be covered by the riders, excuse me.”).

⁷⁶ *Id.* at 234:21–24 (“So, given where we stand today there have been four months of pension payments in fiscal year 26’ that were covered by Commonwealth loan funds.”).

⁷⁷ See *Bondholders' Initial Post-Hearing Brief* at 94 n.77.

⁷⁸ See Dec. 11, 2025 Hr. Tr. at 232:22–233:12.

⁷⁹ See Dec. 10, 2025 Hr. Tr. at 369:5–370:6; Dec. 11, 2025 Hr. Tr. at 234:6–15.

witnesses acknowledged this overlap on the record and have reduced the total FY2026 pension rate requirement by approximately \$96 million, corresponding to four months of PayGo pension costs at roughly \$25 million per month (plus repayment of the Pension Loan).⁸⁰ While the total revenue requirement is reduced by \$96 million, the full \$96 may not be over collected due to the billing and payment timing. Nevertheless, any overcollection resulting from the provisional rate will be addressed through the provisional-to-permanent rate reconciliation process.

1.70. As Lucas Porter testified, because the Pension Loan covered four months of pension payments in FY2026, the pension rider "will have over recovered if it continues this way by the end of the fiscal year," and "the total amount that the pension rider should be recovering for the total of fiscal year 26 . . . should be lower by . . . approximately 100 million."⁸¹ The Energy Bureau's reconciliation process will align billed amounts with the permanent, authorized revenue requirement, ensuring customers are not charged twice for the same pension costs.⁸² Rather than evidencing a permanent overcharge, the record demonstrates both the existence of the timing issue and the concrete mechanism to eliminate it. Indeed, PREPA has already submitted this adjustment: PREPA Exhibit 1105, filed January 12, 2026, eliminates the first four months of FY2026 from the pension rider recovery because "these months were covered by the central

⁸⁰ See Dec. 11, 2025 Hr. Tr. at 236:4–10.

⁸¹ See id. at 235:6–236:10.

⁸² See id. at 233:15–234:4.

government loan" and reduces the total FY2026 pension cash transfer request included in the revenue requirement to approximately \$211 million.⁸³

iii. SREAEE's Record-Based Understanding of Pension Requirements

1.71. The evidentiary record establishes that "[a] pay-as-you-go funding approach is not a discretionary policy choice but a legal and practical necessity."⁸⁴ SREAEE's liquid assets had been fully depleted and by early 2023, SREAEE notified the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board") of looming shortfalls in monthly benefit payments as early as May 2023.⁸⁵ PREPA cannot reasonably attribute proportional responsibility to the various factors that caused the underfunding,⁸⁶ but notes that (i) SREAEE is fully dependent on PREPA for PayGo funding;⁸⁷ and (ii) the PREPA Fiscal Plan recognizes that restoring a fully funded pension trust would require contributions far in excess of PREPA's financial capacity.⁸⁸ SREAEE's expert report also confirms that the PayGo cash-flow requirements are reasonable and that PayGo is a necessity given the system's insolvency and absence of investable trust assets.⁸⁹ Therefore, PREPA's current focus is on meeting PayGo funding requirements as required by the PREPA Fiscal Plan, given the system's funded status.⁹⁰

⁸³ See PREPA Ex. 1105 at 1–2.

⁸⁴ See *SREAEE's Legal Brief on Revenue Requirement* at 12.

⁸⁵ See LUMA Ex. 1.01 ("PREPA Fiscal Plan") at 124; see PREPA Ex. 85.03 at 15.

⁸⁶ See Rivera Testimony at 8:15–17.

⁸⁷ *Id.* at 5:8.

⁸⁸ See PREPA Fiscal Plan at 23; Expert Report of Jose Fernández, *In re Puerto Rico Electric Power Authority Rate Review*, No. NEPR-AP-2023-0003 (Oct. 27, 2025) ("Fernández Expert Report") at 2.

⁸⁹ See Fernández Expert Report at 2, 4.

⁹⁰ Rivera Testimony at 8:15–17.

iv. PayGo Pension Funding is for Current Periods

1.72. The record supports that the funding amounts “reflect current-period obligations only and do not seek recovery of historical underfunding or legacy liabilities.”⁹¹ The projections underlying the PayGo estimates expressly exclude any effort to recoup prior-year shortfalls.⁹² Rather, annual pension funding requirements are determined by projected benefit payments for the relevant fiscal year.⁹³ PayGo estimates identify the cash required to satisfy pension obligations as they accrue during the rate period.⁹⁴ PREPA’s filings confirm the PayGo pension funding amounts are calculated as the difference between projected pension system outflows on a monthly basis for FY2026, less projected inflows, including estimated participant and employer contributions.⁹⁵

v. Whether the Trust Agreement Treats Pension Payments as Current Expenses is a Title III Issue

1.73. Bondholders argue pension liabilities are not “Current Expenses” under the Trust Agreement and, therefore, are junior to legacy bond debt. SREAE contends the Trust Agreement that governs PREPA’s bonds, expressly treats pension payments as a core operating cost and are, thus, a defined “Current Expense.”⁹⁶ This is an issue that is directly before the Title III court in PREPA’s Title III case and should only be addressed in that proceeding.

⁹¹ See *SREAE’s Legal Brief on Revenue Requirement* at 24.

⁹² See PREPA Ex. 85.01 at 7:1–3.

⁹³ See *id.* at 7:4–22.

⁹⁴ See PREPA Ex. 85.03 at 23.

⁹⁵ See *PREPA Response to HE Order re Pensions*, NEPR-AP-2003-0003 (Nov. 21, 2025) at 6 ¶ 14.

⁹⁶ See *Bondholders’ Initial Post-Hearing Brief* at 91–93; *SREAE’s Legal Brief on Revenue Requirement*, NEPR-AP-2003-0003 (Jan. 23, 2026) at 2.

vi. Alternative Funding Sources Have Been Exhausted

1.74. In the face of SREAEE's depleted liquidity, PREPA was compelled to exhaust all available alternative funding sources to sustain ongoing pension benefit payments. Beginning in July 2023, PREPA used between \$21 million and \$31 million per month from its operating funds—in addition to regular employer and employee contributions—to support pension payments.⁹⁷ This strained PREPA's liquidity and budget.⁹⁸ As interim measures, PREPA relied on a \$300 million emergency loan from the Government of Puerto Rico and, subsequently, the use of \$74 million in FEMA reimbursements and a series of additional loan amendments totaling \$25 million per month through October 2025.⁹⁹

1.75. The Oversight Board has foreclosed further central government funding: it informed PREPA that it “does not currently intend to approve any further Commonwealth loans for this purpose, nor will it approve the Commonwealth assuming the obligations of the SREAEE pension plan, as the Commonwealth treasury is required for its own purposes.”¹⁰⁰ The Pension Loan was provided as an emergency bridge, not a permanent solution, and the loan agreement required PREPA to identify a permanent funding source.¹⁰¹

⁹⁷ See Rivera Testimony at 5:10–12.

⁹⁸ *Id.* at 5:12–15.

⁹⁹ *Id.* at 5:16–6:9.

¹⁰⁰ See *PREPA Response to HE Order re Pensions* at 25 ¶ 60.

¹⁰¹ See PREPA Fiscal Plan at 124.

vii. The Commonwealth Has No Obligation to Fund PREPA

1.76. PREPA is a public corporation with an independent legal personality,¹⁰² authorized to issue debt and incur obligations in its own name and PREPA solely responsible for repayment of that debt and other obligations.¹⁰³ Creditors lent to PREPA, not the central Government. Yet Bondholders assert that the Government should fund PREPA pensions and other PREPA obligations. There is no legal basis on which the Energy Bureau can rely for such assertion. And the Bondholders cite to none.

viii. The Oversight Board Directive Carries Binding Weight

1.77. The certified PREPA Fiscal Plan mandates funding PayGo exclusively through electricity rates.¹⁰⁴ Bondholders' characterization of the Oversight Board letter as a mere "policy opinion" is incorrect.¹⁰⁵ The certified PREPA Fiscal Plan provides that pension costs must be included in the revenue requirement as part of the base rate or a rider as a funding source for pension obligations.¹⁰⁶ The Oversight Board Pension Letter states that "full payment of accrued benefits to participants in the plan is an essential revenue requirement under its fiscal plan."¹⁰⁷

¹⁰² 22 L.P.R.A. § 193 (noting that PREPA "is a corporation having legal existence and personality separate and apart from that of the Government of the Commonwealth of Puerto Rico").

¹⁰³ 22 L.P.R.A. § 196 (granting PREPA the authority to "borrow money, make and issue bonds of [PREPA] for any of its corporate purposes, and to secure payment of its bonds and of any and all other obligations by pledging or placing a lien on all or any of its contracts, revenues, and income only").

¹⁰⁴ See PREPA Fiscal Plan at 125 (noting that "including the pension cost into the revenue requirement as part of the base rate or a rider may be a possible funding source" for pension obligation).

¹⁰⁵ See *Bondholders' Initial Post-Hearing Brief* at 93 n.76.

¹⁰⁶ See PREPA Fiscal Plan at 125.

¹⁰⁷ See PREPA Ex. 85.03 at Sect. III.

1.78. Furthermore, nothing in PROMESA Title III prevents inclusion of PayGo funding in rates. The Oversight Board has confirmed that PREPA's funding of pension payments, even if accrued prepetition, does not violate the automatic stay because: (i) section 363(b) of the Bankruptcy Code is not incorporated into Title III of PROMESA, and (ii) Section 305 of PROMESA provides the Title III court may not enter any order interfering with PREPA's use of its property unless the Oversight Board consents.¹⁰⁸

G. PREPA's Title III Costs are Reasonable and Justified

1.79. PREPA's Title III professional fees are reasonable and adequately supported in the record. The Bondholders' assertion that PREPA seeks ratepayer funding for duplicative Title III costs given the Oversight Board's and Proskauer Rose LLP's representation is without support.¹⁰⁹ That view understates Title III's scope and importance, and ignores the necessity of PREPA's separate representation and its benefit to rate payers.

i. Separate Representation Is Required and Appropriate

1.80. PREPA's retention of separate Title III counsel is necessary to ensure that the energy public policy of the democratically elected Government is independently and properly represented, that electricity rates resulting from a restructured PREPA are feasible and sustainable, and that the independence of

¹⁰⁸ See *id.* at Sect. II; Unlike a debtor under chapter 11 of the Bankruptcy Code, PREPA is not prevented from using its property at its discretion or that of its trustee (here the Oversight Board). Further, pursuant to Section 201(b)(C) of PROMESA, a fiscal plan is required to "provide adequate funding for public pension systems." In turn, PREPA's current fiscal plan, certified by the Oversight Board on February 6, 2025, contemplates current funding of PREPA's pension obligations to PREPA ERS from PREPA's revenues.

¹⁰⁹ See *Bondholders' Initial Post-Hearing Brief* at 69.

the Energy Bureau's rate-making powers under Act 57 is protected. PROMESA explicitly retains the Government's power to maintain its own counsel and for the payment of professionals retained by both the Oversight Board and PREPA.¹¹⁰ Through PROMESA section 316 Congress clearly recognized the need for separate representation and participation of PREPA professionals separate from the Oversight Board, and granted the Title III Court the sole authority to approve their fees and expenses. AAFAF determined in 2017 that the elected Government and its public corporations require separate representation in Title III cases.¹¹¹ PREPA's separate legal and financial advisory representation has ensured that PREPA's interests are considered independently and enable PREPA to manage disagreements with the Oversight Board's positions and directives, and allowed the Government entities to provide the Oversight Board demonstrably faster and deeper knowledge of the issues pertaining to Puerto Rico laws, regulations, discovery, implementation, and compliance issues—all for the benefit of the people and businesses of Puerto Rico.¹¹²

ii. Coordination Protocols Prevent Duplication

1.81. PREPA has protocols to avoid duplicative work: Oversight Board advisors act at the direction of the Oversight Board; PREPA advisors act at the

¹¹⁰ See Promesa §§ 303, 316 (“the court may award to a professional person employed by the debtor (in the debtor's sole discretion), the Oversight Board (in the Oversight Board's sole discretion) a committee under section 1103 of title 11, United States Code, or a trustee appointed by the court under section 926 of title 11, United States code—(1) reasonable compensation for actual, necessary services rendered by the professional person, or attorney and by any paraprofessional person employed by any such person; and (2) reimbursement for actual, necessary expenses.”).

¹¹¹ See PC-of_PREPA-FIN-96 at 5–6.

¹¹² See *id.*

direction of PREPA, AAFAF, and the Governor of Puerto Rico's Chief of Staff; and advisors coordinate where feasible and practical on policy overlap.¹¹³ PREPA also monitors its professionals and reviews invoices to ensure that services are not duplicative.¹¹⁴

iii. Title III Costs are Subject to Multiple Layers of Oversight

1.82. PREPA's Title III professional contracts are reviewed by PREPA's Governing Board, the Oversight Board, the Puerto Rico Office of Management and Budget, the Energy Bureau, and the Governor's Chief of Staff.¹¹⁵ The Oversight Board has reduced the contract review threshold to \$250,000 for contracts payable from PREPA's "PREPA Restructuring and Title III" budget line items.¹¹⁶ In addition, PREPA's Title III costs are reviewed by PREPA management, the Title II court fee examiner, notice parties, and the court pursuant to PROMESA Section 316.¹¹⁷ The Title III Court only approves reasonable compensation for (1) actual, necessary services rendered and (2) reimbursement for actual, necessary expenses.¹¹⁸ Accordingly, PREPA's Title III costs are subject to rigorous, multi-layered review and approval processes that ensure transparency, fiscal discipline, and the reasonableness and necessity of all expenditures before any payment is authorized.

¹¹³ See *id.* at 5.

¹¹⁴ See LUMA-of-PREPA-RR-52.pdf at 2.

¹¹⁵ See PC-of_PREPA-FIN-96 at 2.

¹¹⁶ See LUMA-of-PREPA-RR-52 at 1.

¹¹⁷ See *id.*

¹¹⁸ See *id.*

iv. PREPA’s Title III Costs are Reasonable and Declining

1.83. Beyond the controls and oversight ensuring efficiency, the record demonstrates PREPA's Title III costs are cost-effective. The hourly rates charged by retained professionals are substantially below market.¹¹⁹ PREPA's Title III and Restructuring costs and approved budgets have declined over time as work related to PREPA Fiscal Plan mandated transformation initiatives has been completed.¹²⁰

1.84. PREPA has provided a complete breakdown of “PREPA Restructuring & Title III” costs by professional which show amounts declining significantly from FY2026 to FY2028 based on the assumed wind-down of Title III proceedings.¹²¹

Professional	FY2026	FY2027	FY2028
O'Melveny & Myers LLP	\$9,000,000	\$5,200,000	\$3,350,000
Ankura Consulting Group LLC	\$8,700,000	\$5,200,000	\$3,350,000
González & Martínez Law Office, P.S.C.	\$1,000,000	\$750,000	\$350,000
Total	\$18,700,000	\$11,150,000	\$7,050,000

For all of these reasons, PREPA’s Title III costs are just and reasonable.

H. Prematurity of Including Legacy Debt (Margin and Debt Service Ratio) in the Revenue Requirement

1.85. LUMA proposes a ratepayer-funded “margin” calculated by applying a 1.30 Debt Service Coverage Ratio (“DSCR”) to PREPA’s assumed debt

¹¹⁹ See *id.*

¹²⁰ See PC-of_PREPA-FIN-96 at 3.

¹²¹ See PFGC-of-PREPA-FIN-8 at 1; NPFGC-of-PREPA-FIN-8. PREPA will not opine on the propriety of LUMA and the Oversight Board’s legal fees.

service based on a hypothetical “Low Scenario” for PREPA’s legacy debt service.¹²² But including anything calculated by reference to legacy debt in the revenue requirement is improper until debt is determined by the Title III court. The Energy Bureau should not determine the DSCR without knowing whether, to what extent, and how legacy debt obligations will be paid. The Title III court has not addressed the extent to which or how the debt will eventually be paid (e.g., cash, bonds, contingent value instruments, etc.); nor has the Title III court approved any terms of any bonds that might be issued, making any Legacy Debt rider or inclusion of a margin related to legacy obligations inappropriate at this time. Further, the Energy Bureau’s November 13, 2025 *Resolution and Order* denied PREPA’s motion to exclude legacy debt discussions but limited the scope to testimony on the “design, advantages, disadvantages, and timing of a potential legacy-debt rider” while prohibiting discussion of “the debt amount” or “the role of the debt amount in the practicability analysis.”¹²³ For these reasons, any attempt to include a DSCR-based margin tied to PREPA’s legacy debt in the revenue requirement is premature, speculative, and inconsistent with the Energy Bureau’s own limitations on the scope of legacy debt considerations at this stage of the proceedings. As the Energy Bureau’s consultants explained: “we urge heightened caution by the Energy Bureau in addressing amounts for a Legacy Debt Obligation, and advise and recommend that the Energy Bureau not ‘front

¹²² See *Bondholders’ Initial Post-Hearing Brief* at 86.

¹²³ See *Resolution and Order, In re Puerto Rico Electric Power Authority Rate Review*, Case No. NERP-AP-2023-0003 (P.R. Energy Bureau Nov. 13, 2025) at 2.

run' the Title III Court in identifying a non-zero amount for inclusion in the revenue requirement."¹²⁴ The most prudent course of action is to await the outcome of the Title III bankruptcy process prior to including an amount for PREPA legacy debt or related debt service coverage in base rates. Moreover, the DSCR makes no sense for a municipally owned utility to provide working capital—that is done through reserves, of which LUMA has many.¹²⁵

IV. CONCLUSION

For the reasons set forth above, PREPA respectfully requests that the Energy Bureau (i) not reconsider or revisit its prior determination in *In re: Review of the Puerto Rico Electric Power Authority's 10-Year Infrastructure Plan*, Case No. NEPR-MI-2021-0002, whereby it approved the use of approximately \$1.3 billion in federal funds for the rehabilitation of PREPA's dams, hydroelectric facilities, reservoirs, and irrigation canals as those projects were expressly incorporated into PREPA's federally negotiated disaster-recovery framework following Hurricanes Irma and María, accepted by FEMA and other federal agencies, and evaluated and approved by this Energy Bureau as necessary to improve system reliability; (ii) approve PREPA's proposed revenue requirement for HoldCo and HydroCo non-federally funded operating and maintenance of \$91,870,573 for FY26, as well as its projected revenue requirements of \$81,357,353 for FY27 and \$79,009,017 for

¹²⁴ *In re Puerto Rico Electric Power Authority Rate Review*, No. NEPR-AP-2023-0003 (P.R. Energy Bureau Oct. 6, 2025) (Expert Report of Ralph C. Smith & Mark Dady) at 27.

¹²⁵ See *LUMA's Revenue Requirement Brief*, NEPR-AP-2003-0003 (Jan. 23, 2026) at 121 (discussing how "other municipal utilities maintain a number of different reserve funds, including reserves to smooth rate increase socks, to provide for future bond payments, and to provide a cushion for unexpected expenses.").

FY28;¹²⁶ (iii) approve the pension revenue requirement of \$211,146,063 for FY2026, \$307,408,581 for FY2027, and \$307,188,608 for FY2028, which reflects current-period PayGo obligations supported by actuarial projections and record evidence; (iv) approve PREPA's Title III costs as justified by the need for separate representation, subject to multiple layers of oversight, and representing cost-effective arrangements; (v) decline to include any margin or debt service coverage ratio for PREPA's legacy debt until the Title III Court determines the amount and manner of payment; (vi) reject LUMA's request to be "reimbursed" \$239 million in Outage Event Costs that it chose to pay from its T&D Operating Account after failing to budget for them, as those amounts have already been recovered from ratepayer funds and LUMA has not demonstrated that they were prudently incurred, reasonable in amount, or lawfully eligible for additional recovery; and (vii) require that the use of the OERA funds be subject to a clear and enforceable regulatory oversight process, including mandatory advance notice of anticipated Outage Event costs by the private operator, prior Energy Bureau authorization before funds are accessed, and a subsequent prudence review to ensure that all expenditures are just and reasonable.

WHEREFORE, PREPA respectfully requests that the Energy Bureau to **TAKE NOTICE** of the foregoing and authorize PREPA's proposed revenue requirement in full.

¹²⁶ The proposed revenue requirement for PREPA Restructuring & Title III of \$18.700 million in FY26, \$11.150 million in FY27 and \$7.050 million in FY28 is correctly included as proposed by PREPA in the "Operator Fees and Other Expenses" line of the B-1 Optimal and B-1 Constrained schedules in LUMA's January 9, 2026 filing.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17th day of February 2026.

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE: We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and notified via e-mail to the Hearing Examiner, Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record, attorneys of the intervenors of record, and others: LUMA Energy, LLC and LUMA Energy ServCo, LLC; Margarita Mercado margarita.mercado@us.dlapiper.com; Jan Albino, Jan.AlbinoLopez@us.dlapiper.com; Andrea Chambers, andrea.chambers@us.dlapiper.com; Carlyn Clarkin, carolyn.clarkin@us.dlapiper.com; Katiushka Bolanos, katiushka.bolanos-lugo@us.dlapiper.com; Yahaira De La Rosa, Yahaira.delarosa@us.dlapiper.com; Genera PR, LLC, through: Jorge Fernández-Reboredo, jfr@sbgblaw.com; Gabriela Castrodad, gcastrodad@sbgblaw.com; José J. Díaz Alonso, jdiaz@sbgblaw.com; Stephen Romero Valle, sromero@sbgblaw.com; Giuliano Vilanova-Feliberti, gvilanova@vvlawpr.com; Maraliz Vázquez-Marrero, mvarez@vvlawpr.com; ratecase@genera-pr.com; regulatory@genera-pr.com; and legal@genera-pr.com; Oficina Independiente de Protección al Consumidor, hrivera@jrsp.pr.gov; contratistas@jrsp.pr.gov; pvazquez.ICPO@avlawpr.com; Instituto de Competitividad y Sustentabilidad Económica, jpouroman@outlook.com; agraitfe@agraitlawpr.com; National Public Finance Guarantee Corporation, 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; GoldenTree Asset Management LP, lramos@ramoscruzlegal.com; tloria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; iglassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; Assured Guaranty, Inc., hburgos@cabprlaw.com; dperez@cabprlaw.com; mmcgill@gibsondunn.com; lshelfer@gibsondunn.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; thomas.curtin@cwt.com; Syncora Guarantee, Inc., escalera@reichardescalera.com; arizmendis@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; PREPA Ad Hoc Group, dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; david.herman@dechert.com; michael.doluisio@dechert.com; stuart.steinberg@dechert.com; Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica, nancy@emmanuelli.law; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; lgna2021@gmail.com;

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