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

IN RE: REVIEW OF THE PUERTO RICO ELECTRIC POWER AUTHORITY'S 10-YEAR INFRASTRUCTURE PLAN – DECEMBER 2020	**CASE NO.:** NEPR-MI-2021-0002 **SUBJECT:** Response to Reconsideration of February 5 and February 11, 2026 Resolutions and Orders.

RESOLUTION AND ORDER

I. Introduction

On February 5, 2026, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("February 5 Order") in the above-captioned proceeding addressing the FEMA Consolidated Project Plan and the allocation framework associated with the FEMA Accelerated Award Strategy ("FAASt"). The February 5 Order was issued pursuant to the Energy Bureau's statutory authority to regulate Puerto Rico's energy sector and to oversee the implementation of reconstruction and modernization initiatives in a manner consistent with Commonwealth energy public policy and long-term system planning requirements.

The February 5 Order followed PREPA[1]'s August 8, 2025 submission of the Consolidated FAASt Project List, which was developed in coordination with LUMA[2] and Genera[3], and subsequent compliance filings requested by the Energy Bureau to clarify the extent to which the Consolidated List addressed documented disaster-related damages and the financial and operational implications associated with inactive projects.

Through the February 5 Order, the Energy Bureau adopted an Updated Allocation Framework intended to facilitate advancement of priority Transmission and Distribution ("T&D") projects within the FEMA Section 428 and Section 406 funding construct. In furtherance of that framework, the Energy Bureau directed PREPA, LUMA, and Genera to undertake reconciliation and validation actions necessary to confirm the feasibility and implementation of the adopted allocation scenario. Specifically, the February 5 Order required Genera to submit a reconciliation plan addressing potential reclassification of costs between Sections 428 and 406 of the Stafford Act; directed LUMA to identify duplication-of-funding conditions, reconcile mitigation components, and confirm the completeness of the inactive project portfolio; required PREPA to provide project construction timelines and confirm mitigation assumptions; and ordered PREPA to amend the Consolidated Project List to incorporate a subset of projects identified for initial reactivation.

Following issuance of the February 5 Order, the Energy Bureau continued its review of the inactive project portfolio and the information submitted by the Parties to advance implementation of the Updated Allocation Framework. As part of that continued evaluation, the Energy Bureau assessed the project identified in Attachment A of the February 5 Order and determined that refinement of the project activation list was appropriate to better prioritize projects reflecting higher levels of incurred costs and thereby reduce potential ratepayer exposure associated with delayed implementation.

Accordingly, on February 11, 2026, the Energy Bureau issued a subsequent Resolution and Order (the "February 11 Order") modifying Attachment A of the February 5 Order. The February 11 Order constituted an administrative refinement intended to facilitate execution of the previously adopted framework and did not reopen, reconsider, or otherwise alter the

[1] Puerto Rico Electric Power Authority ("PREPA").

[2] LUMA Energy Management, LLC and LUMA Energy ServCo, LLC (jointly referred as "LUMA").

[3] Genera PR LLC ("Genera").

allocation principles, reserve utilization assumptions, or reconciliation obligations established in the February 5 Order. The February 11 Order directed PREPA to amend the Consolidated Project List to incorporate the projects identified in the revised Attachment A within ten (10) calendar days of notification, while reaffirming that all findings, directives, and requirements of the February 5 Order remained in full force and effect.

Through these coordinated actions, the Energy Bureau established a procedural pathway for advancing inactive projects within the FAASt framework with high incurred cost while preserving alignment with federal eligibility requirements, ensuring appropriate oversight of reconstruction investments, and mitigating the risk that unrepaired disaster damages or delayed implementation could result in future ratepayer exposure.

Subsequently, on February 20, 2026, PREPA filed its Motion for Reconsideration ("February 20 Motion") of the February 5 and February 11, 2026 Resolutions and Orders, together with a request for extension of time, asserting that modification of the directives is warranted pending completion of reconciliation, validation, and FEMA review processes.

II. Discussion

PREPA's February 20 Motion is premised on the assertion that implementation of the directives contained in the February 5, and February 11 Resolutions and Orders should be deferred pending completion of reconciliation activities and further FEMA review processes.

A. Federal funding compliance framework requires adherence to applicable state and territorial law

As a threshold matter, federal grant administration requirements applicable to FEMA Public Assistance funding expressly require recipients and subrecipients to comply with applicable statutory, regulatory, and award conditions, including those arising under state and territorial law. These requirements reflect the structure governing disaster recovery programs, under which federal eligibility determinations operate alongside, and do not displace local regulatory and planning authorities.

Within this framework, infrastructure projects funded through FEMA programs must be advanced in a manner consistent with applicable legal requirements, including permitting, regulatory approvals, and governing planning processes. Compliance with such requirements constitutes an inherent component of project eligibility, feasibility, and allowability determinations and therefore represents a prerequisite condition to project advancement within the federal funding lifecycle.

The Energy Bureau's review and approval of reconstruction strategies, project portfolios, and allocation frameworks derives from Commonwealth statutory authority governing electric system planning, reliability oversight, and public policy implementation. Accordingly, the requirement that plans and investments be reviewed for consistency with Puerto Rico energy public policy prior to submission for federal consideration constitutes a state law prerequisite applicable to the projects at issue.

This regulatory sequencing requirement was expressly established in the Energy Bureau's March 26, 2021 Resolution and Order (the "March 26 Resolution"), through which PREPA was directed to submit each specific capital investment project for the Energy Bureau review and approval to avoid potential noncompliance with the Approved Integrated Resource Plan and Modified Action Plan. The March 26 Resolution further required PREPA to present proposed projects to the Energy Bureau at least thirty (30) calendar days prior to their submission to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency, FEMA, or any other federal agency. This directive, which remains in effect, reflects the Energy Bureau's ongoing responsibility to ensure that reconstruction and modernization investments proceed in alignment with Commonwealth planning instruments and policy objectives.

The Energy Bureau further notes that the FAASt framework contemplates ongoing coordination with FEMA and permits administrative refinement of project priorities and

reactivation of previously formulated projects within the Consolidated Project List. PREPA, as a Commonwealth instrumentality and FEMA subrecipient, remains subject to applicable Puerto Rico statutory and regulatory requirements governing electric system planning and investment oversight, and the Energy Bureau's directives operate within that established regulatory structure without displacing FEMA eligibility determinations. The Energy Bureau's determinations regarding reserve availability and project sequencing were informed by prior documented assessments reflected in earlier Resolutions and Orders addressing the Consolidated Project List and FAASt allocation framework. Moreover, concerns regarding potential cost overruns, unsubmitted expenditures, or reimbursement uncertainty are portfolio-wide considerations appropriately addressed through ongoing reconciliation and coordination with FEMA and do not constitute a basis to defer compliance with the Energy Bureau's directives.

Consistent with this regulatory structure, the February 5 and February 11 Resolutions and Orders do not impose requirements in conflict with federal law but instead operate within the established oversight framework necessary to ensure that federally funded reconstruction investments proceed in a manner consistent with local policy objectives, system reliability needs, and consumer protection considerations.

B. Prior project approval does not preclude subsequent portfolio validation and reconciliation

PREPA further contends that the projects subject to the February 5 and February 11 Resolutions and Orders were previously approved and therefore should not be subject to additional validation requirements. This argument misconstrues both the scope of prior approvals and the Energy Bureau's continuing oversight responsibilities in the context of evolving federal funding implementation.

While the Energy Bureau has approved numerous individual projects over time, subsequent developments associated with the FAASt, and the creation of a Consolidated Project List necessitated a portfolio-level reassessment of approved, inactive, and withdrawn projects to ensure that implementation decisions do not create unintended financial exposure. In particular, the Energy Bureau previously determined that submission of the Consolidated Project List raised material questions regarding the status of projects previously approved, the extent of incurred costs, and the potential exclusion of projects from federal reimbursement pathways.

Consistent with these concerns, the Energy Bureau directed PREPA, Genera, and LUMA to provide comprehensive consolidated information regarding all projects created within FEMA's Grants Portal, including those segregated as inactive or withdrawn, and to identify architecture and engineering, equipment and materials, and construction costs incurred to date to determine the total financial exposure associated with the project portfolio. These directives reflected the Energy Bureau's determination that visibility into both active and inactive initiatives was necessary to ensure accurate accounting of recovery investments and to assess potential eligibility risks associated with project exclusion or reclassification.

Subsequent Energy Bureau action further reaffirmed the necessity of this portfolio-level review in connection with the FAASt Consolidated Project Plan, through which the Energy Bureau acknowledged receipt of the Consolidated List while clarifying that such acknowledgment did not constitute approval of its content and directed the Parties to provide asset-level validation of damages included and excluded from the consolidated framework, reconciliation of costs associated with inactive projects, and identification of strategies to address unrepaired damages or non-reimbursable expenditures.

These prior directives demonstrate that the Energy Bureau has consistently exercised its authority to obtain complete information regarding project status, incurred costs, and funding coverage across the entire recovery portfolio, independent of whether individual projects had previously received approval. The February 5 and February 11 Resolutions and Orders therefore represent a continuation of this established oversight trajectory rather than a reopening of prior project approvals.

C. Information requested in the February 5 Resolution and Order is necessary to support allocation feasibility and compliance determinations

PREPA further contends that compliance with the February 5 Order should be conditioned upon completion of reconciliation and validation activities. However, the information requested in the February 5 Order was expressly intended to enable those very determinations.

Specifically, the February 5 Order directed Genera to submit reconciliation information addressing potential reclassification of costs between Sections 428 and 406 mitigation categories, including associated timelines necessary to release Section 428 funding capacity. In response to this directive, Genera submitted an implementation plan and estimated timeline identifying the preliminary amount of funds proposed for reconciliation and reclassification, as well as the sequence of actions required to effectuate such adjustments within the FEMA framework.

The information provided by Genera indicates that a significant amount of Section 428 capacity will become available upon completion of reconciliation activities, thereby supporting the feasibility of the Updated Allocation Framework adopted by the Energy Bureau. This development further demonstrates that the reconciliation exercise contemplated by the February 5 Order is both actionable and integral to determining the amount of funding that may be reassigned to priority projects. Moreover, the identification of potential capacity release supports the Energy Bureau's determination that reserve assignment at this stage may reduce the risk that costs associated with delayed implementation or unreimbursed expenditures could ultimately be borne by ratepayers, while preserving the ability to reevaluate project prioritization upon completion of reconciliation efforts across all entities.

The Bureau further finds that retaining approximately $600 million in reserve capacity at this juncture is not justified considering the expectation that more than $1 billion will ultimately be restored to the Section 428 funding upon completion of reconciliation. Under these circumstances, maintaining such funds in reserve would unnecessarily constrain the timely advancement of reconstruction initiatives. The anticipated replenishment of Section 428 capacity mitigates concerns regarding allocation feasibility and supports the reactivation of reconstruction projects that would otherwise remain inactive.

The February 5 Order likewise required LUMA to identify potential duplication-of-funding conditions, reconcile mitigation components where applicable, confirm the completeness of the inactive project portfolio, and provide an implementation schedule for those actions. These measures were designed to support accurate assessment of available funding capacity and to inform orderly advancement of priority projects within the Updated Allocation Framework.

The Energy Bureau notes that preliminary reconciliation efforts have commenced and have already identified instances of duplication-of-funding requiring corrective action, including one example in which approximately $54 million in duplicative allocations are expected to be returned to the Section 428 funding. This reconciliation process demonstrates that substantial Section 428 capacity may be restored through systematic duplication review and portfolio-level reconciliation. These findings were considered by the Bureau in determining that the timely utilization of available funding is necessary to maximize federal recovery resources and to expedite the reconstruction process.

Collectively, these directives constitute foundational inputs required to assess the viability of the allocation framework, evaluate reconciliation assumptions, and support informed regulatory oversight of project activation decisions. The Energy Bureau has acted proactively in requesting this information to evaluate mechanisms that maximize the use of available federal funds while mitigating the risk that unreimbursed or improperly allocated costs could ultimately be borne by ratepayers. Based on the projections currently received, the amounts already identified for restitution as a result of duplication adjustments, and the additional sums expected to be reported by PREPA and LUMA through ongoing reconciliation efforts, the Energy Bureau reasonably anticipates that a substantially greater

level of Section 428 capacity will become available than is presently reflected in the Consolidated Project Plan. The absence of such information does not justify suspension of the Energy Bureau's directives; rather, it underscores the necessity of timely compliance with those requirements to ensure the orderly administration of recovery funds and to facilitate the expeditious reconstruction of Puerto Rico's electric system.

III. Order

Based on the foregoing findings and determinations, the Energy Bureau **DETERMINES** that PREPA has not demonstrated grounds warranting reconsideration of the February 5 and February 11, 2026 Resolutions and Orders. The Motion for Reconsideration primarily reiterates arguments previously considered by the Energy Bureau and reflects disagreement with the sequencing and implementation measures adopted therein rather than the existence of legal error, newly discovered evidence, or other circumstances justifying reconsideration. Accordingly, reconsideration is not warranted.

The Energy Bureau nevertheless acknowledges PREPA's representation that preparation of the implementation plan directed in the February 5 Order remains ongoing and that additional time is requested to submit a complete and accurate response. PREPA has represented that the requested extension is brief, made in good faith, and intended to facilitate submission of the implementation plan required under the February 5 Order.

Considering these representations, and solely for the purpose of allowing completion of the specific submission identified by PREPA, the Energy Bureau finds good cause to grant a limited extension of time. Such extension does not alter the determinations adopted in the February 5 and February 11 Resolutions and Orders, nor does it suspend the applicability of the directives contained therein.

Therefore, the Energy Bureau hereby:

1. **DENIES** PREPA's Motion for Reconsideration of the Resolutions and Orders issued on February 5, 2026, and February 11, 2026; and

2. **GRANTS** PREPA's request for extension of time and **ORDERS** PREPA, to comply with the directives established in the February 5 and February 11 Resolutions and Orders no later than **March 3, 2026**.

Except as expressly modified herein with respect to the compliance deadline, all findings, determinations, directives, warnings, and requirements contained in the February 5 and February 11 Resolutions and Orders remain unchanged and in full force and effect.

The Energy Bureau **REAFFIRMS** that timely and complete compliance with its directives remains essential to advancing implementation of the Updated Allocation Framework and protecting ratepayers from potential financial exposure associated with incomplete reconciliation and project implementation.

To support these efforts, the Energy Bureau authorizes its staff and consultants to engage in informal technical meetings with representatives and/or consultants of PREPA, to clarify the requirements in this Resolution and Order, as well as other matters related to the request. However, Energy Bureau staff and consultants are not authorized to make binding representations or commitments on behalf of the Energy Bureau. The final authority regarding the evaluation and determination of the information submitted rests exclusively with the Commissioners.

The Energy Bureau **WARNS** PREPA, LUMA, and Genera that any failure to comply with the Energy Bureau's directives, including the requirement to use and complete provided templates, may subject it to administrative fines and sanctions under Article 6.36 of Act 57-2014, including penalties of up to $25,000 per day and up to $250,000 per violation in cases of recurrent or continued noncompliance.

The Energy Bureau **REAFFIRMS** that strict compliance with its instructions is not optional but essential to advancing Puerto Rico's energy system reconstruction and stabilization efforts.

Be it notified and published.

Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 27, 2026. I also certify that on February 27, 2026 I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and a copy was notified by electronic mail to regulatory@genera-pr.com, legal@genera-pr.com, jfr@sbgblaw.com, jdiaz@ecija.com, sromero@ecija.com; alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net; Yahaira.delarosa@us.dlapiper.com; Emmanuel.porrogonzalez@us.dlapiper.com.

I sign this in San Juan, Puerto Rico, today February 27, 2026.

Sonia Seda Gaztambide
Clerk