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

IN RE: PUERTO RICO ELECTRIC POWER AUTHORITY RATE REVIEW	**CASE NO.:** NEPR-AP-2023-0003 **SUBJECT:** Bondholders' Response to Hearing Examiner's Informal Thoughts on the Federal Funds Panel

BONDHOLDERS' RESPONSE TO HEARING EXAMINER'S INFORMAL THOUGHTS ON THE FEDERAL FUNDS PANEL

TO HEARING EXAMINER SCOTT HEMPLING:

National Public Finance Guarantee Corporation, GoldenTree Asset Management LP, Syncora Guarantee, Inc., Assured Guaranty Inc., the Majority Member PREPA Ad Hoc Group,[1] and the PREPA Ad Hoc Group[2] (collectively, the "Intervenor Bondholders" or "Bondholders"), by and through the undersigned counsel, submit this Response to the *Hearing Examiner's Informal Thoughts on the Federal Funds Panel*, Case No. NEPR-AP-2023-0003 (November 25, 2025) (the "Informal Thoughts"), and respectfully state as follows.[3]

INTRODUCTION

On November 25, 2025, the Hearing Examiner distributed certain informal thoughts on the Federal Funds Panel—currently scheduled to occur on December 18-19 during the ongoing rate

[1] The members of the Majority Member PREPA Ad Hoc Group are listed in the *Fifth Verified Statement of the Majority Member PREPA Ad Hoc Group Pursuant to Bankruptcy Rule 2019*, ECF No. 5840, *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, Case No. 17-BK-04780-LTS (D.P.R. Oct. 9, 2025).

[2] 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, *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, Case No. 17-CV-04780 (D.P.R. Aug. 28, 2025).

[3] A Spanish summary of this filing is attached hereto as Appendix A, pursuant to Hearing Examiner's May 9, 2025 and June 4, 2025 Orders.

case—and invited written responses. First, the Hearing Examiner suggested that the Federal Funds Panel should focus on two questions: "(a) What amount can we reasonably project will be the flow of federal funds? and (b) What measures can we put in place so that if the actual federal funds flow differs from our rate case projections, we can adjust the rates, up or down, so that there is neither overrecovery from customers nor underrecovery?" Informal Thoughts at p.2. Second, the Hearing Examiner expressed his personal views[4] that "we cannot just say 'reduce NFC and increase FF,'" and that there may be undue concern about overrecovery of funds, because overrecovery from ratepayers could conceivably be reallocated to other projects. *Id.* Finally, the Hearing Examiner suggested that the parties should have "[m]ore acceptance of the unavoidable uncertainties" around federal funding, and "more recognition that funds collected from customers will go to good uses." *Id.*

The Bondholders respectfully disagree with the Hearing Examiner's Informal Thoughts that the focus should be on the "unavoidable uncertainties" of federal funding. The record in this proceeding shows that while there may be some amount of uncertainty around federal funding, there are meaningful differences in the ability of LUMA, Genera, and PREPA to successfully *minimize* uncertainty and *obtain* federal funding. For example, Genera's witnesses have testified to promptly (usually within 60 days), and fully (without reductions or denials), receiving the federal funds for which Genera has applied.[5] By contrast, multiple LUMA witnesses have attempted to blame long delays in obtaining federal funds on the process itself.[6] The same federal

[4] The filing notes, "These thoughts are solely mine; I have not shared them with the Commissioners before [] issuing this document." *Id.* at p.1.

[5] *See, e.g.*, Nov. 21, 2025 Hearing, 3:04:15-3:04:45, 3:11:11-3:11:35 (testimony of Mr. Cintron).

[6] *See* Nov. 12, 2025 Hearing Tr. 57:7-17, 124:15-25, 360:15-17; Nov. 13, 2025 Hearing Tr. 48:24-25, 49:1-3; Nov. 14, 2025 Hearing Tr. 9:3-17; Nov. 17, 2025 Hearing Tr. 285:11-25.

funding process applies to both entities, yet their internal processes and results are markedly different. This belies the notion that federal funding uncertainty is "unavoidable," and this performance history is highly relevant to rate-setting, as discussed below.

The Bondholders also disagree with the Hearing Examiner's proposal that the parties should simply accept that funds collected from ratepayers by the private operators will go to good uses. The core purpose of this rate proceeding is to determine whether, and to what extent, the proposed costs are prudent and reasonable. If the Energy Bureau raises rates to fund projects for which federal funds are available, it will have imposed more financial burdens on ratepayers than is necessary. In addition, the record suggests that many of the proposed costs are neither prudent nor reasonable. The record is replete with evidence that the private operators are seeking funds that will not go to "good uses":

- Genera has taken the remarkable position that if it later receives federal funds on a ratepayer-funded project, it views those federal funds as somehow being "savings," meaning Genera would then keep a 50% cut as corporate profit. Given the scale of available federal funding, this could add up to hundreds of millions of dollars in additional profit to Genera (beyond its fixed fees). In addition, Genera's position gives it an incentive to overcollect from ratepayers for projects that are eligible for federal funding—projects that ratepayers need not pay for at all—because Genera could then seek to pocket half of the federal money it receives for that project, without refunding any of it to ratepayers.

- For its part, LUMA has made clear that if it later receives federal funds on a ratepayer-funded project, it would not return funds to ratepayers but rather would "reallocate" ratepayers' funds to other LUMA uses.

- LUMA and Genera are both actively contracting with—and transferring millions of dollars of ratepayer funds to—close corporate affiliates, including for seconded employees, affiliate contracts, and more.

- Genera's parent company, New Fortress Energy, recently obtained a multibillion-dollar contract to sell natural gas to some of the very same generation units that Genera operates. What's more, in this rate case, Genera is seeking ratepayer funds to convert generation units to run on natural gas (potentially supplied by its own parent company).

Presumably, the people of Puerto Rico would not agree that these companies using ratepayer funds for corporate profits—beyond the substantial fees that these companies already receive under their respective O&M agreements—is a "good use." In addition, even if alternative projects qualify as "good uses," they may be good uses that prudently should be deferred, so as to avoid unnecessary rate increases, particularly while PREPA is in bankruptcy and cannot access the capital markets. The Bondholders certainly do not agree that they should accept that ratepayer funds turned over to LUMA or Genera always "will go to good uses," or to timely uses, and they will continue to probe the prudence and reasonableness of the operators' proposed costs in the Federal Funds Panel and otherwise.

For the reasons set forth herein, the Bondholders believe the current agenda for the Federal Funds Panel—which already reflects the parties' previously solicited input—should not be modified at this late date.

ARGUMENT

In suggesting that the parties accept "unavoidable uncertainties" around federal funding and "that funds collected from customers will go to good uses," the Informal Thoughts misstate the applicable burden of proof. The rate applicants bear the burden of justifying their requests for ratepayer funds, period. It is not incumbent on other parties to prove that inadequately supported funds requests are inadequate.

"During any rate review process, the burden of proof shall lie on the requesting electric power service company to show that the proposed rate is just and reasonable, consistent with sound fiscal and operational practices that provide for a safe and adequate service at the lowest reasonable cost." Article 6.25(b) of the Puerto Rico Energy Transformation and RELIEF Act, 22 L.P.R.A. § 1054x; Section 6.2(b) of the Puerto Rico Energy Transformation and RELIEF Act, 22 L.P.R.A.

§ 1054t (just and reasonable tariffs); *see also, e.g.*, Section 3.13(e) of the Government of Puerto Rico Uniform Administrative Procedure Act, 3 L.P.R.A. § 9653; Rule 110(b) of Evidence, 32 L.P.R.A. Ap. VI (party who asserts claim bears the burden of proving it). Testimony from LUMA and Genera witnesses baldly claiming that the funds they seek are prudent and reasonable does not discharge their burden. Here, in the context of a historic award of billions of dollars in federal funding, much of which remains unobligated and unallocated many years later, the applicants must substantiate that their requests for ratepayer funds are necessary for proposed capital projects, including that those projects will not be covered by federal funding. Burdening ratepayers with billions of dollars in costs that could be covered by federal funds would impose more costs on ratepayers than is necessary and violate the fundamental principle that the proposed rate be *just*, *reasonable*, and provide for safe and adequate service *at the lowest reasonable cost.* 22 L.P.R.A. § 1054x.

To relieve the rate applicants of their burden, as the Informal Thoughts imply, would create a perverse incentive: If the private operators are allowed to collect funds from ratepayers without showing the unavailability of federal funds and their diligence in attempting to obtain federal funds, then the private operators will be motivated to prioritize using *ratepayer* funds, which are generally easier to use, and ratepayers will end up paying more than they have to. That is the exact opposite of the incentive that the Energy Bureau should aim to create, as such an incentive would harm the people of Puerto Rico and other PREPA stakeholders.

This is why the Informal Thoughts are mistaken to suggest that the private operators' past performance in obtaining federal funds is not relevant (or is less relevant). The issue is of paramount importance here, and there is often no clear dividing line between poor performance in the past (as recently as the just-ended FY2025) and future performance. For instance, the evidence

has shown that Working Capital Advances ("WCAs") from COR3 for federally funded projects are disbursed in 25% tranches, and the next tranche is not released until the prior tranche is closed out. If the operators have failed to timely close out WCA tranches in the past, as appears to be the case based on the record to date, such delay would prevent LUMA from timely accessing the next, future tranche of WCAs. And if, as the evidence suggests, LUMA is underperforming in obtaining federal funding, unless LUMA affirmatively proves it has remedied all issues driving past performance issues, the presumption is that such underperformance will continue; LUMA, as the rate applicant, bears the burden of proving it *has* changed course. The Energy Bureau must consider this evidence in determining what actions LUMA should be required to take to maximize federal funding on a going forward basis, and the expenses that ratepayers must fund for reliable electricity. Whereas the Informal Thoughts opine that "we cannot just say 'reduce NFC and increase FF,'" that is *exactly* what the Energy Bureau should be saying if one or more of the private operators are underperforming in obtaining federal funds. By law, ratepayer funds must be prudently used; to accomplish this, the rate applicants must be appropriately incentivized to make full use of federal funds. The Federal Funds Panel should cover these critical topics and include questioning on eligible federal funds available to LUMA and the ways LUMA can obtain and expedite receipt of such funds.

Nor is it necessary for the Energy Bureau to "identify specific near-term actions that will change the near-term results" before it may expect that the operators effectively utilize available federal funding. LUMA and Genera are sophisticated operators, and the people of Puerto Rico rightly expect them to manage the federal funding process effectively. The operators will do what needs to be done to access the federal funds, so long as they are given incentives to do so, not incentives to look to ratepayers as the funding source of first resort.

The Bondholders also respectfully disagree with the suggestion in the Initial Thoughts that there may be excessive concern about overrecovery, because so-called extra funds could be reallocated, on an ad hoc basis, to some other hypothetical project(s). As discussed, proposed costs must be prudent and reasonable, and at the lowest reasonable cost; collecting *more funds* than necessary from ratepayers inherently violates this fundamental principle.

The purported existence of a set of "shovel-ready" alternative, reasonable, and prudent projects—which has not been established in the record—is not a panacea for overcollection. An "alternative" project is an alternative for a reason: Compared to the project(s) prioritized above it, the alternative project may be lower priority and, by extension, less likely to benefit ratepayers.[7] The farther down the list an operator has to go in selecting one or more "alternative" projects, the more pronounced this problem would become. It may well be that, in a new rate case where they had to justify all projects, the rate applicants would formulate different, and better, projects than whatever alternative happens to be available when "extra" federal funds are received. Thus, one cannot simply dismiss concerns about overcollection on the assumption that (i) "shovel-ready" alternative projects exist and are properly prioritized (not demonstrated), and (ii) such alternative projects will offer comparable value to ratepayers as would a more deliberately formulated and fully vetted project.

In many cases, the rate applicants have not shown that their proposed projects pass a basic cost-benefit assessment, or that they have even *attempted to do* such an analysis, or that they have even done *any quantitative assessment* of project value (cost-benefit or otherwise). This raises

[7] For illustrative purposes, this assumes proper project prioritization. The Bondholders believe the operators have failed to demonstrate proper project prioritization, as explained in Mr. Hurley's testimony, as shown elsewhere in the record to date, and as will be explained in post-hearing briefing.

serious concerns about the notion of overcollecting from ratepayers on the assumption that "extra" funds can simply be shuffled to alternative projects. Moreover, as the rate applicants' witnesses have admitted, an overabundance of projects creates executability concerns.[8] Under the hearing examiner's proposal, an alternative project may be considered after the failure of execution of a primary project, which calls into question whether the rate applicants could execute on the alternative project either. The rate applicants' Constrained Budgets already entail a massive increase in spending and resource usage relative to past budgets.[9] Executing on such spending increases is particularly challenging in light of admitted supply chain restrictions, unavailability of materials, and lack of personnel.[10] Thus, "alternative" projects may well prove infeasible, resulting in over-collection from ratepayers without any present benefit.

Further, the Bondholders respectfully disagree with the Hearing Examiner's suggestion that "there is no direct way to make the utilities financially accountable." The Energy Bureau can, and should, incentivize the rate applicants to effectively utilize the billions of dollars in available federal funding, rather than allowing them to use ratepayers as the funding source of first resort. Indeed, the Energy Bureau already made just such a determination in its July 2025 Provisional Rate Order. *See* Provisional Rate Order, Case No. NEPR-AP-2023-0003, at p.32 (July 31, 2025) ("The Energy Bureau will not treat electricity customers as the funding source of first resort.");

[8] *See, e.g.*, LUMA Ex. 75, at p.57, Lines 611-14 ("Yes, it can be difficult for electric utilities to increase their transmission and distribution (T&D) capital investment programs by a factor of three to four in a short period. There are several systemic and operational constraints that typically make a rapid scale-up of T&D investment challenging"); Nov. 17, 2025 Hearing Tr. 305:8-15, 306:1-5 (Mr. Melendez answering "yes" when asked whether "[i]t can be difficult for utilities to increase their T&D capital investment even just by a factor of three to four in a short period").

[9] *See, e.g.*, Nov. 17, 2025 Hearing Tr. 316:19-25, 317:1.

[10] *See, e.g.*, LUMA Ex. 5, at p.21, Lines 485-97.

see also id. at pp.15, 27 ("[A] significant number of costs have not been accepted by the Energy Bureau at this phase, specifically to allow for further examination during the permanent-rate phase of the potential availability of federal funds to cover those expenses, thereby avoiding recovery from ratepayers."); *id.* at p.32 ("[T]his Resolution and Order's approval of activities and projects for purposes of the provisional rate does not relieve the entities of their obligation to seek federal funds to cover any costs for which federal funding is available."). Those sound determinations by the Energy Bureau apply equally today.

In terms of financial accountability, LUMA's future incentive fee can be partially conditioned on effective utilization of federal funds, akin to a shareholder incentive/penalty. One of the performance metrics that the Energy Bureau has approved relates to how effectively LUMA utilizes federal funding.[11] And if the Energy Bureau declines to grant massive requests for ratepayer funds where those costs can be federally funded, as it did in the Provisional Rate Order, that would likewise create a financial incentive for the rate applicants to effectively utilize federal funds. If the rate applicants do not, they would thereby risk reputational damage, loss of incentive payments, loss of affiliate revenues, and other adverse consequences. The Energy Bureau also has the power to fine electric service companies in appropriate circumstances, which again is a potential mechanism to hold the rate applicants financially accountable.

Finally, even setting aside the substantive issues with the Initial Thoughts, materially changing the agenda for the Federal Funds Panel at this late stage would impose an undue burden on the parties—and particularly on the Bondholders, who have been primarily conducting cross-

[11] *See Final Resolution and Order on Performance Targets for LUMA Energy LLC and LUMA Energy Servco, LLC*, NEPR-AP-2020-2025, p.7 (January 26, 2024) (providing that the financial performance metric is calculated by dividing the "Actual Federally Funded Capital Expenses for the Federally Funded Fiscal Year" by the "approved Capital Budget: Federally Funded for the same Fiscal Year").

examinations during the hearing. The evidentiary hearing is ongoing, with many witnesses each day, and the Federal Funds Panel is scheduled to occur imminently. By contrast, the agenda for the Federal Funds Panel has been in place for weeks, and the Hearing Examiner directed the parties to align their cross-examination outlines with that agenda. A number of subtopics have also been deferred to the Federal Funds Panel throughout this hearing, and those deferrals were premised on the Panel's existing scope. Changing the Federal Funds Panel's scope at this late stage may jeopardize the ability to cover those topics.

For these reasons, the Bondholders respectfully request that (i) the existing agenda for the Federal Funds Panel be maintained; and (ii) no arbitrary limitations be imposed on questioning about past performance in obtaining federal funds, about the potential for overrecovery of funds from ratepayers, about potential misuse of ratepayer funds, or about other relevant topics.

RESPECTFULLY SUBMITTED,

THIS 8th DAY OF DECEMBER 2025

ADSUAR

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

WEIL, GOTSHAL & MANGES LLP

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

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

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

Co-Counsel for National Public Finance Guarantee Corporation

RAMOS CRUZ LEGAL

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

WHITE & CASE LLP

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

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

Co-Counsel for GoldenTree Asset Management LP

REICHARD & ESCALERA, LLC

By: */s/ Rafael Escalera*
Rafael Escalera
P.R. Bar No. 5610

By: */s/ Sylvia M. Arizmendi*
Sylvia M. Arizmendi
P.R. Bar No. 10337

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

QUINN EMANUEL URQUHART & SULLIVAN, LLP

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

Counsel for Syncora Guarantee, Inc.

CASELLAS ALCOVER & BURGOS P.S.C.

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

GIBSON, DUNN & CRUTCHER LLP

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

CADWALADER, WICKERSHAM & TAFT LLP

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

Co-Counsel for Assured Guaranty Inc.

MONSERRATE SIMONET & GIERBOLINI, LLC

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

DECHERT LLP

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

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

Co-Counsel for the PREPA Ad Hoc Group

TORO COLÓN MULLET P.S.C.

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

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

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

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 Avenue of the Americas
New York, New York 10019
Tel.: (212) 373-3000
Fax: (212) 373-3990

By: */s/ Andrew N. Rosenberg*
ANDREW N. ROSENBERG*
PAUL D. BRACHMAN*
KAREN R. ZEITUNI*

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

**Admitted pro hac vice*

Co-Counsel for the Majority Member PREPA Ad Hoc Group

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, katiuska.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, mvazquez@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.oipc@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; tlauria@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; lgnq2021@gmail.com; *Official Committee of Unsecured Creditors of PREPA*, jcasillas@cstlawpr.com; jnieves@cstlawpr.com; *Solar and Energy Storage Association of Puerto Rico,* Cfl@mcvpr.com; apc@mcvpr.com; javrua@sesapr.org; mrios@arroyorioslaw.com; ccordero@arroyorioslaw.com; *Wal-Mart Puerto Rico, Inc.,* Cfl@mcvpr.com; apc@mcvpr.com; *Mr. Victor González,* victorluisgonzalez@yahoo.com; and *the Energy Bureau's Consultants*, Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; jorge@maxetaenergy.com; rafael@maxetaenergy.com; RSmithLA@aol.com; msdady@gmail.com; mcranston29@gmail.com; dawn.bisdorf@gmail.com; ahopkins@synapse-energy.com; clane@synapse-energy.com;

guy@maxetaenergy.com; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; kbailey@acciongroup.com; hjudd@acciongroup.com; zachary.ming@ethree.com; PREBconsultants@acciongroup.com; carl.pechman@keylogic.com; bernard.neenan@keylogic.com; tara.hamilton@ethree.com; aryeh.goldparker@ethree.com; roger@maxetaenergy.com; Shadi@acciongroup.com.

ADSUAR

/s/ Eric Pérez-Ochoa

Eric Perez-Ochoa

RESUMEN DE: RESPUESTA DE LOS BONISTAS A LAS OPINIONES INFORMALES DEL OFICIAL EXAMINADOR SOBRE EL PANEL DE FONDOS FEDERALES

AL OFICIAL EXAMINADOR SCOTT HEMPLING:

Los bonistas no están de acuerdo en que el foco deba centrarse en las "incertidumbres inevitables" de la financiación federal. El mismo proceso de financiación federal se aplica a Genera y LUMA, pero sus procesos y resultados internos son notablemente diferentes. Tampoco estamos de acuerdo en que las partes deben aceptar que los fondos recaudados de los contribuyentes se destinarán a buenos usos. Si el NEPR sube las tarifas para financiar proyectos para los que hay fondos federales disponibles, impondrá más cargas financieras a los contribuyentes. El expediente está repleto de pruebas de que los operadores privados buscan fondos que no se destinarán a "buenos usos." Los solicitantes de tarifas tienen la carga de justificar sus solicitudes de fondos de los contribuyentes.

Las Opiniones Informales se equivocan al sugerir que el desempeño pasado de los operadores privados en la obtención de fondos federales no es relevante. Si se permite a los operadores privados cobrar fondos de los contribuyentes sin demostrar la indisponibilidad de fondos federales y su diligencia en su intento de obtenerlos, entonces los operadores privados se verán motivados a priorizar el uso *de fondos de los contribuyentes*. Los bonistas no están de acuerdo en que pueda haber una preocupación excesiva por la sobre recuperación, porque los llamados fondos extra podrían reasignarse a algún otro proyecto hipotético. No se puede descartar las preocupaciones sobre la sobre cobranza asumiendo que existen proyectos alternativos "listos para usar", que están debidamente priorizados y que ofrecerán un valor comparable a los contribuyentes como lo haría un proyecto más deliberadamente formulado y completamente evaluado.

Los solicitantes de tarifas no han demostrado que sus proyectos propuestos pasen una evaluación básica de costo-beneficio. Un exceso de proyectos genera preocupaciones sobre la ejecutabilidad. Según la propuesta del examinador, un proyecto alternativo puede considerarse tras el fracaso de la ejecución de un proyecto principal, lo que pone en duda si los solicitantes de tarifas podrían ejecutar proyecto alternativo alguno. Los Presupuestos Restringidos de los solicitantes ya implican un aumento masivo en el gasto y el uso de recursos en comparación con presupuestos anteriores. Ejecutar estos aumentos de gasto es especialmente complicado a la luz de las restricciones admitidas en la cadena de suministro, la falta de disponibilidad de materiales y la falta de personal. Los proyectos "alternativos" podrían resultar inviables, resultando en una sobre cobranza por parte de los contribuyentes sin ningún beneficio actual.

Los bonistas discrepan en que "no hay una forma directa de hacer que las empresas sean financieramente responsables. La NEPR puede incentivar a los solicitantes de tarifas para que utilicen eficazmente los billones de dólares en fondos federales disponibles. La futura comisión de incentivo de LUMA puede depender parcialmente de la utilización efectiva de fondos federales. Si el NEPR rechaza conceder solicitudes masivas de fondos para los contribuyentes donde esos costos puedan ser financiados federalmente, eso también crearía un incentivo financiero para que los solicitantes utilicen eficazmente los fondos federales. El NEPR también puede multar a las empresas.

Finalmente, los bonistas solicitan que se mantenga la agenda y no se impongan limitaciones a cuestionar el desempeño pasado en la obtención de fondos federales, sobre el potencial de sobre recuperación de fondos de los contribuyentes, sobre el posible mal uso de fondos de los contribuyentes u otros temas relevantes.