

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

NEPR

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IN RE: REVIEW OF THE PUERTO RICO ELECTRIC POWER AUTHORITY'S 10-YEAR INFRASTRUCTURE PLAN – DECEMBER 2020

CASE NO.: NEPR-MI-2021-0002

SUBJECT: Motion Requesting Informal Technical Meeting pursuant to the Resolutions and Orders dated February 5, 11, and 27, 2026.

MOTION REQUESTING INFORMAL TECHNICAL MEETING PURSUANT TO THE RESOLUTIONS AND ORDERS DATED FEBRUARY 5, 11, AND 27, 2026

TO THE HONORABLE ENERGY BUREAU,

COMES NOW the Puerto Rico Electric Power Authority ("PREPA") through its undersigned legal representation and, very respectfully, informs and requests as follows:

1. The FEMA Accelerated Award Strategy ("FAAST"), implemented pursuant to Section 428 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, is the primary funding mechanism supporting permanent reconstruction of Puerto Rico's electric system following Hurricanes Irma and María. To date, the Federal Emergency Management Agency ("FEMA") has obligated approximately \$9.5 billion to PREPA under this program for the rebuilding and modernization of generation, transmission, and distribution infrastructure.

2. As owner of the electric system assets and subrecipient of federal funds, PREPA retains ultimate responsibility for ensuring that these funds are allocated and deployed in strict compliance with applicable federal requirements and in a manner that advances system reliability and resilience. PREPA exercises this

responsibility subject to the regulatory oversight and jurisdiction of the Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau"), and consistent with the Energy Bureau's approved plans, orders, and applicable regulatory framework.

3. On June 3, 2025, FEMA formally requested that PREPA and the Government of Puerto Rico submit a prioritized list of projects to allocate the remaining balance of approximately \$3.62 billion under PREPA's FFASt donor project. FEMA required submission within thirty (30) days. In response, and under the coordination of the Office of the Energy Czar, PREPA led a structured and collaborative process with LUMA Energy, LLC ("LUMA") and Genera PR, LLC ("Genera") to consolidate and prioritize eligible recovery and reconstruction projects.

4. The resulting Consolidated FFASt Project List reflects a comprehensive review of projects in formulation within FEMA's Grants Portal, technical evaluations of scope, cost, system reliability impact, operational urgency, and planning documents previously developed by the parties. The process included multiple coordination meetings with FEMA, the Central Office for Recovery, Reconstruction, and Resiliency ("COR3"), LUMA, and Genera, and it incorporated additional projects identified during Environmental and Historic Preservation ("EHP") review and formulation workflows.

5. On July 31, 2025, PREPA formally submitted the Final Consolidated FFASt Project List to FEMA. Project costs remain subject to FEMA's cost-reasonableness

validation, and Detailed Scopes of Work (“DSOWs”) for priority projects that are under active development.

6. Importantly, the Consolidated Project Plan is consistent with the Electric System Priority Stabilization Two-Year Plan approved by the Energy Bureau on March 28, 2025, and reflects a coordinated, compliance-driven effort to maximize the obligation of remaining federal funds while advancing system reliability and resilience objectives.

7. On August 8, 2025, PREPA filed an *Informative Motion to Submit the Consolidated Project Plan* (“August 8 Motion”). On February 5, 2026, the Energy Bureau issued a Resolution and Order (“February 5 Order”) to address the FEMA Consolidated Project Plan and the allocation framework for the FAASt. Through this order, the Energy Bureau adopted an Updated Allocation Framework designed to advance priority Transmission and Distribution (“T&D”) projects under FEMA Section 428 and Section 406 funding. In addition, on February 11, 2026, another Resolution and Order (“February 11 Order”) was issued as an administrative refinement of the previous order and did not alter the core allocation principles or reconciliation requirements. Its primary purpose was to modify Attachment A of the February 5 Order by refining the project activation list. This modification prioritized projects that already had higher levels of incurred costs, a move intended to reduce the financial risk to ratepayers that could result from further implementation delays. PREPA was directed to incorporate these

revised projects into the Consolidated Project List within ten (10) calendar days of the notification.

8. On February 20, 2026, PREPA filed its *Motion for Reconsideration of the Resolutions and Orders of February 5 and 11, 2026 and Request for Extension of Time* (“Motion for Reconsideration”), whereby it respectfully submitted to the Energy Bureau that the directives in the Resolutions and Orders issued on February 5 and 11 Orders, particularly those requiring the reactivation of certain projects and the amendment of the FAASt Consolidated Project List, were issued prematurely and without the completion of the necessary funding reconciliation, technical validation, scope confirmation, and FEMA eligibility determinations. Accordingly, PREPA requested that the Energy Bureau reconsider the challenged resolutions to require completion of the reconciliation process, particularly the submission of necessary data by LUMA before any project reactivation or amendment to the Consolidated Project List. Additionally, PREPA requested a brief extension until February 27, 2026, to submit an accurate and complete implementation plan in compliance with the February 5 Resolution.

9. On February 27, 2026, PREPA filed its *Motion in Compliance with Resolution and Order of February 5, 2026* (“Motion in Compliance”), where it submitted the implementation plan required therein for the projects included in the FAASt Consolidated Project List. PREPA detailed the technical nature, scope, and anticipated timelines of its Water Assets projects, including dams, reservoirs, canals, and related control structures, emphasizing that these highly specialized

infrastructure projects require extensive hydraulic, geotechnical, environmental, permitting, and regulatory processes that necessarily result in extended design and construction schedules consistent with industry standards.

10. PREPA further asserted in its Motion in Compliance that the U.S. Army Corps of Engineers is assisting in the development of a comprehensive Master Construction Schedule to coordinate sequencing, dependencies, and execution across the portfolio, which will be submitted to the Energy Bureau upon completion. Additionally, PREPA confirmed that the mitigation costs under FEMA Section 406 remain valid as previously submitted and that all mitigation measures will be pursued strictly in accordance with FEMA eligibility requirements.

11. On February 27, 2026, the Energy Bureau issued a Resolution and Order (“February 27 Order”) denying the Motion for Reconsideration. The Energy Bureau concluded that the directives were consistent with the established regulatory and federal funding compliance framework and necessary to advance the Updated Allocation Framework and protect ratepayers. Nevertheless, the Energy Bureau granted PREPA a limited extension of time to comply with the required submissions, ordering PREPA to meet the directives by March 3, 2026.¹

12. The February 5, February 11, and February 27 Orders expressly authorize the Energy Bureau's staff and consultants to engage in informal

¹ It was notified on Friday, February 27, at 4:23 PM, and yesterday, March 2, was a legal holiday for PREPA.

technical meetings with PREPA representatives and/or consultants for the purpose of clarifying the requirements set forth therein. Consistent with the Energy Bureau's directives, PREPA requests an informal technical meeting to ensure a clear and accurate understanding of the directives imposed.²

13. By authorizing informal technical meetings, the Energy Bureau recognizes that the matters addressed in the resolutions involve complex, technically intensive, and federally governed issues that may require clarification to facilitate proper implementation. Accordingly, this request does not seek to revisit or relitigate matters previously decided. Rather, it is prompted by material compliance considerations, unresolved reconciliation issues, and federal-law requirements that warrant further clarification to ensure that implementation of the February 5, February 11, and February 27 Orders proceeds in full conformity with FEMA's Public Assistance requirements, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), and PREPA's statutory obligations as FEMA's designated Subrecipient.

14. PREPA further notes that the funding available under the FAASt donor allocation constitutes a finite federal funding authority subject to FEMA eligibility determinations and program deadlines. As such, the availability of Section 428 funding capacity is limited and subject to expiration if not properly obligated

² See February 5th (p.5), 11th (p.2), and 27th Orders (p. 5) (the Energy Bureau authorized 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).

within FEMA's applicable timelines. Consequently, the premature activation of projects without confirmed reconciliation of project costs, available allocation capacity, and FEMA eligibility determinations could create significant federal compliance risks, including the potential disallowance of costs or recoupment of previously reimbursed funds. For this reason, ensuring accurate technical alignment between the Energy Bureau's directives and FEMA's program requirements is essential to safeguard the remaining FAASf funding and avoid unintended financial exposure.³

15. PREPA also notes that several projects already obligated within the FAASf portfolio reflect incurred expenditures reported by LUMA despite limited or no substantive advancement in project formulation or implementation. The existence of incurred costs associated with projects that remain inactive or have not progressed through the FEMA formulation process raises important eligibility, allocability, and funding integrity considerations under FEMA's Public Assistance framework. From a Subrecipient compliance perspective, these circumstances underscore the importance of discussing with the Energy Bureau's technical staff the status of obligated projects, the reconciliation of incurred costs, and the sequencing of project activation decisions to ensure that federally funded scopes of work can be completed within the available FAASf funding capacity.

³ See Exhibit 1, PREPA's *Technical Memorandum in Support of the Consolidated Project Plan List* March 3, 2026.

16. Additionally, recent disclosures made by LUMA in its March 2, 2026, *Motion Submitting LUMA's Implementation Plan in Compliance with the Resolutions and Orders of February 5 and February 11, 2026*, reveal the existence of additional T&D projects and associated financial information that had not previously been incorporated into the FAASt Consolidated Project Plan. PREPA notes that the financial and project-level information reflected in that filing includes data that PREPA has repeatedly requested from LUMA since September 2025 as part of its responsibilities as a FEMA Subrecipient. The disclosure of these incremental projects, together with associated reported incurred costs, introduces additional uncertainty regarding the true remaining balance under the FAASt donor allocation and the funding capacity available to support project activation. Accordingly, a technical discussion with the Energy Bureau's staff and consultants is necessary to ensure that the current project portfolio, including obligated projects where costs have reportedly been incurred but where implementation progress has been limited, is evaluated within a comprehensive and reconciled financial framework to ensure full compliance with the Energy Bureau's directives and FEMA regulations.

17. In light of the aforementioned, considering the significant federal compliance considerations, reconciliation issues, and data discrepancies, PREPA respectfully requests that the Energy Bureau convene the authorized informal technical meeting at the earliest practicable date, or direct its staff or consultants to coordinate such a meeting with PREPA. Direct technical engagement is

necessary to ensure that the Energy Bureau's directives are implemented accurately, efficiently, and in a manner consistent with FEMA Public Assistance requirements and PREPA's obligations as FEMA's Subrecipient, while avoiding unintended compliance risks or adverse federal funding consequences.

WHEREFORE, PREPA respectfully requests that the Energy Bureau: (i) take **NOTICE** of the present motion; and (ii) **CONVENE** a technical informal meeting at the earliest practicable time or direct its staff or consultants to engage PREPA to coordinate such a meeting to clarify the requirements outlined in the February 5, 11, and 27 Orders.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 3rd day of March 2026.

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 courtesy copies were sent via e-mail to counsels of record at 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; yahaira.delarosa@us.dlapiper.com; emmanuel.porrogonzalez@us.dlapiper.com.

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PUERTO RICO
ELECTRIC POWER AUTHORITY

PREPA

GOVERNMENT OF PUERTO RICO

**Technical Memorandum in Support of the Consolidated Project Plan List
March 3, 2026**

As FEMA's recognized Subrecipient and a passthrough entity, PREPA is subject to the Uniform Administrative Requirements under 2 CFR Part 200, including 2 CFR §200.339 (Remedies for Noncompliance). To comply with these requirements—and with FEMA's internal control expectations under PAPPG Ch. 3 (Applicant/Subrecipient Management Responsibilities)—PREPA is obligated to maintain effective internal controls; ensure that costs charged to federal awards are eligible, allowable, reasonable, and properly authorized (PAPPG, Ch. 7 – Cost Eligibility); identify and address cost overruns on already obligated projects.

Failure to meet these obligations may trigger the remedies expressly authorized under the 2 CFR §200.339, including the imposition of additional award conditions, withholding or suspension of payments, disallowance of costs, suspension or termination of awards or subawards, and recoupment of previously reimbursed federal funds.

Moreover, if funding capacity under the Section 428 donor allocation is constrained or prematurely exhausted, PREPA or its operators may be unable to complete FEMA-approved scopes of work as obligated. Incomplete execution of an approved scope due to funding limitations creates a material eligibility risk, as FEMA reimbursement is contingent upon performance and completion of the approved scope of work in accordance with program requirements. Accordingly, advancing projects without confirmed allocation capacity not only increases exposure to disallowance and recoupment, but also risks rendering partially completed projects ineligible for reimbursement, thereby creating financial exposure for PREPA and potential impact to ratepayers.

PREPA does not contend that previously PREB-approved projects are exempt from portfolio-level visibility or reporting. To the contrary, PREPA has consistently supported providing PREB with comprehensive information regarding active, inactive, withdrawn, and completed projects to facilitate informed oversight, transparency, and interagency coordination. The FAASt Consolidated Project Plan was developed precisely to provide portfolio-wide visibility into project estimates, incurred costs, inactive projects, reconciliation risks, and specially funding constraints, without supplanting the underlying project-level approval framework. Accordingly, PREPA agrees that portfolio-level visibility

is appropriate and necessary, but reiterates that such visibility must be grounded in accurate, reconciled financial data and aligned with FEMA determinations to avoid distortions in available balance calculations, project prioritization, and funding feasibility assessments.

For these reasons, PREPA's repeated requests to Luma—since September 29—for complete, accurate, reconciled financial information are necessary to fulfill PREPA's federal compliance and oversight responsibilities. Maintaining a reserve within the FAAS Consolidated Project Plan until such information is validated is therefore a necessary compliance and risk-management measure to protect federal eligibility, ensure fiscal accountability, and prevent adverse consequences to the FAAS program.

In this context, and as a clear example of the basis for PREPA's information requests, PREPA notes that multiple already obligated projects reflect costs incurred to date that exceed the amounts originally approved and obligated by FEMA. Under FEMA policy, costs incurred beyond an approved scope of work or obligated amount are not eligible for reimbursement unless supported by a formally approved amendment (PAPPG, Chapter 6 – Scope of Work Changes; Chapter 7 – Cost Eligibility).

These cost overruns have a direct and material impact on the availability of Section 428 Public Assistance funding and the integrity of the FAAS donor allocation. Until complete, current, and validated information regarding total projected project costs is provided, all stakeholders—including PREPA, PREB, COR3, and FEMA—lack the ability to accurately determine the true remaining FAAS balance or to responsibly assess the feasibility of activating additional projects under the Consolidated Project Plan.

Additionally, PREPA has consistently emphasized the necessity of obtaining detailed information regarding project costs—and, critically, incurred costs—associated with projects that were never advanced for FEMA formulation, yet for which expenditures were reportedly incurred and funded through PW 9510 (A&E) and/or PW 10710 (Equipment & Materials). From both a Subrecipient compliance standpoint and a FEMA formulation perspective, the existence of incurred costs tied to projects not yet submitted for FEMA review raises material eligibility, allocability, and funding integrity concerns.

In its Motion submitted on March 2, 2027, LUMA confirmed the identification of additional incremental Transmission and Distribution (T&D) projects beyond those reflected in the Attachment A inactive list. These projects were newly identified and are distinct from the previously 289 disclosed inactive projects. As acknowledged by LUMA, these incremental projects would require advancement through the FEMA/COR3 submission and formulation pathway prior to eligibility determination or obligation.

The magnitude of the amounts disclosed in that Motion materially alters the financial and compliance posture of the FAASSt portfolio. Specifically, LUMA identified:

- Exhibit 3 – Urgent Incremental Priority Projects: Approximately \$899 million in potential Section 428 impact, including approximately \$120 million in reported incurred costs; and
- Exhibit 4 – Full Incremental Priority Projects: Approximately \$2.5 billion in potential Section 428 impact, contingent upon funding availability.

These incremental projects have never been presented for FEMA formulation, eligibility review, or obligation. They were not incorporated into prior FAASSt Consolidated Project Plan analyses, allocation modeling, or remaining balance projections.

The introduction of projects of this magnitude—particularly where incurred costs have already been reported—creates substantial allocation and compliance risk. Under Section 428 Alternative Procedures, the donor Project Worksheet represents a finite funding authority. Incorporating incremental projects totaling billions of dollars in potential Section 428 impact—without reconciliation against cost overruns on already obligated projects and without FEMA validation—creates a material risk of exceeding the donor PW ceiling. Costs incurred or advanced beyond available obligated authority would not be eligible for reimbursement absent an approved project formulation and sufficient remaining allocation capacity.

Accordingly, the disclosure of these incremental projects—never previously advanced for FEMA formulation—substantiates and reinforces PREPA’s prior requests for comprehensive financial reconciliation and analysis before any additional project activation decisions are made. Without incorporation of these projects into a reconciled financial model, any representation of available Section 428 balance is incomplete and potentially misleading, and could materially jeopardize compliance with federal funding requirements and the integrity of the FAASSt allocation framework.

PREPA further clarifies that assumptions that all estimated costs currently presented under Section 406 Hazard Mitigation will ultimately be released or converted into available funding under the FAASSt framework present material risk and are not supported by prior obligation history or FEMA eligibility determinations. As demonstrated by LUMA’s obligation history, a significant portion of proposed Hazard Mitigation Measures has not been substantiated to meet Section 406 eligibility requirements. Consequently, FEMA has required that substantial portions of these costs be obligated under Section 428 Public Assistance rather than under Section 406. This history directly undermines projections that anticipated Section 406 amounts will translate into released Section 428 capacity.

Additionally, PREPA reiterates that while reconciliation plans presented by Genera and LUMA reference anticipated restoration of Section 428 capacity and identification of duplicative allocations, those figures remain subject to FEMA review, validation, and approval, consistent with the FEMA Public Assistance Program and Policy Guide. As reflected in current LUMA amendment activity under FEMA review, actions initially intended to liberate Section 428 capacity have, in practice, resulted in net increases to Section 428 obligations, as previously underestimated project formulation estimates are being adjusted to reflect actual construction costs that, in many cases, are substantially higher than originally approved. This adjustment has resulted in an approximate \$11 million net increase to Section 428 obligations. Moreover, COR3 has under their review multiple project amendments, that the increase under 428 funds is approximately \$32 million. Accordingly, these amendments do not result in a net release of Section 428 funds and, at present, do not increase the available FAASSt balance.

LUMA's Motion filed on March 2, 2026, and its associated implementation timeline materials demonstrate that, at the time of execution of the FAASSt Consolidated Plan, the formulation posture of the Attachment A projects was materially immature. Specifically, for fifty-three (53) of the seventy (70) projects selected by the Energy Bureau for activation, LUMA is reflecting projected Detailed Scope of Work ("DSOW") submission dates to COR3 and FEMA in Fiscal Years 2027 and 2028.

Projects with DSOW submission horizons extending multiple fiscal years cannot reasonably be characterized as activation-ready. Such timelines are materially inconsistent with the stated objective of activating priority inactive projects and with the Energy Bureau's expectation of near-term implementation under the Updated Allocation Framework.

Based on PREPA's review of the "PREB Attachment A Proposed Project List," the ten (10) projects submitted by LUMA during the FOMB Interagency Meetings, and LUMA's prioritization framework, PREPA can support phased activation of a limited subset of projects that are demonstrably aligned with system stabilization priorities and that do not materially diminish Section 428 funding availability. PREPA respectfully recommends that any further project activation be sequenced and conditioned upon completion of a comprehensive financial reconciliation, integration of incremental project disclosures into the FAASSt model, and FEMA-validated confirmation of available allocation capacity, in order to safeguard federal compliance and fiscal integrity.

PREPA remains committed to collaborating in the coming days with LUMA personnel to complete the required financial reconciliations, refine project sequencing, and develop the substantiated actions necessary to support compliant, fiscally responsible, and

FEMA-validated project activation decisions. This coordinated approach ensures adherence to applicable federal and Commonwealth requirements, preserves the integrity of the FAAS program, and safeguards the interests of the people and ratepayers of Puerto Rico.