

**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-2023-003**

**SUBJECT: Guidance for Phase 2 Rate  
Review Filing and Scheduling of Technical  
Conference**

**NEPR**

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**INITIAL BRIEF ON LEGAL & POLICY ISSUES AND PARTIAL JOINDER OF  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF PREPA**

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

In accordance with the Hearing Examiner’s Order,<sup>1</sup> Intervenor the Official Committee of Unsecured Creditors of PREPA (the “Committee”)<sup>2</sup> respectfully submits this Initial Brief on Legal & Policy Issues and Partial Joinder, and shows as follows:

**I. RESPONSE TO QUESTIONS WITHIN SECTION 4:  
LEGACY DEBT AND UNSECURED DEBT**

“Unsecured debt” is not different from PREPA’s “Legacy Debt.”<sup>3</sup> Indeed, PREPA’s “unsecured debt” is included within—and but one of many classes within—PREPA’s total Legacy Debt. The Committee reiterates this important clarification to disabuse any notion that “General Unsecured Claims”<sup>4</sup> are separate from, or somehow different than, PREPA’s Legacy Debt.

The Committee also partially joins<sup>5</sup> the subsections of *PREPA’s Response to Hearing Examiner’s Order on Exhibits, Miscellaneous Post-Hearing Matters, and Legal Issues* discussing “Question No. 4(a)” and “Question No. 4(b).” The Committee generally concurs that the various forms of the Legacy Debt Rider (including, without limitation, any “placeholder” Legacy Debt Rider) as contemplated within this rate case are preempted by PROMESA. Subject to the reservation of rights within Part II, *infra*, the Committee further addresses the following “Questions”<sup>6</sup> below:

4.[a.]        *Does PROMESA preempt the Energy Bureau from creating a placeholder rider with no amount?*

Yes, for the reasons discussed below and in the portions of *PREPA’s Response to Hearing Examiner’s Order on Exhibits, Miscellaneous Post-Hearing Matters, and Legal Issues* that the Committee partially joined.

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<sup>1</sup> *Hearing Examiner’s Order on Exhibits, Miscellaneous Post-Hearing Matters, and Legal Issues*, NEPR-AP-2023-0003 (Dec. 22, 2025).

<sup>2</sup> The Committee was granted Intervenor status by order dated May 21, 2025.

<sup>3</sup> PREB defined “Legacy Debt” as “PREPA’s debts subject to the ongoing Title III” Case. *Resolution and Order*, NEPR-AP-2023-0003, App’x at 24 (Feb. 12, 2025).

<sup>4</sup> “General Unsecured Claims” is used as defined in Fifth Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority, Case No. 17-04780-LTS, ECF No. 5581 at 44 (Bankr. D.P.R. Mar. 28, 2025) (the “Fifth Amended Plan”).

<sup>5</sup> The Committee is not taking a position as to whether the amount, priority, or extent of Legacy Debt can be compromised via the certified fiscal plan without the approval of the Title III Court and hereby reserves all of its rights with respect thereto. Therefore, the Committee does not join any of PREPA’s contentions that are premised on any certified fiscal plan of PREPA.

<sup>6</sup> As used within *Hearing Examiner’s Order on Exhibits, Miscellaneous Post-Hearing Matters, and Legal Issues*, NEPR-AP-2023-0003 (Dec. 22, 2025).

However, PREB need not reach the question of preemption at all. Well-accepted ratemaking principles and the lack of an evidentiary record created during the course of this rate case preclude PREB from establishing any “Legacy Debt Rider,”<sup>7</sup> even a “placeholder,” in respect of PREPA’s Legacy Debt.<sup>8</sup>

If PREB, nonetheless, does take up preemption, it must also address another issue that is inseparable from preemption and must be considered with it: PROMESA vests *exclusive* jurisdiction in the “Title III Court”<sup>9</sup> to determine the amount, treatment, and priority of all Legacy Debt claims against PREPA. Congress vested the District Court (here, the Title III Court) with exclusive jurisdiction “of all the property, wherever located, of the debtor as of the commencement of [the] case” and “of property of the estate.” 28 U.S.C. § 1334(e)(1); *see also In re Patriot Nat’l, Inc.*, 623 B.R. 696, 707 (D. Del. 2020) (“[A]scertaining and marshalling of the Debtor’s estate is, however, a core function of the bankruptcy process over which Congress gave the Bankruptcy Court ‘exclusive jurisdiction.’”). Consistent with this, Congress expressly designated the “allowance or disallowance of claims against the estate” as a core proceeding, 28 U.S.C. § 157(b)(2)(B), as are “matters concerning the administration of the estate,” *id.* § 157(b)(2)(A), and plan confirmation, *id.* § 157(b)(2)(L)—all functions “essential to the administration of the bankruptcy case.” *In re Sheridan*, 362 F.3d 96, 107 (1st Cir. 2004).

Courts, therefore, recognize that once a proof of claim is filed, allowance (or disallowance) of that claim against the debtor, and the corresponding determination of priority and distribution under any confirmed plan, falls within the exclusive province of the bankruptcy court. *In re PRS Ins. Grp., Inc.*, 335 B.R. 77, 81 (Bankr. D. Del. 2005) (“[A]llowance . . . and the amount to be distributed from the estate . . . is the exclusive province of the bankruptcy court.”); *In re Seaquest Diving, LP*, No. 07-32068, 2008 WL 194345, at \*6 (Bankr. S.D. Tex. Jan. 23, 2008), *aff’d*, 579 F.3d 411 (5th Cir. 2009) (“[A]llowance of claims, priority of claims, and distribution of assets . . . is within the exclusive jurisdiction of the bankruptcy court.”); *see also In re Ridgemour Meyer Props., LLC*, No. 08-13153 (SMB), 2016 WL 5395836, at \*5 (Bankr. S.D.N.Y. Sept. 27, 2016) (citing *In re Ernst*, 368 B.R. 296, 308 (Bankr. S.D.N.Y. 2007), *aff’d*, 382 B.R. 194 (S.D.N.Y. 2008)) (bankruptcy court has exclusive jurisdiction to determine

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<sup>7</sup> As used within PREB’s *Resolution and Order*, NEPR-AP-2023-0003, App’x at 24 (Feb. 12, 2025).

<sup>8</sup> *See, e.g.*, Committee’s *Initial Brief on Rate Design*, NEPR-AP-2023-0003 (Feb. 17, 2026); Committee’s *Reply Brief on Rate Design*, NEPR-AP-2023-0003 (Mar. 3, 2026).

<sup>9</sup> Defined as the United States District Court for the District of Puerto Rico.

claim allowance; “allow[ability] is purely a creature of bankruptcy law”).

Hand in hand with claims allowance is the Title III Court’s exclusive jurisdiction with respect to confirmation of any plan of adjustment and the treatment of any claims against PREPA under any such plan. Because confirmation is a core proceeding, *see* 28 U.S.C. § 157(b)(2)(L), only the Title III Court may approve and enforce the treatment and discharge of prepetition claims. The Commonwealth confirmation record reflects that the commencement of the Title III cases “vested the Court with exclusive jurisdiction over the cases and all respective property” of the Title III debtors, and that the confirmation order is “binding” and “shall not be subject to collateral attack in any other court or other forum.” (Commonwealth Title III Confirmation Order ¶ 3(A)-(B), Case No. 17-03283-LTS, ECF No. 19813; *id.* ¶ 83 (retaining “exclusive jurisdiction to the extent it has exclusive subject matter jurisdiction” and authorizing the Court to adjudicate disputes necessary to implement and enforce the Plan and Confirmation Order, including enforcement against collateral attacks).) Thus, questions that go to whether a particular Legacy Debt claim is allowable, what priority it receives, and how it is treated are not merely “related to” the case—they are core, confirmation-linked determinations that only the Title III Court can make.

4.[b.] *Does the answer differ depending on whether the debt is bondholder debt or unsecured debt?*

No. Any hypothetical, “placeholder” Legacy Debt Rider that provides for payment to the Bondholders, to the exclusion or other detriment of General Unsecured Claims, would definitively violate, and be preempted by, PROMESA. This very Question by the Hearing Examiner—*i.e.*, whether PREB can set a Legacy Debt Rider that *only* provides for the recognition and payment of bond claims—violates the exclusive jurisdiction of the Title III Court to determine the allowance, amount, extent, priority, and treatment of prepetition claims because it presumes that bond claims are entitled to some priority of payment over PREPA’s other Legacy Debt claims, *e.g.*, General Unsecured Creditors.

## **II. RESERVATION OF RIGHTS AS TO ALL OTHER LEGAL & POLICY ISSUES**

Other than to the extent stated in the Committee’s other post-hearing briefing and other submissions in this rate case, the Committee does not address the remaining Questions posed at

this time. The Committee expressly reserves the right, however, to address those other Questions within any Reply Brief on Legal & Policy Issues (and elsewhere).<sup>10</sup>

**Respectfully submitted** on March 6, 2026.

**Certificate of Service:** We hereby certify that, on this date, we have filed this motion through the online filing system of the PREB and sent a copy<sup>11</sup> to the **PREB Clerk:** secretaria@energia.pr.gov, secretaria@jrsp.pr.gov, legal@jrsp.pr.gov, sseda@jrsp.pr.gov; to the *Hearing Examiner* Scott Hempling: shempling@scotthemplinglaw.com; and to all:

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<sup>10</sup> In the event the Committee declines to respond, that must not be construed as the Committee's agreement or disagreement with any other participants' stated views, e.g., in the event issues raised and arguments made should, in the Committee's view, be made only in another forum.

<sup>11</sup> This service list conforms to the email from Ms. Sonia Seda Gaztambide dated February 6, 2026.

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**Certificate of Compliance:** The undersigned certifies, on March 6, 2026, that this brief, exclusive of the portions exempted in the Hearing Examiner's December 22, 2025 Order (*i.e.*, caption, table of contents, signature blocks, and service information) and the Spanish summary required by standing order, contains 1,033 words as counted by Microsoft Word (Office 365)'s word count feature.

/s/ Eric D. Stolze

Eric D. Stolze, Esq. (*Pro Hac Vice*)