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' Informative Motion Regarding PREPA's Notice of Supplemental Authority

BONDHOLDERS' INFORMATIVE MOTION REGARDING PREPA'S NOTICE OF SUPPLEMENTAL AUTHORITY

Bondholders[1] submit this informative motion regarding *PREPA's Notice of Supplemental Authority* filed on April 1, 2026, and respectfully state as follows:[2]

RESPONSE

On April 1, 2026, PREPA filed a notice (the "Notice") identifying a recent decision in PREPA's Title III case denying a motion to lift the automatic stay filed by residential and commercial electricity consumers ("Movants") to allow a putative class action lawsuit challenging the provisional pension charge (the "Provisional Pension Charge") to proceed (the "Lift Stay Decision"). Contrary to PREPA's arguments, the Lift Stay Decision is not relevant to the permanent rate case for at least three reasons.

First, the Lift Stay Decision focused on the narrow issue of whether the Provisional Pension Charge was PREPA's property and therefore subject to section 362(a)(3) of the Bankruptcy Code (which stays actions to obtain control or possession over the debtor's property). *See* Lift Stay Decision at 10-15. As the Title III court recognized, the automatic stay under PROMESA extends to "any post-petition collection activities against the debtor." *Id.* at 9 (emphasis in original). Against that backdrop, the Title III court held that PREPA has a property interest in the Provisional Pension Charge because it generates revenue for PREPA. *Id.* The Lift Stay Decision does not establish whether the inclusion of pensions in the revenue requirement is appropriate—let alone suggest that pensions should be prioritized over legacy bond debt[3]—

[1] Terms not defined here are the same as in Bondholders' post-hearing briefs. All cites to regulatory docket items are within this proceeding unless otherwise noted.

[2] As PREPA's April 1, 2026 submission was not authorized by the Hearing Examiner, the Bondholders respectfully submit that the submission should be disregarded or stricken. Alternatively, if the Hearing Examiner or PREB determines to accept PREPA's submission, Bondholders request acceptance and consideration of this response.

[3] Congress made clear that pensions should not "be unduly favored over other indebtedness in a restructuring," nor should Title II of PROMESA "be interpreted to reprioritize pension liabilities

because the Title III court was only addressing the limited issue of whether the Provisional Pension Charge was PREPA's property.

Second, the Lift Stay Decision did not make a finding that pension costs are operating expenses—it simply noted in a footnote that Movants failed to show that the Provisional Pension Charge constituted non-operational charges, as was their burden. *See* Lift Stay Decision at 12 n.14; *see also id.* at 8 ("A movant has the initial burden of establishing prima facie eligibility for relief from the automatic stay."). Here, *PREPA* bears the burden of establishing what costs should be included in rates and the reasonableness of the amounts it is requesting. PREPA cannot meet that burden here by relying on the failure of litigants to meet their burden in a separate proceeding. *See* BH Initial L&P Br. at 35-40.

Third, the Title III court's footnote discussing pre- and post-petition pension costs, referenced in PREPA's Notice, did not address the priority of pension claims under PROMESA, either standing alone or with reference to the priority of bond debt. Rather, the footnote addressed PROMESA's provisions only as they relate to the contents of a fiscal plan, not as they relate to payment priorities. *See* Lift Stay Decision at 13 n.15.

As PREPA conceded in its papers, the priority of the pensions is an issue that "should *only* be addressed" by the Title III court in the pending SREAEE adversary proceedings. *See* PREPA RR Reply ¶ 1.73 (emphasis in original). If SREAEE loses in its pending litigation with the Bondholders on its asserted priority status, then payments to the pensions from any charge will be unlawful and void. Nothing in the Lift Stay Decision changes that result.

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ahead of lawful priorities or liens of bondholders." H.R. Rep. No. 114-602 at 45 (2016). "Congress's statutory instructions" therefore do not permit pensions to be prioritized ahead of bond claims. *See* Lift Stay Decision at 13, n. 15.

CONCLUSION

The Bondholders respectfully request that PREB take notice of the foregoing.

RESPECTFULLY SUBMITTED,

THIS 6TH DAY OF APRIL 2026

CERTIFICATE OF SERVICE: We hereby certify that the foregoing petition was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System, and courtesy copies were sent via electronic means to mvalle@gmlex.net; alexis.rivera@prepa.pr.gov; jmartinez@gmlex.net; jgonzalez@gmlex.net; nzayas@gmlex.net; Gerard.Gil@ankura.com; Jorge.SanMiguel@ankura.com; Lucas.Porter@ankura.com; mdiconza@omm.com; golivera@omm.com; pfriedman@omm.com; msyassin@omm.com; katiuska.bolanos-lugo@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; carolyn.clarkin@us.dlapiper.com; andrea.chambers@us.dlapiper.com; regulatory@genera-pr.com; legal@genera-pr.com; mvazquez@vvlawpr.com; gvilanova@vvlawpr.com; dbilloch@vvlawpr.com; ratecase@genera-pr.com; jfr@sbgblaw.com; hrivera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidehouse.com; Josh.Llamas@fticonsulting.com; Anu.Sen@fticonsulting.com; Ellen.Smith@fticonsulting.com; Intisarul.Islam@weil.com; alexis.ramsey@weil.com; kara.smith@weil.com; rafael.ortiz.mendoza@gmail.com; rolando@emmanuelli.law; monica@emmanuelli.law; cristian@emmanuelli.law; luis@emmanuelli.law; jan.albinolopez@us.dlapiper.com; Rachel.Albanese@us.dlapiper.com; varoon.sachdev@whitecase.com; javrua@sesapr.org; Brett.ingerman@us.dlapiper.com; brett.solberg@us.dlapiper.com; agraitfe@agraitlawpr.com; jpouroman@outlook.com; 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; lindsay.greenbaum@analysisgroup.com; harrison.holtz@analysisgroup.com; charles.wu@analysisgroup.com; Brian.Gorin@analysisgroup.com; Bhumika.Sharma@analysisgroup.com; Rachel.Anderson@analysisgroup.com; lramos@ramoscruzlegal.com; tlauria@whitecase.com; gkurtz@whitecase.com; ccolumbres@whitecase.com; isaac.glassman@whitecase.com; tmacwright@whitecase.com; jcunningham@whitecase.com; mshepherd@whitecase.com; jgreen@whitecase.com; hburgos@cabprlaw.com; dperez@cabprlaw.com; howard.hawkins@cwt.com; mark.ellenberg@cwt.com; casey.servais@cwt.com; bill.natbony@cwt.com; zack.schrieber@cwt.com; thomas.curtin@cwt.com; escalera@reichardescalera.com; riverac@reichardescalera.com; susheelkirpalani@quinnemanuel.com; erickay@quinnemanuel.com; dmonserrate@msglawpr.com; fgierbolini@msglawpr.com; rschell@msglawpr.com; eric.brunstad@dechert.com; Stephen.zide@dechert.com; David.herman@dechert.com; Isaac.Stevens@dechert.com; James.Moser@dechert.com; michael.doluisio@dechert.com; Kayla.Yoon@dechert.com; mfb@tcm.law; lft@tcm.law; arosenberg@paulweiss.com; pbrachman@paulweiss.com; swintner@paulweiss.com; kzeituni@paulweiss.com; Julia@londoneconomics.com; Brian@londoneconomics.com; luke@londoneconomics.com; juan@londoneconomics.com; mmcgill@gibsondunn.com; LShelfer@gibsondunn.com; jcasillas@cstlawpr.com; jnieves@cstlawpr.com; pedrojimenez@paulhastings.com; ericstolze@paulhastings.com; arrivera@nuenergypr.com; apc@mcvpr.com; ramonluisnieves@rlnlegal.com; kbailey@acciongroup.com; shempling@scotthemplinglaw.com; rsmithla@aol.com; guy@maxetaenergy.com;

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RESUMEN DE: MOCIÓN INFORMATIVA DE LOS BONISTAS CON RELACIÓN A LA NOTIFICACIÓN DE AUTORIDAD SUPLEMENTARIA DE LA AEE

AL NEGOCIADO DE ENERGÍA DE PUERTO RICO:

El 1 de abril de 2026, la AEE identificó una decisión en el caso del Título III denegando una solicitud de levantamiento de la paralización automática presentada por consumidores de electricidad para permitir que prosiga una demanda colectiva en la que se impugna la disposición relativa a la deducción por pensión. La decisión no es relevante para el procedimiento de fijación de tarifas permanentes; se enfocó en si el cargo provisional de pensiones era propiedad de la AEE y estaba sujeto a la paralización del Código de Quiebras. Allí, el Tribunal sostuvo que la AEE tiene un interés propietario en el cargo provisional de pensiones porque le genera ingresos, pero no establece si la inclusión de pensiones en el requisito de ingresos es apropiada.

El Tribunal no encontró que los costos de pensiones sean gastos operativos, sino que señaló en una nota al calce que los demandantes no lograron demostrar que el cargo se trataba de gastos no operativos, tal y como les correspondía. La AEE no puede basarse en la ineficiencia de los litigantes en un procedimiento separado para satisfacer su carga en este caso, que incluye establecer la razonabilidad de las cantidades que está solicitando.

La nota al calce del Tribunal no abordó la cuestión de la prelación de las reclamaciones de pensiones bajo PROMESA, sino que se refirió únicamente a las disposiciones de PROMESA en lo que respecta al contenido de un plan fiscal, y no a las prioridades de pago. Según admitió la AEE, la prioridad de las pensiones es un asunto que solo debería ser abordado por el tribunal del Título III en los procedimientos adversos pendientes de SREAEE. Si pierde su litigio, entonces los pagos a las pensiones por

cualquier cargo serán ilegales y nulos. Solicitamos respetuosamente que el NEPR tome nota de lo anterior.