

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

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IN RE: PUERTO RICO ELECTRIC
POWER AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

**SUBJECT: Official Position of the
Government of Puerto Rico as to the
Rate Case**

**INFORMATIVE MOTION OF THE PUERTO RICO PUBLIC-PRIVATE
PARTNERSHIPS AUTHORITY AND THE OFFICE OF THE ENERGY CZAR**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Public-Private Partnerships Authority (“P3A”), in its capacity as Administrator under the Operation and Maintenance Agreements with LUMA and Genera, as well as the Office of the Energy Czar, by and through their undersigned counsel, and respectfully STATE and PRAY as follows:

I. INTRODUCTION

1. This Motion is submitted to formally place before the Puerto Rico Energy Bureau (“Bureau”) the official position of the Government of Puerto Rico regarding the ongoing rate proceeding. The Puerto Rico Public-Private Partnerships Authority (“P3A”), in its capacity as Administrator under the Operation and Maintenance Agreements, together with the Office of the Energy Czar, appear to present said position in their institutional roles overseeing the operation, financial administration, and implementation of public energy policy for the electric system.

2. The P3A and Energy Czar (“P3A/Energy Czar”) do not appear on behalf of any party to this proceeding; rather, they appear in furtherance of the Government’s affirmative duty to safeguard the public interest and to ensure that the residents and businesses of Puerto Rico are not subjected to rates that are unsupported by the evidentiary record, inconsistent with applicable law, or fail to meet the statutory requirement of being just and reasonable.

3. The Government’s position is clear and unequivocal: **no rate increase is warranted in this proceeding.** The current record does not support the finding that existing rates are insufficient to cover prudent and necessary costs. To the contrary, the financial pressures identified in this case are the result of operational inefficiencies, deficiencies in federal fund execution, and deviations from the approved budgets - not any structural inadequacy in the tariff. Until the energy system initiatives advanced by the Governor begin to yield results, and the substantial federal funds available for the reconstruction and stabilization of the electric system are fully deployed, this Honorable Bureau must exercise the utmost regulatory prudence and refrain from imposing any additional burden on Puerto Rico’s ratepayers.

4. While this Motion is directed primarily at the absence of any factual or legal basis for a rate increase, the Government’s position is grounded exclusively on the evidentiary record developed in this proceeding. Given the direct impact of any rate determination on the residents, businesses, and economy of Puerto Rico, the Bureau must consider the position of the

Government charged with the oversight, and policy direction of the electric system.

II. SUBSTANTIVE DISCUSSION

5. The Government's position is unequivocal: at this time, there is no legal, financial, or operational basis for a rate increase in this proceeding.

6. The rate case has been characterized by a lack of transparency in the presentation of financial and operational information by LUMA. LUMA has failed to present sufficient, credible, and independently verifiable evidence to substantiate its claimed operational costs, has not opened its books for meaningful scrutiny, and has not provided adequate documentation to justify either its historical expenditures or the necessity and prudence of its projected costs. This approach is inconsistent with LUMA's obligation to sustain that any rate determination reflects only prudent and necessary costs. In the absence of transparent, auditable, and fully supported financial disclosures, the record does not meet the evidentiary threshold required for ratemaking. Proceeding under these conditions risks the adoption of rates that are neither just nor reasonable, and that fail to withstand scrutiny under the applicable legal standard, particularly where LUMA has not met its burden of demonstrating that its costs are justified, efficiently incurred, and in the public interest. Relevant, independently verifiable information bearing directly on cost causation, federal funding offsets, and operational performance – like the

COR3 certified date - has been rejected from the record, while critical discrepancies in expenditures and reimbursement levels remain unresolved.

7. This approach reflects a failure by LUMA to meet its obligations before the Bureau. As the proponent of the requested rates, LUMA bears the burden of presenting substantial, transparent, and verifiable evidence demonstrating that its costs are prudent, necessary, and properly incurred. By failing to provide such evidence, and by not enabling adequate scrutiny of its financial and operational data, LUMA has not satisfied the evidentiary standard required for ratemaking. This lack of compliance undermines the Bureau's ability to fulfill its statutory mandate and precludes any lawful determination that the proposed rates are just and reasonable under the applicable legal framework. Measured against the rates currently in effect, the magnitude of LUMA's requested increase is extraordinary. The Bureau has already determined that the FY2026 revenue envelope supported by the current base rates is approximately \$1.244 billion. LUMA's revised filing, by contrast, seeks a FY2026 revenue requirement of \$2.896 billion. That represents an increase of approximately \$1.652 billion over the current revenue envelope, or roughly 132.7%. This stark disparity confirms that the increase requested by LUMA would impose a substantial and immediate burden on Puerto Rico ratepayers and further underscores why such an increase cannot be justified where reasonable internal reallocations and existing provisional mechanisms remain available.

8. The impact of such an increase on Puerto Rico's consumers cannot be overstated. The people of Puerto Rico cannot afford, and should not be asked to absorb, any additional increase in their electricity bills. The Transmission & Distribution system is deficient at best, and the public is exhausted. Puerto Rico's ratepayers are paying more and receiving less - more outages, more instability, and less reliability. They cannot and will not withstand further increases.

9. This reality is even more troubling given that LUMA has had access to billions and billions of dollars in federal funding that has not been timely or effectively utilized. Delays, deficiencies in documentation, and failures in execution have slowed critical projects and increased their cost. Ratepayers should not be forced to pay for inefficiencies and failures in service that the operator was contractually obligated to avoid.

10. The current record reflects a substantial disparity in federal funds recovery. While other system participants have achieved materially higher reimbursement rates, LUMA's recovery levels remain significantly deficient. This disparity is attributable to failures in documentation, compliance, and execution - not to any structural deficiency in rates.

11. LUMA's deficiencies in financial management are clearly reflected in its handling of federal funds advanced through the Working Capital Advance mechanism. During the quarter spanning October through

December 2025, LUMA projected disbursements of approximately \$188 million in working capital advances.

12. However, the documentation submitted supported only approximately \$19.4 million, representing roughly ten percent (10%) of the amounts claimed. As a direct consequence of these discrepancies, the Central Office for Recovery, Reconstruction, and Resilience (COR3) required the return of more than \$107 million in federal funds that were either unused or unreconciled, corresponding solely to the months of October and November 2025.

13. These facts demonstrate significant failures in internal controls, deficiencies in documentation processes, and improper administration of public and federal funds. The handling of Hurricane Fiona costs further underscores the issue. LUMA has reported approximately \$385 million in emergency-related expenditures associated with the disaster; however, it has achieved only \$24.8 million in reimbursements to date.

14. This stark disparity is not the result of funding limitations, but rather of deficiencies in documentation, compliance, and execution that have rendered a substantial portion of those costs ineligible for reimbursement. These unrecovered amounts therefore reflect operational shortcomings - not revenue insufficiency - and cannot serve as a basis to justify shifting additional costs to ratepayers.

15. The system has required substantial transfers from PREPA accounts to sustain operations; transfers that are directly tied to the misalignment between expenditures and reimbursements. During Fiscal Years 2021 through 2025, PREPA transferred to LUMA amounts exceeding approved Operation and Maintenance budgets by more than \$900 million. Fiscal schedules reflect that, for each year from 2022 through 2025, such transfers exceeded approved O&M budgets by approximately \$83 million, \$357 million, \$418 million, and \$42 million, respectively.

16. These figures confirm a persistent pattern of expenditures exceeding approved levels, untethered from adequate financial controls or supporting justification.

17. Finally, increased expenditures have not yielded improved performance. To the contrary, reliability metrics have deteriorated while costs have exceeded approved budgets. In 2012, the system recorded a SAIDI of approximately 88 minutes and a SAIFI of 0.58. By 2020, those figures had increased to 1,248 minutes and 5 interruptions. Under LUMA's operation, performance has worsened further, with SAIDI reaching approximately 1,483 minutes and SAIFI 7.9 in 2024 and deteriorating to approximately 1,702 minutes and 8.15 interruptions in 2025. These metrics confirm that the system is less reliable today despite increased spending and access to federal funds.

18. It is evident that the system is therefore more expensive and less reliable—a result fundamentally inconsistent with any justification for a rate

increase. Under these circumstances, increasing rates would improperly shift the consequences of operational inefficiencies to consumers, in contravention of basic ratemaking principles.

III. VIABLE ALTERNATIVE WITHOUT RATE INCREASE

19. Notwithstanding the foregoing, the Government has identified a viable, immediate, and fiscally responsible alternative that eliminates any need for a rate increase. This alternative is grounded in a redistribution of existing resources, rather than the imposition of additional burdens on consumers.

20. Specifically, the Government has identified a viable alternative that obviates the need for any increase to the current base rates. That alternative is premised on maintaining the currently authorized provisional rate as the mechanism to ensure the continuity of pension payments, while implementing a targeted reduction of approximately ten percent (10%) in the operational budgets of LUMA and Genera, coupled with a corresponding reallocation of those funds to prospectively funding an Emergency Reserve Account for PREPA, LUMA and Genera.

21. This combined approach, alongside strict fiscal discipline would generate sufficient liquidity to address system needs, support the system's financial obligations, and preserve operational capacity and continuity of service. Accordingly, with the provisional rate left intact and reasonable internal reallocations implemented, the system possesses adequate resources without imposing any additional increase to the base tariff.

22. In this context, the P3A/Energy Czar emphasizes that any determination in this case must preserve the continuity of pension payments, which constitute a critical and legally protected obligation of PREPA. The interruption or disruption of such payments would have immediate and severe consequences for pension beneficiaries and would raise significant legal, financial, and public policy concerns. Accordingly, while the P3A/Energy Czar maintains that the current proceeding does not support an increase in the base rate, it is imperative that the Bureau continue to authorize a provisional and temporary mechanism sufficient to ensure the uninterrupted payment of pension obligations during the pendency of ongoing discussions between the Government of Puerto Rico and the Financial Oversight and Management Board (“FOMB”) regarding a long-term funding solution.

23. The continuation of a temporary and narrowly tailored charge to cover pension-related obligations does not constitute an endorsement of any broader rate increase, nor does it alter the P3A/Energyczar’s position that the proposed adjustments to the base tariff are unwarranted under the applicable statutory and regulatory framework. Rather, it reflects a necessary and prudent measure to maintain financial stability and protect vulnerable stakeholders while structural alternatives are being evaluated.

24. The feasibility of this approach is supported by the documented inefficiencies in the operator’s cost structure and the availability of federal funding that has yet to be fully utilized.

25. This approach further aligns with fundamental ratemaking principles. Rates are not intended to compensate for inefficiencies or to subsidize avoidable costs. Rather, they must reflect prudent, necessary, and efficiently incurred expenses. Where sufficient resources exist within the current system but are misallocated or inefficiently utilized, the appropriate remedy is internal correction - not a rate increase.

IV. CONCLUSION

26. In view of the foregoing, the P3A/Energyczar, together with the Office of the Energy Czar, respectfully submit that the evidentiary, financial, and legal record developed in this proceeding does not support the imposition of a rate increase.

27. The alleged liquidity constraints are the product of operational inefficiencies, failures in federal fund execution, and deviations from approved budgets—not deficiencies in the existing tariff. Increasing rates under these circumstances would be inconsistent with the Bureau's obligation to ensure that rates are just, reasonable, and supported by substantial evidence.

Proceeding under these conditions would risk imposing unjustified costs on ratepayers, perpetuating inefficiencies, and further burdening a population that is already under significant economic strain. **WHEREFORE**, the the P3A/Energy Czar and the Office of the Energy Czar respectfully request that the Puerto Rico Energy Bureau: (i) consider the evidence and arguments set

forth herein; and (ii) deny any request for a rate increase in order to ensure the protection of Puerto Rico's ratepayers.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 10th day of April, 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 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: PREPA; Mirelis Valle mvalle@gmlex.net; Juan M. Martínez jmartinez@gmlex.net; 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, carlyn.clarkin@us.dlapiper.com; Katuska Bolanos, katuska.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.ICPO@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.,

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