

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

NEPR

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CASE NO.: NEPR-AP-2023-0003

**IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY RATE REVIEW**

**SUBJECT: SREAEE REPLY TO  
BONDHOLDER'S INITIAL POST HEARING  
BRIEF ON THE REVENUE REQUIREMENT**

**REPLY TO BONDHOLDERS' INFORMATIVE MOTION REGARDING  
PREPA'S NOTICE OF SUPPLEMENTAL AUTHORITY**

**COMES NOW** the Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica (henceforth "ERS" or "SREAEE"), through its undersigned legal representatives, and respectfully **states and informs** the Hearing Examiner and the Puerto Rico Energy Bureau as follows:

1. On April 6, 2026, the Bondholder's submitted an Informative Motion in response to Prepa's Notice of the Memorandum Order issue by Judge Taylor Swain Denying Motion for Modification of the Automatic Stay in PREPA's Title III proceedings. The Bondholder's arguments and interpretation that the Lift of Stay Decision is not relevant to this case is erroneous.
2. The Bondholders, state that "the Lift Stay Decision does not establish whether the inclusion of pensions in the revenue requirement is appropriate." However, this interpretation is misplaced. The Lift of Stay decision, clearly states and confirms that "the Pension Charge was imposed as part of PREPA's revenue stream for the payment of pensions to PREPA retirees and was put in place in accordance with the 2025 Fiscal Plan to pay for PREPA's

pension costs.”<sup>1</sup> Under the certified Fiscal Plan of the Financial Oversight and Management Plan, “PREPA is **required** to make monthly payments to SRAEE for its current pension liabilities.”<sup>2</sup> It is a fact that the Pension Charge is lawful, and the inclusion of pensions in the revenue requirement is completely appropriate and approved by the Oversight Board, entity in charge of overseeing Puerto Rico’s financial and fiscal plan. As it was cited in the Memorandum Order “[t]he **Oversight Board is merely complying with and carrying out its obligation** to ensure that fiscal plans ‘provide adequate funding for public pension systems.’ See 48 U.S.C. § 2141(b)(1)(C). Accordingly, the **Oversight Board is merely complying with Congress’s statutory instructions.**”<sup>3</sup>

3. Also, the Bondholders wrongfully state that if SRAEE loses in its pending litigation with the Bondholders on its asserted priority status, payments to the pensions from any charge will be unlawful and void. However, the 1974 Trust Agreement places pension costs within PREPA’s **first-tier operating obligations**. Even if the Title III Court decided that Bondholders have priority status on the payments, it is up to the Energy Bureau to decide the legality of it, which has already been proven by the SRAEE and approved by the Oversight Board. The inclusion of pension obligations within PREPA’s base rate is both legally justified and consistent with the statutory “just and reasonable” standard governing electric utility rates. These payments are not discretionary transfers, but mandatory operational expenses directly tied to the provision of electric service and the maintenance of a qualified workforce.

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<sup>1</sup> See Memorandum Order Denying Motion for Modification Of Automatic Stay at 12.

<sup>2</sup> *Id.* at 13.

<sup>3</sup> *Id.* at 13, n. 15 (emphasis supplied).

**WHEREFORE**, the Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica, through its undersigned legal representatives, **respectfully submits** the foregoing Reply to Bondholders' Informative Motion, and requests that the same be taken into consideration by the Puerto Rico Energy Bureau as part of the record of these proceedings.

**RESPECTFULLY SUBMITTED.**

In Ponce, Puerto Rico, on April 13, 2026.

**WE HEREBY CERTIFY** that this Motion was filed using the electronic filing system of this Energy Bureau and that electronic copies of this Notice will be sent to: Hearing Examiner, Scott Hempling, [shempling@scotthemplinglaw.com](mailto:shempling@scotthemplinglaw.com) ; and to the attorneys and advisers of the parties of record.

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**RESUMEN DE: RÉPLICA A LA MOCIÓN INFORMATIVA DE LOS BONISTAS  
SOBRE LA NOTIFICACIÓN DE AUTORIDAD SUPLEMENTARIA DE PREPA**

**AL NEGOCIADO DE ENERGÍA DE PUERTO RICO:**

El 6 de abril de 2026, los bonistas presentaron una Moción Informativa en la que alegan que la decisión federal, que denegó el levantamiento de la suspensión automática en el caso de Título III de la AEE no es relevante para la controversia tarifaria. Dicha postura es incorrecta, ya que esa decisión confirma que el Cargos de Pensiones forman parte del flujo de ingresos de la AEE y fue establecido conforme al Plan Fiscal de 2025 para cubrir las obligaciones de pensiones. Además, el Plan Fiscal certificado exige pagos mensuales al SREAEE, lo que valida la legalidad de incluir las pensiones dentro del requisito de ingresos, conforme a las directrices de la Junta de Supervisión Fiscal y el mandato federal aplicable.

Por otro lado, el argumento de los bonistas de que los pagos de pensiones serían ilegales si el SREAEE pierde en el litigio de prioridad es improcedente. El Acuerdo de Fideicomiso de 1974 clasifica las pensiones como gastos operacionales de primer nivel, y aun ante una determinación adversa en el tribunal de Título III, corresponde al Negociado de Energía evaluar su legalidad en el contexto tarifario. En consecuencia, la inclusión de las pensiones en la tarifa base es jurídicamente válida y consistente con el estándar de tarifas justas y razonables, al tratarse de gastos operacionales obligatorios vinculados al servicio eléctrico.