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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**: Reconsideration

ICSE'S MOTION FOR PARTIAL RECONSIDERATION

TO THE HONORABLE ENERGY BUREAU:

Comes now the **Institute of Competitiveness and Economic Sustainability ("ICSE" as its Spanish acronym)**, represented by the undersigned, respectfully states and prays:

I. Preliminary Statement

This motion seeks reconsideration of critical aspects of the Final Resolution and Order on Electricity Rates (the "Final Order"). The Final Order imposes a series of regulatory requirements grounded in the need to improve the performance of PREPA and its operators, LUMA and Genera, and reflects the Bureau's stated effort to reinforce its regulatory authority. Consistent with that objective, the Bureau expressly concludes that PROMESA does not preempt PREB's ratemaking authority. Yet, the reasoning underlying several of its determinations materially undermines that conclusion, introducing internal inconsistencies that cannot be reconciled with the Bureau's asserted jurisdictional framework. The same

inconsistency surfaces in the Bureau's treatment of load forecasting methodologies, which the Final Order simultaneously characterizes as "problematic" and "reasonable." These contradictions are not merely semantic; they go to the core of the Final Order's legal coherence and the urgent need for increased regulatory oversight. As such, they warrant reconsideration.

A. Who is in charge? PREB's new self-ascribed role

ICSE welcomes the Final Order as reflecting PREB's effort to exercise a central role in the administration of energy affairs. ICSE understands this to be consistent with its position that "the record reveals institutional deficiencies that warrant greater intervention by the PREB in order to achieve corrective action." ICSE's Reply to Revenue Requirement Brief, p. 4.

If there is a common thread in the Final Order is that the electric system of Puerto Rico has suffered—if nothing else—from LUMA's incompetence, and of the incompetence of those public entities which had the authority and responsibility to supervise it. It is a case of institutional abandonment of their responsibilities.

PREPA and its Board of Directors, the Public-Private Partnerships Authority of Puerto Rico (P3A), the Central Office for Recovery, Reconstruction and Resiliency (COR3), the Energy Czar's Office, and the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF), each has had responsibility over LUMA's actions and inaction.[1] None has raised

[1] ICSE does not contend that the Final Order renders adjudications of this kind against sister state agencies that are not subject to its jurisdiction.

to the occasion to require from LUMA to act correctly, comply with its contractual responsibilities and public duties as a utility operator.

The Final Order implies that from now on the PREB must "be in charge" of reviewing and deciding on substantive requirements from LUMA, forcing the utilities to come to PREB for any additional funds for operations or specific capital projects. Some specific measures the PREB has put forward to achieve performance of the utilities include:

First, the Final Order requires project-level accounting and quarterly reporting regarding federal-funding applications, obligations, denials, Working Capital Advances, reimbursements, cost-share recoveries, and any federal or public funds received for costs otherwise included in rates. Chapter One, Part III.D.4., p. 24.

Second, it requires quarterly reporting on non-federally funded capital expenditures, including amounts approved, amounts deployed, explanations for material variances, and the status of federal-funding applications for comparable work. *Id*.

Third, it imposes detailed vegetation-management reporting obligations, including monthly progress reports, quarterly updates in Case No. NEPR-MI-2019-0005, project-specific information, contractor data, GPS information, and mapping of lines, substations, and rights-of-way addressed by the program. Chapter Three, Part G.1.g.iv, pp. 177-79.

Fourth, it directs LUMA to quantify unpaid third-party pole attachment fees, develop a comprehensive collection plan, coordinate enforcement and inspection protocols, and submit semiannual compliance reports in Case No. NEPR-MI-2021-0004. Chapter Three, Part B.4., pp. 314-15.

Fifth, it imposes cost-control and procurement measures, including competitive procurement requirements for external legal services and outsourced services, caps on external counsel rates absent prior approval, and quarterly reports on external legal spending. Chapter Three, Part J.3., pp. 257-58.

Sixth, it requires methodological and planning improvements in load forecasting, renewable integration, EV rate design, TOU rate development, and decoupling, including workpapers, updated mechanisms, stakeholder processes, and future evaluation reports.

ICSE agrees with PREB's determination that it must oversee more actively the system's planning and operational execution, because no other governmental entity in Puerto Rico actively supervises or corrects LUMA's non-compliance. Notably, apart from a local court action brought by P3A seeking to annul the continuation of LUMA's contract on procedural compliance grounds relating to its approval, P3A's only asserted basis for LUMA's removal has been its alleged lack of collaboration and failure to provide access to system information.

However, it is important for the Bureau to take into account the additional responsibility and workload that it has necessarily assumed in response to the demands created by the existing governance vacuum in Puerto Rico's energy sector. In other words, PREB must confront the practical reality that effective supervision of LUMA's execution and compliance will require an excellent cadre of operational, technical, legal, policy, and economic professionals capable of monitoring performance, correcting deficiencies when they arise, and recognizing successful

execution when warranted. That is not an ancillary expense; it is the institutional cost of meaningful regulation. If PREB assumes the supervisory role reflected in the Final Order without the professional resources necessary to discharge it, it risks setting itself up for failure. ICSE welcomes this important step toward a more active, accountable, and institutionally capable regulatory framework.

B. Preemption: Rate Case and PROMESA

It is worrisome the expressions on the Final Order concerning the PREPA pensions. ICSE wholeheartedly supports the payment of the pensions of retired PREPA employees. We strongly believe that over and above the legal issues, pension payments represent a major moral obligation.[2] We support pension payments, but we object charging the same to the rate.

The PREB ruled that PREPA must abide to the contents of the Certified Fiscal Plan. That is, it adopts PREPA's position which mainly relies on Vázquez-Garced v. Fin. Oversight & Mgmt. Bd. for P.R. (In re Fin. Oversight & Mgmt. Bd. for P.R.), 945 F.3d 3, 8 (1st Cir. 2019)), in which the First Circuit held that section 202(e)(4)(C) of PROMESA "precludes the territorial government from reprogramming funds from prior fiscal years except to the extent such reprogrammed expenditures are authorized in a subsequent budget approved by the Board, and any Puerto Rico law to the contrary is preempted by virtue of PROMESA section 4." According to PREPA, this holding establishes that Fiscal Plans and Certified Budgets carry binding

[2] ICSE also believes that the compensation model LUMA has adopted emulating IBEW standards that are not supported by Puerto Rico's labor market is also an unfair and undue burden to Puerto Rico ratepayers.

legal force, preempt inconsistent Puerto Rico law, and require compliance with PayGo funding obligations. *See* PREPA's Legal Brief, p. 10; and ICSE's Reply to Legal Briefs, p. 14.

The problem with PREB's reasoning is threefold. Each of these errors independently undermines the Bureau's conclusion.

First, the Final Order makes no effort to distinguish the facts of Vázquez-Garced. That case addressed the ***reprogramming*** of funds for expenditures that had not been budgeted. *Id.*, at 8. In other words, PROMESA's prohibition is designed to ensure that appropriated funds are not diverted to unbudgeted purposes. It does not stand for the proposition that every cost included in a certified Fiscal Plan must be incurred—yet that is precisely the premise underlying PREPA's position with respect to pension payments.

The rule articulated in Vázquez-Garced is intended to promote fiscal discipline and prevent the incurrence of unauthorized and unbudgeted expenditures—not to mandate the incurrence of costs irrespective of regulatory determinations. If, as a matter of law, the PREB were to eliminate the rider associated with pension benefits, that action would not conflict with the policy rationale underlying Vázquez-Garced. To the contrary, it would result in cost avoidance, not reprogramming. It would be conceptually unsound to characterize the non-collection of funds as a "reprogramming" of funds. Indeed, such funds could not be reprogrammed at all, as they would never be collected in the first place.

Second, the **Certified** Fiscal Plan does not direct PREPA to recover the payment of pensions through rates. The relevant expressions regarding this issue include the following:

> That said, the Oversight Board **urges** all stakeholders, including PREPA, AAFAF, PREPA ERS, and PREB, to take immediate action to implement a dedicated funding source during CY2025 while conclusion of the Title III case is pursued. As PREB reinitiated the rate review process in December 2024, with expectation of a provisional rate imposition in July 2025, including the pension cost into the revenue requirement as part of the base rate or a rider **may be** a possible funding source.

2025 Certified Fiscal Plan, at p. 125 (emphasis added).

These are mere observations that are not intended as directives. The Oversight Board in no way has asserted that the rate as "a possible funding source" is, in fact, the **only** source of funding.

Third, the Certified Fiscal Plan contains numerous provisions far more specific than those addressing pensions. If the document were binding on PREPA in the manner the Final Order suggests, it would effectively bind this forum's determinations on other matters as well. Under that premise, the Rate Order would be required to conform in all respects to the Certified Fiscal Plan. That proposition is incorrect—particularly in light of the premise that PROMESA does not preempt PREB's ratemaking authority, a position shared by the Oversight Board as per their last proposed Plan of Debt Adjustment. ICSE agrees with the latter, but emphasizes that accepting the former would, in practice, negate it. By way of example, the Fiscal Plan provides:

> In certifying this Fiscal Plan, the Oversight Board noted the operators' projections estimate needing a substantial rate increase to be placed on PREPA's ratepayers7Summary [*sic*] of Financial Projections to meet the needs of the system. **Imposing the implied rate required to meet the operators' cost projections** (including current funding of pensions to PREPA's retirees and without any other debt service) on a nonsubsidized residential customer earning median income in FY2026 and consuming 425 kWh per month would result in the customer paying more than 6% of their annual income to PREPA, which may result in such customers falling under an "energy burden"; i.e., needing to make choices between electricity and other essentials. More importantly, due to the decades of deferred system repairs, the burden on the customer rates is generally expected to grow over time so that the gap between the implied rate of the operators' projection and the 6% electricity share-of-wallet threshold for this customer widens throughout the Fiscal Plan period.

Fiscal Plan, p. 128 (emphasis added).

If the Fiscal Plan were binding with respect to pension obligations—as it is not, by FOMB's own statements—then why does the Rate Order depart from other Fiscal Plan determinations, such as the operators' cost projections, which the Final Order expressly excludes?

The premise is flawed. If the Fiscal Plan were binding, it would be binding in its entirety—not selectively invoked only for pension-related issues.

In this same passage, the Fiscal Plan specifically incorporate the concept of affordable rates. FOMB's position, which cannot be ignored if the Fiscal Plan is obligatory, would require affordability constraints, even if the "share-of-wealth" concept is not formally incorporated. It was FOMB on its official

filings in PREPA's Title III case ***and in the Fiscal Plan***, who raised the affordability requirement, the "share-of-wealth" concept; and it was FOMB itself which repudiated a legacy charge due to its impact on the rate.

In other words, PREB would be voluntary renouncing its powers and subsume its powers to the Fiscal Plan, when FOMB has stated that PREB's is not preempted by PROMESA.

On the other hand, how can it be a Fiscal Plan obligation to include in the rate a 1.9¢ charge for pension when, last year FOMB stated that there was no space in the rate for a legacy charge of just 1 cent under the rate structure of the 2017 Rate Order. This of course, compromises the debt sustainability analysis incorporated in the PREPA's 2025 Fiscal Plan. *See* Fiscal Plan, pp. 115-19.

C. LUMA's filing has been rejected by PREB. What are its legal consequences?

The Final Order rejects LUMA's proposed revenue requirement—the central component of its rate case. Chapter One, Part B, pp. 44–49.

LUMA is contractually obligated to prepare and submit a rate case, including a supportable revenue requirement. It failed to do so. The Bureau's rejection of that central element reflects a fundamental deficiency in LUMA's submission, not a marginal disagreement.

Under these circumstances, the costs associated with preparing and prosecuting that deficient revenue requirement should not be borne by ratepayers. LUMA's claim for recovery of those costs should therefore be disallowed.

Any presumption that LUMA's filings are entitled to deference or a presumption of correctness cannot survive the rejection of the very component that defines the rate case.

Nor can LUMA be excused by reference to industry practice. Regulatory commissions do not ordinarily reject core revenue requirements of a rate filing absent material deficiencies.

What is untenable is a regime in which a rate proponent submits a fundamentally deficient revenue requirements—thereby imposing costs on consumers, stakeholders, and the Bureau itself—yet faces no consequence. The Final Order necessarily reflects a failure by LUMA to discharge its obligations as rate proponent.

LUMA's conduct as rate proponent is analogous to the prohibition against frivolous or obstinate conduct which governs Puerto Rico's procedural law. This standard requires that a party who engages in such conduct in the course of litigation—particularly in an adversarial proceeding such as this one—be sanctioned in proportion to that conduct. This necessarily encompasses situations in which a party advances a position before a tribunal that is summarily rejected, thereby causing the court and the opposing parties to incur unnecessary expenses. That standard should be even more stringent when—as in this case—the prosecution of LUMA is paid by ratepayer funds.

This principle is expressly recognized by the Bureau. Section 10.2 of Regulation 8543 provides that: "When a party acts temerariously, the [Bureau] may order the full or partial reimbursement of expenses incurred by the [Bureau] for professional services hired during the adjudicative

proceedings, as well as the reimbursement of any expenses incurred by other parties or the [Bureau] as a result of such conduct."

There is no principled basis to decline application of that standard in the present case.

D. Legal Mandates and the Rate Case

The Final Order effectively restructures the rate design by increasing fixed charges and reducing volumetric charges. It contains no analysis of the impact of that shift on electricity consumption or on incentives for energy efficiency—despite statutory mandates requiring the promotion of such efficiency.

This omission is material. It directly affects the effectiveness of rate design as a regulatory tool. As a matter of basic economic principle, increasing the fixed portion of rates weakens marginal price signals and, in turn, diminishes customers' incentives to reduce consumption. Volumetric pricing is the primary mechanism through which rate design promotes efficient energy use; reducing its relative weight necessarily undermines that objective.

Those programs are currently being developed in PREB Case No. NEPR-MI-2026-0002 and will be funded by ratepayers. Their effectiveness is directly tied to the strength of volumetric price signals. A rate structure that shifts recovery toward fixed charges reduces the marginal benefit of conservation and, therefore, the expected impact of those programs.

The inconsistency is structural. The Bureau is simultaneously requiring ratepayers to fund energy efficiency programs while adopting a rate design

that weakens the very incentives those programs depend upon. The Final Order does not acknowledge, much less reconcile, that contradiction.

Public policy in Puerto Rico expressly includes the promotion of energy efficiency. Rate design is one of the principal regulatory instruments available to advance that policy, alongside subsidies, regulatory mandates, and other economic tools. In practice, this has historically been implemented through tariff structures that preserve meaningful volumetric price signals, including increasing marginal rates for higher levels of consumption.

The Final Order departs from that framework without explanation. By increasing fixed charges relative to volumetric charges, it reduces the effectiveness of price-based incentives for efficient consumption. Any reasoned analysis would recognize that this shift weakens, rather than advances, the statutory mandate.

The Bureau lacks authority to disregard that mandate. Even if it believed that a higher fixed-charge structure is otherwise desirable, it was required to evaluate and explain its impact on energy efficiency. It did not do so.

Accordingly, the Final Order fails to consider a relevant statutory factor and cannot be sustained.

E. Rate and Order Distinct Plan for Integrating Renewables

The Rate Order instructs LUMA to develop a distinct plan for integrating renewables, namely the Renewable Energy Integration Plan. Chapter Three, pp. 315-25.

Technically, this is not a rate case issue. It appears to have been included to support the approval of a revenue requirement for that purpose, in light of LUMA's failure to adequately plan for the integration of renewable

resources. The Rate Order ultimately includes a non-recurring expense in FY27 of $1 million to LUMA and $0.75 million to Genera.

Renewable integration is fundamentally a planning function governed by the IRP and the statutory mandates it seeks to implement. There is no inherent issue with Final Order requiring the development of a renewable integration plan. However, such planning must remain integrated within the IRP framework. The statutory mandate of achieving 100% renewable energy by 2050 requires that the IRP be oriented toward renewable integration.

Renewable integration must be addressed within the IRP itself, which is the primary mechanism through which Puerto Rico's energy policy is evaluated and implemented. That policy—achieving 100% renewable energy—remains unchanged. The rate case must therefore be consistent with this mandate, and each determination must be assessed in terms of whether it complies with, facilitates, or hinders its implementation.

The separation of renewable integration planning from the IRP creates a significant misalignment between the IRP and the Rate Case. It reflects a lack of coordinated planning and fragments PREB's regulatory function, including its supervision of LUMA.

This concern is particularly significant in light of PREB's own judgment on LUMA's problems and the need for significant technical, policy and economic analysis resources needed by PREB to implement its admitted additional responsibility vis-à-vis LUMA.

F. <u>The Prosumer</u>

In several instances, the Final Order appears to treat "solar departure" as a problem to be addressed. It is not. It is a rational response by consumers to

high prices and deficient service, and thus a manifestation of underlying system failures rather than a condition to be suppressed.

More significantly, the Order does not meaningfully engage with the statutory concept of the "prosumer." The term does not appear in the Order, nor is there any analysis of how its determinations affect the development of prosumers.

This omission is material. Acts 57-2014 and 17-2019 place the prosumer at the center of Puerto Rico's electric system. Rate design and planning decisions must therefore be evaluated in terms of whether they facilitate or hinder consumer participation in generation, interconnection, and demand-side management. The Final Order does not undertake that analysis.

Ignoring the prosumer framework is not a semantic oversight. It reflects a failure to engage with a governing component of Puerto Rico's energy policy. It also implicates statutory mandates under Acts 57-2014 and 17-2019 concerning transparency, access to information, and meaningful public participation.

Both the Rate Order and the IRP must be consistent with, and facilitate, the implementation of that legislated policy. The policy itself is clear and unchanged: the electric system must evolve toward distributed, participatory, and renewable-based structures.

Within that framework, interconnection is not a discretionary matter; it is an affirmative obligation. PREB and LUMA are required to enable and plan for interconnection as a central feature of the system, not treat it as a constraint.

In sum, concepts such as interconnection, energy efficiency, and the prosumer are not aspirational terms. They are binding elements of the governing statutory framework and must inform each planning and ratemaking determination. The Final Order does not demonstrate that they have done so.

G. PREB's power to interpret laws

It is concerning that PREB states it will not interpret bankruptcy law. Chapter 5, page 4, 5, 36 to 46.

As an independent quasi-judicial entity, PREB is required to interpret and apply all law relevant to matters within its jurisdiction. That obligation necessarily includes constitutional provisions, statutes, and other governing legal frameworks that bear on the issues before it.

PREB routinely fulfills this function. In this very proceeding, it interpreted Law 114 with respect to net metering. *See* Chapter Six, p. 17. It has also made determinations regarding compliance with the Code of Federal Regulations.

Likewise, Puerto Rico courts have recognized that administrative agencies must apply generally applicable legal principles in the discharge of their duties. It has to apply and interpret the Constitution (*e.g.*, provide due process), it has to apply the Puerto Rico Uniform Administrative Procedure Act, it has to apply the Civil Code, as the Puerto Rico Supreme Court did while ruling DACO v. LUMA, 2025 TSPR 126, among other statutes.

PREB may not selectively decline to interpret applicable law. While its determinations remain subject to review by other competent courts, that

does not relieve the Bureau of its obligation to address the legal questions properly before it that may affect rates.

A refusal to do so constitutes a failure to discharge its adjudicative responsibilities.

H. LUMA/GENERA as PREPA's Agent

The PREB must confront the issue that LUMA and GENERA are mere agents of PREPA. It is not possible for LUMA to—while acting as agent—file a rate case, the provisional rate, against the specific rejection of its principal. And by approving the provisional rate as the permanent rate the PREB has approved a filing by LUMA specifically rejected by its principal, PREPA. The assets are PREPA's, the income and the expenses are PREPA's: the rate is PREPA's rate, the contracts are PREPA's contracts.

It raises serious concerns regarding the adequacy of PREPA's supervision, the role of its governing board, and the extent to which regulatory proceedings are being conducted with proper alignment between principal and agent.

The absence of such alignment undermines accountability and complicates the Bureau's oversight function.

I. LUMA's Performance is not acceptable

The Final Order contains numerous statements reflecting PREB's serious concerns regarding LUMA's filings and operational performance. These concerns fall into several non-exhaustive categories:

The Bureau identifies potential conflicts of interest, including secondment issues (Chapter Three, Part IX.E.2., p. 144; Chapter Eight); acknowledges problematic estimations in LUMA's methodology (Chapter

One, Part IV.C.3., p. 42); questions LUMA's capacity to execute, including its ability to mobilize federal funding (Chapter Three, Part IX.B.3.d.iii., pp. 30–31); characterizes certain LUMA assertions on wheeling as "speculative" (Chapter Three, Part IX.D.6.e., p. 141); and describes aspects of its demand forecasting as "problematic" (Chapter Seven, Part XLIV.E.6., p. 20).

Yet, despite these findings, the Order simultaneously expresses confidence that "LUMA will improve the pace of Federal Funds" (Chapter 3, p. 144), without explaining the basis for that conclusion.

This internal inconsistency is significant. The Order identifies systemic deficiencies in LUMA's performance and capabilities, but does not reconcile those findings with its forward-looking assumptions.

The issue ultimately becomes one of accountability and oversight. The record reflects a persistent concern regarding who is effectively supervising LUMA's operations. While PREB suggests that this will change, the Order does not articulate how that enhanced supervision will be implemented or why it should be expected to succeed in light of the identified deficiencies.

J. The Cash Flow Issue

LUMA has raised that it has serious cash flow limitations. After an extensive investigative proceeding, the hearing examiner filed a proposed resolution on the issue in case NEPR-IN-2024-0004, which continues to be confidential as of today. Nothing has happened. The examiner's findings were never taken up by PREB. It looks like LUMA just raised the cash flow issue as a "red herring" to move the attention from its own shortcomings to a new issue, the cash flow.

The issue once again is raised by LUMA on its rate proposal and the PREB simply refused to give LUMA what it was requesting. The issue is not cash flow, it is LUMA's own execution shortfalls.

K. "Problematic" Load Forecasting

ICSE's evidence, Dr. Ramón Cao's testimony showed that LUMA misstated various elements in its load forecasting.

The purpose of the base tariff is to generate enough revenues to finance fixed and variable costs not covered by the various riders in the electricity bill. In consequence, the design of this tariff must be based on cost and revenue forecasts. Cost and revenue forecasts are lineal transformations of load forecasts. Given a load forecasted for that period, required resources to produce that load are identified and multiplied by their prices to compute forecasted cost. Once total cost is forecasted, required revenues are determined. Then, given that it is necessary to design a tariff structure that produces enough revenue to cover forecasted costs. Load forecasts for the different categories of consumers are the basis to compute forecasted or expected future revenue. Chapter Seven Part B**, p.** 4.

Given the crucial relevance of load forecasting, it is notable that ICSE was the only interventor that presented an evaluation of LUMA's load forecasts, and how inaccurate they are. *Id*. ("*The Institute of Competitiveness and Economic Sustainability (ICSE) submitted the expert witness report of Ramón J. Cao García titled 'A Report on Economic Consequences of July 3, 2025 Filing of LUMA-GENERA-PREPA.' In Appendix A of his report, Mr. Cao provided*

comment on LUMA's load forecast. No other intervenors commented on LUMA's load forecast.")

That LUMA's load forecast is grossly defective and unacceptable was made clear in the NEPR hearings. The forecasting equations were wrongly specified and estimated,[3] resulting in forecasting errors in the range of -12.2% to +18.7%.[4] Ms. Estrada tried to unsuccessfully justify the forecasting methodology used. The hearings also showed that neither Ms. Estrada, nor the consulting firm that LUMA uses in the design and estimation of its load forecasting models, are proficient in econometrics.

With regard to LUMA's load forecasting, NEPR concluded that:

> Dr. Cao made valid criticisms that LUMA's current forecasting methods may not adequately model long-term

[3] Among the serious errors in the specification and estimation of LUMA's forecasting equations are:

1. Do not include electricity prices, even when the issue at hand is to forecast load when base tariff price is in the process of being changed.
2. The equations do not have intersect. Equations without intersect could be adequate when there is a deterministic relationship among variables, a thing can usually happen in chemistry and physics. The quantity demanded of electricity depends on human decisions, market conditions and Nature. None of these variables can be assumed to be stable and deterministic.
3. Load forecasting is based in the use of time series data. A time series matrix frequently shows multicollinearity, a serious estimation problem that has to be tested and corrected if it is present. LUMA never provided information about if it tested for multicollinearity.
4. The excessive use of dummy or binary variables in LUMA's forecasting equations significantly increases the probability of multicollinearity to happen.

trends for electricity demand in Puerto Rico. That criticism presents a practicability concern for future rate reviews. The Energy Bureau therefore **ORDERS** the following:

- *Energy demand forecasting working group*—LUMA shall establish a working group to improve load forecasting methods, including review and updates to forecasting methods to better incorporate electricity price and price elasticity of demand. This working group should include Energy Bureau staff and consultants. LUMA should also invite participation by parties to this rate review.

- *Report on demand and revenue forecast deviations*—In preparing the decoupling adjustment filing in FY27, LUMA shall report the difference in actual electricity sales and revenues to the forecasted values in this filing. If the differences exceed 10%, LUMA must provide a written explanation of the deviation and of the effect on revenue sufficiency to provide adequate service. The Energy Bureau will use this information to determine if additional review is required.

Chapter One Part IV.C.3., p. 42**.**

ICSE strongly agrees with the foregoing. However, ICSE does not agree with the contradictory finding that the forecasts were "reasonable" based solely on LUMA's self-serving assertion that its forecasting methods have improved. The record reflects no demonstrable track record of such improvements. Indeed, the very fact that the Bureau deemed it necessary to establish a working group to address deficiencies in load forecasting underscores the absence of a reliable and validated forecasting framework.

For that reason, ICSE respectfully submits that the working group should be directed by the Bureau. Several considerations support this approach.

First, load forecasting lies at the core of ratemaking. It directly affects revenue requirements, rate design, decoupling adjustments, and overall revenue sufficiency. A process of such central importance cannot rest solely on the representations or methodologies of the regulated entity; it requires independent regulatory oversight to ensure methodological rigor and reliability.

Second, the record in this proceeding reflects material deficiencies in LUMA's forecasting methods, including specification errors and significant forecasting deviations. In these circumstances, allowing the same entity responsible for those deficiencies to control the remediation process, without direct regulatory direction, risks perpetuating the very issues the working group is intended to address.

Third, Bureau-directed oversight is necessary to ensure transparency and credibility. A working group led by the Bureau would provide a neutral forum for the evaluation of methodologies, the incorporation of stakeholder input, and the development of forecasting standards that are not driven by the utility's institutional incentives.

Fourth, the Bureau is uniquely positioned to ensure that the outputs of the working group are aligned with regulatory requirements and are capable of being incorporated into future rate proceedings. Without such direction, there is a risk that the working group's efforts will lack standardization, comparability, or regulatory applicability.

Finally, directing the working group is consistent with the broader structure of the Final Order, which reflects an active supervisory role by the Bureau through reporting requirements, methodological directives, and ongoing review mechanisms. Ensuring that the load forecasting working group operates under the Bureau's direction is a natural extension of that supervisory framework.

For these reasons, ICSE respectfully requests that the Bureau clarify that the load forecasting working group shall operate under its direction and oversight.

Conclusion

The Final Order is an important assertion of PREB's central regulatory role at a critical moment for Puerto Rico's electric system. ICSE supports that direction. But precisely because the Order seeks to establish a more active and accountable supervisory framework, its reasoning must be internally coherent, legally grounded, and aligned with the statutory public policy that governs Puerto Rico's energy sector. Partial reconsideration is warranted to preserve—not weaken—the Order's institutional force: to clarify that PROMESA does not displace PREB's ratemaking authority; to avoid treating the Certified Fiscal Plan as binding only when convenient; to impose meaningful consequences for deficient utility filings and performance; to align rate design with energy efficiency, renewable integration, and the prosumer-centered policy enacted by law; and to ensure that the load forecasting working group operates under the Bureau's direction. These

clarifications will strengthen the Final Order and better equip PREB to carry out the supervisory role it has now properly assumed.

WHEREFORE, ICSE respectfully requests that the Energy Bureau grant partial reconsideration of the Final Order for the limited purpose of clarifying and harmonizing the determinations identified above; reaffirm that PROMESA does not preempt PREB's ratemaking authority; clarify that the Certified Fiscal Plan does not require recovery of PREPA pension costs through base rates or any rider; determine the appropriate regulatory consequences of LUMA's rejected rate filing and deficient performance; ensure that the Final Order is aligned with Puerto Rico's statutory mandates on energy efficiency, renewable integration, prosumers, and consumer participation; and clarify that the load forecasting working group shall operate under the Bureau's direction and oversight.

RESPECTFULLY SUBMITTED.

I **CERTIFY** the present document was submitted electronically in the PREB's filing system and copy sent to the Hearing Examiner and the attorneys of record: 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;

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