

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.<sup>1</sup>

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY  
("PREPA"),

Debtor.

PROMESA

Title III

No. 17 BK 4780-LTS

**This Motion relates to PREPA  
and shall be filed in Lead Case  
No. 17 BK 3283-LTS and Case  
No. 17 BK 4780-LTS.**

**JOINT STATUS REPORT**

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Court Judge Laura Taylor Swain:

On July 7, 2020, the Puerto Rico Electric Power Authority (“PREPA”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as representative of PREPA in these Title III cases pursuant to section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF,” and together with PREPA and the Oversight Board, the “Government Parties”), filed *PREPA’s Motion for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services under Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement with LUMA Energy* [ECF No. 2053] (the “Administrative Expense Motion”). On July 14, 2020, the Court entered its *Order Extending and Establishing Certain Deadlines Applicable to PREPA’s Motion for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services Under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement With LUMA Energy* [ECF No. 2068] (the “Scheduling Order”).

In the Scheduling Order, the Court directed the Government Parties to confer with anticipated objectors to the Administrative Expense Motion and to file a joint status report (this “Joint Status Report”) by July 28, 2020 at 5:00 p.m. (A.S.T.). This Joint Status Report is being submitted by the following:

- (i) The Government Parties; and,
- (ii) The Official Committee of Unsecured Creditors of all Title III Debtors (except COFINA and PBA) (“UCC”); the Fuel Line Lenders;<sup>2</sup> Unión de Trabajadores de la

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<sup>2</sup> The Fuel Line Lenders are Cortland Capital Market Services LLC, as successor administrative agent under a Credit Agreement, dated May 4, 2012, among PREPA, Scotiabank de Puerto Rico and certain lenders (the “Scotiabank Credit Agreement”).

Industria Eléctrica y Riego (“UTIER”) and Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica (“SREAEE”); and Whitefish Energy Holdings, LLC (“Whitefish”). The UCC, Fuel Line Lenders, UTIER, SREAEE, and Whitefish are referred to collectively as the “Anticipated Objectors.”<sup>3</sup>

**I. Procedural Background**<sup>4</sup>

1. On July 7, 2020, the Government Parties filed the Administrative Expense Motion on behalf of PREPA.

2. The Scheduling Order required all discovery requests in connection with the Administrative Expense Motion be served on or before July 24, 2020. Scheduling Order ¶ 3. In addition, the Court ordered the Government Parties and the Anticipated Objectors to meet and confer regarding any discovery disputes, and if any disputes remained unresolved, to file this Joint Status Report by 5:00 p.m. (A.S.T.) on July 28, 2020.<sup>5</sup> *Id.* The Court directed the parties to “describe the categories of documents and other discovery that have been agreed upon, and all issues in dispute with full position statements on each such issue.” *Id.*

3. On July 23, 2020, UTIER and SREAEE’s counsel propounded discovery requests (“UTIER Discovery Requests”), consisting of 11 interrogatories and 10 requests for production of documents, upon PREPA and the Oversight Board. The UTIER Discovery Requests are attached hereto as Exhibit 1.

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<sup>3</sup> In identifying the foregoing parties as “Anticipated Objectors,” the Government Parties do not concede that any Anticipated Objector has standing to object to the Administrative Expense Motion or to intervene in this contested matter.

<sup>4</sup> Unless defined herein, capitalized terms shall have the meanings ascribed to them in the Administrative Expense Motion.

<sup>5</sup> On July 28, 2020, the Parties filed an *Urgent Unopposed Joint Motion to Adjourn Deadline for Joint Status Report Concerning Discovery Disputes Related to LUMA Energy Administrative Expense Motion* [ECF No. 2101], seeking to extend this deadline until 12:00 p.m. (A.S.T.) on July 29, 2020.

4. On July 24, 2020, the UCC's counsel propounded identical discovery requests ("UCC Discovery Requests"), consisting of 2 requests for production and a Rule 30(b)(6) Notice requesting testimony on 3 topics, upon PREPA, AAFAF, the Puerto Rico Public-Private Partnership Authority ("P3"), and the Oversight Board. The UCC Discovery Requests to the Oversight Board are attached hereto as Exhibit 2. The UCC has also requested copies of all documents produced to other parties.

5. On July 24, 2020, the Fuel Line Lenders' counsel propounded their discovery requests ("FLL Discovery Requests") upon the Oversight Board, PREPA, and AAFAF. The FLL Discovery Request only seeks the production of all documents produced to the UCC or to UTIER.

6. On July 24, 2020, Whitefish's counsel propounded discovery requests ("Whitefish Discovery Requests"), consisting of 10 interrogatories and 6 requests for production of documents upon PREPA and the Oversight Board.<sup>6</sup> The Whitefish Discovery Requests are attached hereto as Exhibit 3.

7. On Monday, July 27, 2020, counsel for the Oversight Board sent an email, attached hereto as Exhibit 4, to the Anticipated Objectors, which email (1) listed documents the Government Parties were prepared to produce in response to the Anticipated Objectors' Discovery Requests; (2) objected to certain requests the Government Parties deemed overly broad; (3) attached a proposed protective order governing the production of confidential information in this contested matter; and (4) requested that the Parties meet and confer.

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<sup>6</sup> Collectively the UTIER Discovery Request, the UCC Discovery Request, the FLL Discovery Request, and the Whitefish Discovery Request are referred to as (the "Anticipated Objectors' Discovery Requests").

8. Also, on Monday, July 27, 2020, the Parties<sup>7</sup> met and conferred regarding the Anticipated Objectors' Discovery Requests.

**II. The Government Parties' Position Regarding Documents They Will Agree to Produce**<sup>8</sup>

9. The competitive procurement process to select a private partner to operate PREPA's T&D assets through the T&D Contract (the "RFP Process") was designed to ensure transparency. P3 oversaw the RFP Process and the negotiation of the T&D Contract with LUMA. P3 published an over 300-page report (including exhibits) of the Partnership Committee detailing the process of selecting LUMA Energy as the winning proponent for the T&D Contract and the negotiation of the T&D Contract with LUMA Energy. A copy of that Partnership Committee Report is on P3's website,<sup>9</sup> and was attached to the Declaration of Omar Marrero in support of the Motion. As explained in the Partnership Committee Report, the RFP Process was designed to ensure transparency, and therefore all communications between P3 and LUMA Energy during the RFP Process were through the Power Advocate platform.<sup>10</sup> *See Declaration of Omar J. Marrero in Support of PREPA's Motion for Entry of an Order Allowing Admin. Expense Claim for Compensation for Front-End Transition Services Under Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement with LUMA Energy* (the "*Marrero*

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<sup>7</sup> The "Parties" consist of the Anticipated Objectors, the Government Parties, and P3.

<sup>8</sup> The statements and characterizations of events in this section are solely those of the Government Parties and are not adopted by the other Parties.

<sup>9</sup> <http://www.p3.pr.gov/assets/20-0520-02-partnership-committee-report-r18.pdf>

<sup>10</sup> The Government Parties do not intend to review or produce the contents of a data room containing largely confidential due diligence materials related to the RFP Process, including almost 18,000 documents and totaling about 149,000 megabytes of data, which are irrelevant to the Administrative Expense Motion. *See Marrero Decl.*, Ex. A at 43-44. However, to the extent the Anticipated Objectors demand production of these voluminous materials, not only would any such production be conditioned on entry of an appropriate and acceptable protective order, but for the avoidance of doubt, the considerable time required to review and produce any such documents should not serve as a basis for further extending the deadlines for the Administrative Expense Motion.

*Decl.*”), Ex. A at 42-46. P3 (including PREPA’s and AAFAF’s representatives on the Partnership Committee and P3 Board) did not substantively communicate with LUMA Energy via any other media, including email communications, during the RFP Process. The Government Parties offered to produce the following documents, to the extent responsive to the Anticipated Objectors’ Discovery Requests:

- a. communications and documents made available to and received from LUMA Energy via PowerAdvocate,<sup>11</sup> including:
  - i. messages and attachments thereto;
  - ii. various drafts of a term sheet and the T&D Contract;
  - iii. comments from LUMA Energy to the drafts of a term sheet and the T&D Contract, including issues lists summarizing the comments;
  - iv. memoranda to LUMA Energy from P3 summarizing comments from LUMA that were accepted in the drafts of the term sheet and the T&D Contract;
- b. minutes of Partnership Committee meetings and written resolutions of the Partnership Committee.

10. The UCC’s discovery requests consist of discovery related to the Supplemental Agreement. The Supplemental Agreement was negotiated by the Oversight Board, with input from time to time from P3. Although the Oversight Board believes the Supplemental Agreement is not relevant to the issues presented by the Administrative Expense Motion or the relief requested

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<sup>11</sup> PowerAdvocate is a digital platform specifically designed for competitive procurement in the energy industry. *See* Marrero Decl., Ex. A at 42 n.13 [ECF No. 2053-2].

from the Court, in the interest of avoiding a dispute, the Oversight Board has offered to produce drafts of the Supplemental Agreement that were exchanged among the parties. The Oversight Board reserves its right to object to the use of the Supplemental Agreement or any drafts thereof on any grounds, including relevance.<sup>12</sup>

11. In light of the fact that all substantive communications between LUMA Energy and P3 (including PREPA's and AAFAF's representatives on the Partnership Committee and P3 Board, including Mr. Marrero) took place via the PowerAdvocate platform, the Government Parties do not intend to conduct a review of email or other electronic communications, except as discussed in section III.A.1 below.

12. As a condition to the production of the above documents, the Government Parties would require the Anticipated Objectors to enter into a protective order acceptable to the Government Parties, and substantively similar to previous protective orders entered into in these Title III cases.<sup>13</sup>

### **III. Matters in Dispute**

#### **A. UCC Discovery Requests**

##### **1. Government Parties' Statement**

13. The UCC Discovery Requests to the Oversight Board, PREPA, AAFAF, and P3 seek discovery related to the provisions of the Supplemental Agreement. The Government Parties and P3 object to the UCC Discovery Requests as negotiations related to the Supplemental

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<sup>12</sup> The Government Parties have not conceded and expressly reserve objections on relevance (and all other) grounds concerning all documents they agree to produce.

<sup>13</sup> See *Stipulation and Order in Connection with Discovery Regarding the Joint Motion of Puerto Rico Electric Power Authority and AAFAF Pursuant to Bankruptcy Code Sections 362, 502, 922 and 928, and Bankruptcy Rules 3012(A)(I) and 9019 for Order Approving Settlements Embodied in the Restructuring Support Agreement and Tolling Certain Limitations Periods* [ECF No. 1295].

Agreement are not relevant to the approval of an administrative expense for the Front End Obligations. However, the Oversight Board, which negotiated the Supplemental Agreement, has agreed to produce drafts of the Supplemental Agreement. The UCC Discovery Requests also seek, in addition to drafts of the Supplemental Agreement, (1) communications regarding the Supplemental Agreement, as well as (2) deposition testimony regarding the Supplemental Agreement. The Oversight Board, PREPA, AAFAF and P3 have not agreed to produce any email communications regarding the Supplemental Agreement or attaching drafts of the Supplemental Agreement; however, the Oversight Board has agreed to further consider the UCC's request. The Government Parties and the UCC have agreed to defer discussions regarding any deposition testimony until after document productions have been made. Further, AAFAF has informed the UCC that it did not negotiate the Supplemental Agreement and, accordingly, any information AAFAF may have would be cumulative of what the Oversight Board could provide. AAFAF has therefore requested that the UCC withdraw its requests to AAFAF. PREPA similarly does not anticipate that it has any responsive documents beyond what the Oversight Board would provide. AAFAF, PREPA, and P3 believe that any production of documents from them concerning the Supplemental Agreement would either (i) be duplicative of any discovery from the Oversight Board (which took the lead on negotiating the Supplemental Agreement), or (ii) target communications which would be subject to privileges.

## **2. UCC's Statement**

14. The UCC's document requests and deposition topics are narrowly focused on two specific aspects of the T&D Contract with the Operator, LUMA: (1) the requirement in Section 6.1 of the Supplemental Agreement that a Title III Plan and confirmation order be "reasonably acceptable to Operator," and (2) the "Operator Termination Fee," as that term is defined in the

Supplemental Agreement. These requests are limited to the aspects of the T&D Contract that are most concerning to the UCC due to the level of control they would potentially cede to the Operator over these Title III cases and the value such Operator stands to receive from PREPA. In seeking allowance of an administrative expense claim for services to be performed under the T&D Contract, the Government Parties have put the Court in the role of a gatekeeper. If the Court grants the Motion, the Government Parties will be able to move forward with implementation and execution of the T&D Contract. If the Court denies the Motion, the contract may not be consummated in its current form, because the allowance of the administrative expense claims is required to avoid creating a termination right for the Operator. Given the Court's gatekeeper role, it should understand, before ruling on the Administrative Expense Motion, that there are aspects of the deal that are problematic for PREPA and its creditors. The UCC's requests are thus relevant to the Administrative Expense Motion.

15. The UCC appreciates that the Government Parties are willing to produce select categories of responsive documents and that the Oversight Board is willing to continue meeting and conferring with the UCC regarding a further search for additional responsive communications, including emails. To the extent the other Government Parties—specifically, AAFAF, PREPA, and P3—are refusing to search for and produce communications other than those located on the PowerAdvocate platform, the UCC objects to such refusal. P3 was admittedly involved in negotiating the Supplemental Agreement, and PREPA is a signatory to such agreement. Moreover, although P3 has said it communicated with the Operator exclusively through the PowerAdvocate platform, it has not stated that it has no email or other electronic communications either internally or with other parties, including the other Government Parties. Although the Government Parties have asserted that AAFAF “did not negotiate the Supplemental Agreement,” Omar Marrero,

AAFAF's Executive Director, who submitted a declaration in support of the motion, also serves as the Chairman of the Governing Board of P3, is a member of the Partnership Committee, and was formerly the Executive Director of P3. Accordingly, Mr. Marrero and individuals working on his behalf are likely to have responsive documents as representatives of P3 if not as representatives of AAFAF.

16. To the extent the Government Parties do search for emails and other communications in response to the UCC's requests, the burden imposed on them should be limited in light of the requests' very narrow scope. The UCC is, of course, willing to meet and confer with the Government Parties to discuss appropriate custodians, date ranges, and search terms, so that the review and production process is efficient and will fit within the schedule set by the Court. The UCC is not, however, willing to forego entirely its request for responsive communications at this stage from all parties other than the Oversight Board.

17. The UCC is willing to defer discussion regarding depositions at this time as to all Government Parties until the UCC has a greater understanding of the role each Government Party played in negotiating and approving the relevant transactions and has begun receiving document productions.

**B. UTIER's Discovery Requests**

**1. Government Parties' Statement**

18. Certain of the UTIER Discovery Requests seek non-confidential document productions and interrogatory responses from the Oversight Board and PREPA regarding the impact of the Administrative Expense Motion on other stakeholders in PREPA's Title III case. The Oversight Board and PREPA object to the UTIER Discovery Requests as overbroad insofar as they seek discovery regarding issues that are not relevant to the issues presented by the

Administrative Expense Motion or the relief requested from the Court, that are outside the scope of the Administrative Expense Motion, and/or that are not proportional to the needs of the case, specifically and primarily the alleged impact of the requested administrative claim on other creditors and parties-in-interest in PREPA's Title III case. *See, e.g.*, July 11, 2019 Hrg. Tr. 11:18-24 (holding that "impact of full RSA implementation on [PREPA's] operations and PREPA's ability to address the costs thereof are [] ones whose logistical impact on these narrowly focused 9019 proceedings would outweigh substantially any probative value in connection with the decision the Court must make"); *Memorandum Order Granting Motion for Protective Order and Order in Limine Precluding Evidence in Connection with 9019 Motion* [ECF No. 1543] (holding that evidence regarding "the long-term impact of full implementation of the RSA is outside the scope of the 9019 Motion" and excluding evidence regarding the potential impact of the RSA on other creditors). As set forth below, UTIER asserts the standard for allowance of an administrative expense claim in PREPA's Title III case is whether the expense will benefit the debtor's "estate," which it defines to include the debtor's creditors. That position is wrong in the context of a municipal bankruptcy case, including this Title III case, where there is no "estate." Instead, an administrative expense claim is appropriate where (1) the services are necessary to preserve the operations of the debtor (i.e. to provide services to the public and carry out its mission), and (2) the debtor consents to payment of the claim as an administrative expense. *In re Craig Cty. Hosp. Auth.*, 572 B.R. 340 (Bankr. N.D. Okla. 2017). The benefit of the services to creditor recoveries, therefore, is not material to the Administrative Expense Motion.

19. Accordingly, the Oversight Board and PREPA will not conduct a custodian and search term review to locate documents or communications regarding the impact of the Administrative Expense Motion on other stakeholders in PREPA's Title III case, and will not

substantively respond to interrogatories seeking information regarding that same issue. However, to the extent the categories of documents the Government Parties have already agreed to collect and produce contain documents responsive to these requests, the Oversight Board and PREPA will not withhold documents solely on the basis that they contain information responsive to such requests.

## 2. UTIER's and SREAAE's Statement

20. While the Oversight Board and PREPA consider that discovery on the impact of the administrative expense priority on other claims is irrelevant, UTIER and SREAAE maintain that the requested discovery is proper and squarely within the scope of review for this contested matter. The Oversight Board and PREPA are improperly narrowing the scope of discovery in this case.

21. The Oversight Board and PREPA seek administrative expenses priority under 11 U.S.C. § 503(b)(1)(A). Under this section, “[t]he burden of proving entitlement to priority payment as an administrative expense rests with the party requesting it as the traditional presumption favoring **ratable** distribution among all unsecured creditors requires strict construction of provisions governing requests for priority payment of administrative expenses.” In re Malden Mills Industries, Inc., 303 B.R. 688, 707 (B.A.P. 1st Cir. 2004)(citations omitted) (emphasis added).

22. The standard requires benefit to the estate, which means benefit to the creditors, who are the intended beneficiaries of a bankruptcy estate. See, for example, Matter of Bay Broad., Inc., 182 B.R. 369, 374 (D.P.R. 1995)(“The words ‘actual and necessary’ have been construed to require the debt **to benefit the estate and creditors.**”(emphasis added)(citation omitted)). See, also, In re PMC Mktg. Corp., 09-02048, 2013 WL 3367500, at \*7 (Bankr. D.P.R. 2013)(“A survey of case law reveals that the terms ‘actual’ and ‘necessary’ found in the statute are to be narrowly

construed. Therefore, to qualify as an administrative expense entitled to priority, the expense must be an actual and necessary cost **of preserving the estate for the benefit of its creditors.**”(emphasis added)(citations omitted)).

23. Thus, all of UTIER’s Discovery Requests regarding the impact of the administrative expense priority on PREPA’s creditors are wholly relevant. These requests center on the following topics: (1) the justification for the administrative expense priority and the amount; (2) the impact of the administrative expense priority on PREPA’s finances, and (3) the impact of the administrative expense priority on PREPA’s ability to pay its unsecured creditors. In order to determine if PREPA has met the standard for an administrative expense priority, we need to know if the claim provides **a demonstratable benefit to the bankruptcy estate.** See In re Malden Mills Industries, Inc., 303 B.R. at 706. Benefit to the estate means benefit to PREPA’s unsecured creditors. See, also, In re PMC Mktg. Corp., 09-02048, 2013 WL 3367500, at \*7 (Bankr. D.P.R. 2013).

24. Thus, it is essential for the Objectors to have access to any information regarding the impact the administrative expense claim has on PREPA’s creditors. If the priority negatively affects PREPA’s finances and, by consequence or directly, the unsecured creditors, without providing any monetary benefit in return, then there is no doubt that the claim only has the effect of depleting the estate, not benefiting it. The only way to ascertain which of these scenarios exists is with access to the information that UTIER and SREAEE have requested regarding that impact.

25. The impact on stakeholders and creditors of approving this administrative expense is fundamental to determining the benefit of the contract to the state, particularly when PREPA’s budget certified by the Oversight Board on June 30, 2020, has a deficit of \$125,663,000.00 due to

the cost of the LUMA contract.<sup>14</sup>

### **C. Whitefish Discovery Requests**

#### **1. Government Parties' Statement**

26. The Whitefish Discovery Requests seek document productions and interrogatory responses from the Oversight Board and PREPA regarding (i) administrative claims asserted against PREPA and (ii) other documentation associated with services purportedly provided to PREPA by Whitefish. The Oversight Board and PREPA object to the Whitefish Discovery Requests because neither of these issues has any bearing on the Administrative Expense Motion or the relief requested therein. As set forth in further detail below, Whitefish contends that the Whitefish Discovery Requests are relevant because, according to Whitefish, the Court must consider whether allowance of LUMA's administrative expense claim would render PREPA administratively insolvent. Not so. This Court has already held that "PROMESA does not refer to or incorporate a concept of administrative insolvency in connection with a Title III debtor's payment of administrative expenses or otherwise . . ." *Order Overruling Cobra Acquisitions LLC's Omnibus Objection to Fee Applications Filed by Professionals and Request to Increase Holdback Amount*, ECF No. 1931, at 2. Accordingly, the Oversight Board and PREPA will not respond to Whitefish's interrogatories and will not conduct separate searches for documents responsive to the Whitefish Discovery Requests. The Government Parties will provide Whitefish with the documents produced in response to UTIER and the UCCs' requests and will not withhold documents produced to UTIER and the UCC solely on the basis that they contain information

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<sup>14</sup> See PREPA's Fiscal Plan p. 10 at <https://drive.google.com/file/d/1paRgy0dJBkUH4-5eev7z2SuR0diil8g9/view>: (...the 2020 Fiscal Plan projects a deficit of \$132 million in FY2021, which is due to the front-end transition fee to the T&D operator...), and Certified Budget at: <https://drive.google.com/file/d/1yIV664F009bi3UeE9WBHi3J6U6r42tFQ/view>

responsive to Whitefish's requests.

**2. Whitefish's Statement**

27. Whitefish is an administrative creditor of PREPA, and is currently owed in excess of \$136 million for work it performed in the immediate aftermath of Hurricanes Maria and Irma in 2017. Of that amount, \$106 million is the amount outstanding for the work and the remaining \$30 million is for Finance Charges that have accrued and continue to accrue at a rate of \$1 million per month because PREPA has not made any payments in the past 30 months. Furthermore, despite repeated emails and phone calls from Whitefish's counsel, counsel for PREPA and the Oversight Board have provided no information regarding the status of FEMA's review of Whitefish's invoices.

28. Whitefish served limited interrogatories and requests for production of documents (the "Discovery Requests") on PREPA and the Oversight Board generally concerning (1) any consideration or analysis of the impact of granting an administrative claim to LUMA Energy on other existing and unpaid administrative claims and (2) the status of FEMA's review and reimbursement of WEH's invoices. PREPA and the Oversight Board object to these requests in their entirety as outside the scope of the Motion, and are refusing to respond to them in any manner whatsoever.

29. All of WEH's Discovery Requests relate to the issue of the status of PREPA's current outstanding administrative claims, which in turn impact any analysis of whether the Court should approve further administrative claims such as the ones sought in the Motion. With respect to the Discovery Requests relating to the consideration of the impact of awarding the LUMA Energy Administrative claims on other administrative claims, these are relevant because administrative expenses are to be narrowly construed, given their impact on other claims against

the estate. This is even more true with respect to other administrative claims that have already been incurred and will have to be paid in the same manner. In order to be allowed, administrative claims must be necessary and beneficial to the estate. That analysis should include consideration of whether allowance of the LUMA Energy administrative claims will render the estate administratively insolvent. This is particularly true where PREPA has admitted its revenues have declined as a result of the COVID-19 pandemic. *See Status Report of the Government Parties Regarding the COVID-19 Pandemic and the 9019 Motion* (the “COVID-19 Status Report”) [Dkt. No. 1992], ¶6 (stating that PREPA’s revenue is only 70% of pre-pandemic forecasts through May 8). While the Government parties quibble with the phrase “administrative insolvency,” the fact remains that in order to confirm a plan of adjustment PREPA will be required to pay all administrative expenses in full. 48 U.S.C. §2174(b)(4). The allowance of further administrative expenses may jeopardize that requirement and information regarding analysis of that issue is relevant to the Court’s determination of the Motion.

30. With respect to the Discovery Requests regarding the status of FEMA’s review of WEH’s invoices, they are relevant because to the extent such amounts are paid by FEMA, the amount of PREPA’s outstanding administrative claims is reduced dollar-for-dollar. Such payments would be beneficial to the estate and other creditors, including other administrative creditors, by substantially reducing the amount of administrative claims to be paid upon plan confirmation. This information will assist the Court and the parties in determining whether it is in the best interests of the estate to grant administrative priority to LUMA Energy. Therefore, WEH believes the Discovery Requests are reasonable and within the scope of the Motion.

**D. Fuel Line Lenders’ Statement**

31. The Fuel Line Lenders have not sought any document discovery beyond documents

produced to other parties in connection with the Administrative Expense Motion. After the recent meet-and-confer, Fuel Line Lenders understand from the Government Parties that they will receive documents produced to any other parties, including the UCC, UTIER, and Whitefish.

32. The Fuel Line Lenders reserve all rights with respect to the legal standard to be applied to the Administrative Expense Motion, including whether administrative expenses under section 503(b)(1)(A) “for the actual and necessary costs of preserving the estate” may be awarded in a case under PROMESA. The Fuel Line Lenders understand that other parties have argued that “benefit to the estate” is the applicable standard on this motion for the grant of an administrative expense, and the Fuel Line Lenders do not object to this Court resolving discovery disputes among those parties accordingly, but request that any such application of that standard be without prejudice to the Fuel Line Lenders being heard on the merits of whether section 503(b)(1)(A) and the “benefit to the estate” test is applicable here.

**IV. Joint Proposal for Process to Reach Agreement on Discovery in Light of the Proposed Amended Order**

33. The Parties are engaged in productive dialogue regarding the Anticipated Objectors’ Discovery Requests. Accordingly, the Parties propose they submit a further joint status report describing remaining issues in dispute on or before August 4, 2020.

*[Remainder of page intentionally left blank]*

Dated: July 29, 2020  
San Juan, Puerto Rico

Respectfully submitted,

**PROSKAUER ROSE LLP**

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# **EXHIBIT 1**

## **UTIER Discovery Requests**

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,  
as representative of  
THE COMMONWEALTH OF PUERTO RICO, et al.,  
  
Debtors<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS  
(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,  
as representative of  
PUERTO RICO ELECTRIC POWER AUTHORITY  
(PREPA)  
  
Debtor

PROMESA  
Title III

No. 17 BK 4780-LTS

**FIRST SET OF INTERROGATORIES TO DEBTOR PUERTO RICO ELECTRIC  
POWER AUTHORITY AND FINANCIAL OVERSIGHT AND MANAGEMENT BOARD  
FOR PUERTO RICO**

**BUFETE EMMANUELLI C.S.P.**

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Dated: July 23, 2020

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284- LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority "HTA") (Bankruptcy Case No. 17 BK 3567- LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566- LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780- LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

PLEASE TAKE NOTICE THAT pursuant to Rule 7033 of the Federal Rules of Bankruptcy Procedure, incorporating by reference Rule 33 of the Federal Rules of Civil Procedure, made applicable to contested matters through Rule 9014 of the Federal Rules of Bankruptcy Procedure, made applicable to this contested matter under Section 310 of PROMESA (48 U.S.C. § 2170), Debtors Puerto Rico Electric Power Authority (“PREPA”) and the Commonwealth of Puerto Rico are required within thirty (30) days of the service hereof, to answer in writing, separately and under oath, the following interrogatories propounded by Creditors Unión de Trabajadores de la Industria Eléctrica y Riego Inc. (“UTIER”) and Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica (“SREAEE”) regarding the *Motion for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services Under Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement with Luma Energy*, Dkt. 2053-1, *In Re: The Financial Oversight and Management Board for Puerto Rico*, 17 BK 3283-LTS.

### **DEFINITIONS**

1. The terms “Document,” “Documents,” “document,” and “documents” include, but are not limited to: all written, electronically stored, printed, typed, photostatic, photographed, recorded, or otherwise reproduced communications or records of every kind and description, whether comprised of letters, words, numbers, pictures, sounds, or symbols, or any combination thereof, whether prepared by hand or by mechanical, electronic, magnetic, photographic, or other means, and including audio or video recordings of communications, occurrences or events. This definition includes, but is not limited to, any and all of the following: correspondence, minutes, notes, messages, records, memoranda, telephone memoranda, diaries, contracts, agreements, orders, invoices, acknowledgements, receipts,

bills, statements, checks, check registers, financial statements, journals, ledgers, appraisals, reports, forecasts, compilations, schedules, studies, summaries, analyses, pamphlets, brochures, advertisements, newspaper clippings, tables, tabulations, financial packaging, plans, photographs, pictures, film, microfilm, microfiche, computer-stored or computer-readable data, computer programs, computer printouts, emails, telegrams, telexes, telefacsimiles, tapes, transcripts, recordings, and all other sources or formats from which data, information or communications can be obtained. The terms “Document” and “Documents” shall include all preliminary versions, drafts or revisions of the foregoing, and all copies of a Document shall be produced to the extent that the copies differ from the Document produced due to notations, additions, insertions, comments, enclosures, attachments or markings of any kind. Also, the term includes any original, whether or not it has been sent or received, and any existing copy of that original, whether or not identical to the original, any final version, whether or not it was sent or received, and any draft prepared in advance of the final version for any purpose.

2. The terms “all”, “any”, and “each” shall be constructed as all, any, and/or each as necessary to bring within the scope of the discovery request all responses that otherwise could be construed to be outside of its scope.
3. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
4. “Person”, “Persons” shall mean any natural person, legal person, individual(s), any business, proprietorship, firm, partnership, corporation, association, organization, or any type of entity that is or is not legally recognized.

5. “Rule 7033” means Fed. R. Civ. P. 33, made applicable to this contested matter by Fed. R. Bankr. P. 9014 and 7033.
6. “You,” “Your,” “you,” or “your” means to the party to whom this First Set of Interrogatories is addressed.
7. “Communication” or “Communications” refer to: any oral, written, or electronic transmission of information, including, without limitation, meetings, discussions, any telephone or personal conversation, e-mail messages, text messages, memoranda, letters, analyst reports, telecopies, telefaxes, telexes, seminars, notes, video tapes, photographs, microfilm, or other media of any kind.
8. “Identify” means to identify the information requested in a complete and specific fashion so as to avoid any ambiguity or vagueness and to ensure that your answer is in no way incomplete or misleading.
9. “Indicate”, as used in these interrogatories regarding to any document or documents, requires that you specify the type of document and its date, name, address and phone number of the person(s) who prepared it, and the name, address and phone number of the persons(s) if any, to whom the original document or copy was sent. It also requires that you confirm if you have the original of the document or a copy. If you do not have the document or any copy, provide the name and address of the person(s) that have the original or any copy thereof.
10. “Including” means including, but not limited to, the referenced subject.
11. The singular form of a noun or pronoun shall be considered to include, within its meaning, the plural form of the noun or pronoun, and vice versa; and the past tense shall include the present tense where the clear meaning is not distorted.

12. The term "or" shall mean "and" and vice-versa, as necessary to bring within the scope of the following interrogatories all information or documents that would be excluded absent this definition.
13. "PREPA" means and refers to the Puerto Rico Electric Power Authority and its governing board, and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies, instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on PREPA's behalf.
14. "Commonwealth" means the Commonwealth of Puerto Rico.
15. "UTIER" means the Unión de Trabajadores de la Industria Eléctrica y Riego, Inc., as well as its affiliates, predecessors, successors, partners, parent company, subsidiaries, principals, officers, directors, attorneys, agents, employees, representatives, and other Persons acting on its behalf.
16. "SREAEE" means Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica as well as its affiliates, predecessors, successors, partners, , subsidiaries, principals, officers, directors, attorneys, agents, employees, representatives, and other Persons acting on its behalf.
17. "P3" means the Puerto Rico Public-Private Partnership Authority and its governing board, and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies, instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on P3's behalf, including the Partnership Committee for the Luma Contract.
18. "Luma Energy" means Luma Energy, LLC, ManageCo and ServCo, and its governing board, and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies,

instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on its behalf.

19. “Luma Contract” means the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement, dated June 22, 2020, entered into by and among PREPA, P3 and Luma Energy, including its annexes, exhibits and supplemental agreement.
20. “FOMB” means the Financial Oversight and Management Board, its members, its executive director and any other employees that act on its behalf.
21. “2020 Fiscal Plan” means the 2020 Fiscal Plan for the Puerto Rico Electric Power Authority as certified by the Financial Oversight and Management Board on June 29, 2020.
22. “Title III” means PREPA’s restructuring case under PROMESA, Case No. 17-BK-4780-LTS.
23. “Front-End Transition” has the meaning contained in the Luma Contract.
24. “Interim Period” has the meaning contained in the Luma Contract.

### **INSTRUCTIONS**

1. Pursuant to Rule 7033, you are to furnish all information available to you and to your agents, employees and attorneys in answering the following First Set of Interrogatories.
2. You are to designate which of such information is not within your first-hand knowledge, and as to that information you are to state the name and address of every person from whom it was received, or, if the source of the information is documentary, a full description of the document including the location thereof.
3. All Interrogatories should be answered separately and identified so that the answer clearly corresponds to the Interrogatory to which the answer is being offered.
4. If you object to any interrogatory, state the reasons for objection and answer to the extent the interrogatory is not objectionable. If you are unable to answer an interrogatory fully, submit as

much information as is available, explain why your answer is incomplete, and identify or describe all other sources of more complete or accurate information.

5. Pursuant to Rule 7033, you are not to leave any part of an Interrogatory unanswered. If the response to an Interrogatory is “none” or “unknown,” the word “none” or “unknown” must be written in the response.
6. If you raise a claim of privilege and/or an objection to any Interrogatory, or any subpart thereof, and an answer is not provided on the basis of your assertion of that objection, you must identify the nature of the privilege or reasons for nondisclosure asserted and provide the following information:

A. For documents:

- (1) the reasons for withholding the document;
- (2) a statement of the basis for the claim of privilege, work product protection or other ground for non-disclosure; and
- (3) a brief description of the document, including:
  - (a) the date of preparation of the document and any date identified on the document;
  - (b) its number of pages, attachments and appendices;
  - (c) the name or names of its authors or preparers and an identification by employment and title of each such person;
  - (d) the name of each person who was sent or shown, or blind or carbon copied on the document, or who has had access to or custody of the document, together with an identification of each such person;
  - (e) the present custodian; and

(f) its subject matter and, in the case of any document referring or relating to a meeting or conversation, an identification of such meeting or conversation.

B. For oral communications:

(1) the name of the person making the communication and the name of all persons present while the communication was made, and, where not apparent, the relationship of the persons presents to the person making the communication;

(2) the date and place of the communication; and

(3) the general subject matter of the communication.

7. If you answer any Interrogatory by reference to records from which the answer may be derived or ascertained, you must:

A. specify the document to be produced in enough detail to permit the proposer of these Interrogatories to locate and identify the records and to ascertain the answer to the Interrogatory as readily as you would be able to ascertain the answer to the Interrogatory;

B. make available any computerized information or summaries thereof that you have, or can adduce by a relatively simple procedure;

C. provide compilations, abstracts or summaries in your custody or readily obtainable by you; and

D. make available such documents for inspections and copying within ten days after service of answers to this First Set of Interrogatories.

8. Each request for a document or documents shall be deemed to call to produce any identical copy or copies of the original document or documents. Each request should be considered as including all nonidentical copies, whether such copies differ from the originals by reason of any notations made on such copies or otherwise and, to the extent applicable, preliminary drafts

of documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content, or by reason of handwritten notes or comments having been added to one copy of a document but not the original or other copies thereof).

9. If any document requested herein was at one time in existence, but has been lost, discarded or destroyed, identify in writing each such document and provide the following information:

A. the date it was lost, discarded or destroyed;

B. the circumstances and manner in which it was lost, discarded or destroyed;

C. the reason for disposing of the document (if discarded or destroyed);

D. the identity of all persons authorizing or having knowledge of the circumstances surrounding the disposal of the document;

E. the identity of the person(s) who lost, discarded or destroyed the document; and

F. the identity of all persons having knowledge of the contents thereof.

10. Where an Interrogatory does not specifically request a particular fact or information, but where such fact or information is necessary to make the answer to the Interrogatory comprehensible, complete or not misleading, the Interrogatory is deemed to request such fact or information.

11. The Interrogatories set forth below are to be answered to the extent of all information that is or may be available to you or to any other person or entity who has acted or is now acting on your behalf.

12. When these interrogatories require you to identify a person, you will be obliged to inform the full name of the person, the physical and postal address (street, number, urbanization, town, municipality, state, nation and zip code) and the telephone number. If you do not know the current address of the person whose identification is requested, indicate the last known address

(residential and business). Also, identify the occupation or profession of the person, the position he/she currently occupy, employer and employment or business address.

13. When an interrogatory requires you to indicate or identify a document or documents, you will be obliged to describe it and identify its author and the recipient of the document. In addition, you must indicate the date on which the document was prepared and the current location of the document. In addition, you must provide a copy of the document.
14. Pursuant to Rule 7033, these Interrogatories are deemed continuing in nature and require supplemental responses in the event you obtain information that renders the answers supplied in any way incomplete or inaccurate.
15. If, after having answered this list of interrogatories you obtain information or documentation that is responsive to it and that has not been supplied in the original answer, you must contact the party that notified the interrogatory to supplement any additional information.

### **INTERROGATORIES**

1. Explain whether, how and by whom the impact of the Luma Contract on PREPA's Title III obligations, including its ability to pay its unsecured creditors, bondholders and pension obligations, was considered before officially executing the Luma Contract.
  - a. If it was considered, explain the impact of the Luma Contract on PREPA's Title III obligations, including its ability to pay unsecured creditors, bondholders and pension obligations.
  - b. If it was not considered, explain why.
2. Explain whether, how and by whom the impact of the Front-End Transition payments specifically on PREPA's Title III obligations, including its ability to pay its unsecured creditors, bondholders and pension obligations, was considered before officially requesting the administrative expense priority.
  - a. If it was considered, explain the impact of the Front-End Transition payments on PREPA's Title III unsecured creditors, bondholders and pension obligations.
  - b. If it was not considered, explain why.
3. Explain whether, how and by whom the impact of the Front-End Transition payments specifically on PREPA's ability to provide adequate funding to SREAEE was considered before officially requesting the administrative expense priority.
  - a. If it was considered, explain the impact of the Front-End Transition payments on PREPA's ability to provide adequate funding to SREAEE.
  - b. If it was not considered, explain why.
4. Explain whether, how and by whom the impact of the Front-End Transition payments specifically on SREAEE's ability to pay its pension obligations.
  - a. If it was considered, explain the impact on SREAEE's ability to pay its pension obligations.
  - b. If it was not considered, explain why.

5. Explain whether, how and by whom the impact of the Covid-19 pandemic on energy demand and the electric system was considered before officially executing the Luma Contract.
  - a. If it was considered, explain the impact of the Covid-19 pandemic on energy demand and the electric system was considered before officially executing the Luma Contract.
  - b. If it was not considered, explain why.
6. Explain whether, how and by whom the impact of the Luma Contract on the RSA was considered before officially executing the Luma Contract and seeking administrative expense priority.
  - a. If it was considered, explain the impact of the Front-End Transition payments on the RSA.
  - b. If it was not considered, explain why.
7. The Luma Contract “will lead to a wholesale change of this sector by dismantling and reorganizing the current vertically integrated corporation . . . .” [Docket No. 2053-1 at 16 ¶ 29]. Explain how that “dismantling” will alter the composition of PREPA and its position as a debtor in terms of rights, assets and obligations to pay its Title III creditors.
8. Explain whether there are any direct financial benefits that PREPA will receive from the Front-End Transition.
  - a. If there are, explain how those benefits will be passed on to PREPA’s ratepayers and creditors.
  - b. If there are not, explain what direct non-monetary benefits the Front-End Transition has for PREPA’s ratepayers and creditors.
9. Explain how the budgetary deficit (recognized by FOMB in the 2020 Fiscal Plan and in FY2021 Budget as caused by the Luma Contract) affects PREPA’s Title III obligations, including its ability to pay its unsecured creditors, bondholders and pension obligations.
10. Explain the consequences for PREPA if Luma Energy exceeds the projected budget or deadlines for the Front-End Transition.

11. Explain whether PREPA will be requesting an administrative expense priority for debts accrued in the “Interim Period” as defined in Article 3 of the Supplemental Agreement of the Luma Contract, including but not limited to the \$115,000,000 service fee contemplated in Section 3.3 of the Supplemental Agreement of the Luma Contract.

**Dated: July 23, 2020**  
**Ponce, Puerto Rico**

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on this same date, I caused copies of the foregoing document to be served on counsel of record for PREPA and FOMB.

*/s/Rolando Emmanuelli Jiménez*

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,  
as representative of  
THE COMMONWEALTH OF PUERTO RICO, et al.,  
  
Debtors<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS  
(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,  
as representative of  
PUERTO RICO ELECTRIC POWER AUTHORITY  
(PREPA)  
  
Debtor

PROMESA  
Title III

No. 17 BK 4780-LTS

**FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEBTOR PUERTO  
RICO ELECTRIC POWER AUTHORITY AND FOMB**

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Dated: July 23, 2020

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284- LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority "HTA") (Bankruptcy Case No. 17 BK 3567- LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566- LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780- LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

PLEASE TAKE NOTICE THAT pursuant to Rules 7026 and 7034 of the Federal Rules of Bankruptcy Procedure, incorporating by reference Rules 26 and 34 of the Federal Rules of Civil Procedure, made applicable to contested matters through Rule 9014 of the Federal Rules of Bankruptcy Procedure, made applicable to this contested matter under Section 310 of PROMESA (48 U.S.C. § 2170), Unión de Trabajadores de la Industria Eléctrica y Riego Inc. (“UTIER”) and Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica (“SREAEE”), hereby serves this First Request for Production of Documents to the Puerto Rico Electric Power Authority (“PREPA”) regarding the *Motion for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services Under Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement with Luma Energy*, Dkt. 2053-1, *In Re: The Financial Oversight and Management Board for Puerto Rico*, 17 BK 3283-LTS.

These Requests are to be responded to fully and in accordance with the definitions and instructions set out below. These requests are without waiver of UTIER and SREAEE’s rights to serve further discovery requests upon PREPA or any third party based on the information that may be disclosed in response to these requests or other developments in this litigation, and UTIER expressly reserves all such rights.

### **DEFINITIONS**

1. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), made applicable to this proceeding by Bankruptcy Rule 7034 and Section 310 of PROMESA (48 U.S.C. § 2170), including, but not limited to, all written, electronically stored, printed, typed, photostatic, photographed, recorded, or otherwise reproduced communications or records of every kind and description, whether comprised of letters, words, numbers, pictures, sounds, or symbols, or any

combination thereof, whether prepared by hand or by mechanical, electronic, magnetic, photographic, or other means, and including audio or video recordings of communications, occurrences or events. This definition includes, but is not limited to, any and all of the following: correspondence, minutes, notes, messages, records, memoranda, telephone memoranda, diaries, contracts, agreements, orders, invoices, acknowledgements, receipts, bills, statements, checks, check registers, financial statements, journals, ledgers, appraisals, reports, forecasts, compilations, schedules, studies, summaries, analyses, pamphlets, brochures, advertisements, newspaper clippings, tables, tabulations, financial packaging, plans, photographs, pictures, film, microfilm, microfiche, computer-stored or computer-readable data, computer programs, computer printouts, emails, telegrams, telexes, telefacsimiles, tapes, transcripts, recordings, and all other sources or formats from which data, information or communications can be obtained. The terms “Document” and “Documents” shall include all preliminary versions, drafts or revisions of the foregoing, and all copies of a Document shall be produced to the extent that the copies differ from the Document produced due to notations, additions, insertions, comments, enclosures, attachments or markings of any kind. Also, the term includes any original, whether or not it has been sent or received, and any existing copy of that original, whether or not identical to the original, any final version, whether or not it was sent or received, and any draft prepared in advance of the final version for any purpose. The term “Document” shall also include Electronically Stored Information (“ESI”) within the meaning of the Federal Rules of Civil Procedure.

2. “Including” means including, but not limited to, the referenced subject.
3. “Relating to,” “relate to,” “related to,” “referred to,” “refer to,” “reference,” and “referring to” mean analyzing, addressing, concerning, consisting of, regarding, referring to, refuting,

discussing, describing, evidencing, constituting, comprising, containing, setting forth, showing, disclosing, explaining, summarizing, memorializing, reflecting, commenting on, or otherwise having any logical or factual connection to the subject matter of the Document.

4. The terms “each” and “any” shall be deemed to include and encompass the words “every” and “all.”
5. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
6. “Person” or “Persons” means any natural or artificial person, business entity or other legal entity, including, but not limited to, individuals, sole proprietorships, associations, companies, firms, partnerships, joint ventures, corporations, employees or former employees, or any other business, governmental, or labor entity, and any divisions, departments, or other units thereof.
7. “Communication” or “Communications” includes every manner of transmitting or receiving facts, information, opinions, or thoughts from one person to another person, whether orally, by documents, writing, e-mail, text message, web messaging, or any other form of instant messaging, or a copy thereof, and to words transmitted by telephone, radio, or any method of voice recording.
8. “Identify” means to identify the information requested in a complete and specific fashion so as to avoid any ambiguity or vagueness and to ensure that your answer is in no way incomplete or misleading.
9. “Indicate”, as used in these interrogatories regarding to any document or documents, requires that you specify the type of document and its date, name, address and phone number of the person(s) who prepared it, and the name, address and phone number of the persons(s) if any,

to whom the original document or copy was sent. It also requires that you confirm if you have the original of the document or a copy. If you do not have the document or any copy, provide the name and address of the person(s) that have the original or any copy thereof.

10. “Including” means including, but not limited to, the referenced subject.
11. “Concerning” and/or “relating to” means, without limitation: describing, discussing, constituting, containing, considering, embodying, evaluating, mentioning, memorializing, supporting, collaborating, demonstrating, proving, evidencing, showing, refuting, disputing, rebutting, regarding, controverting, contradicting, made in connection with or by reason of, or derived or arising therefrom.
12. “Rule 7026” means Federal Rule of Civil Procedure 26(e), made applicable to this matter by Federal Rule of Bankruptcy Procedure 7026 and Section 310 of PROMESA (48 U.S.C. § 2170).
13. The singular form of a noun or pronoun shall be considered to include, within its meaning, the plural form of the noun or pronoun, and vice versa; and the past tense shall include the present tense where the clear meaning is not distorted.
14. “PREPA” means and refers to the Puerto Rico Electric Power Authority and its governing board, and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies, instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on PREPA’s behalf.
15. “Commonwealth” means the Commonwealth of Puerto Rico.
16. “UTIER” means the Unión de Trabajadores de la Industria Eléctrica y Riego, Inc., as well as its affiliates, predecessors, successors, partners, parent company, subsidiaries, principals,

officers, directors, attorneys, agents, employees, representatives, and other Persons acting on its behalf.

17. “SREAEE” means Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica as well as its affiliates, predecessors, successors, partners, , subsidiaries, principals, officers, directors, attorneys, agents, employees, representatives, and other Persons acting on its behalf.
18. “P3” means the Puerto Rico Public-Private Partnership Authority and its governing board, and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies, instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on P3’s behalf, including the Partnership Committee for the Luma Contract.
19. “Luma Energy” means Luma Energy, LLC, ManageCo and ServCo, and its governing board, and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies, instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on its behalf.
20. “Luma Contract” means the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement, dated June 22, 2020, entered into by and among PREPA, P3 and Luma Energy, including its annexes, exhibits and supplemental agreement.
21. “FOMB” means the Financial Oversight and Management Board, its members, its executive director and any other employees that act on its behalf.
22. “2020 Fiscal Plan” means the 2020 Fiscal Plan for the Puerto Rico Electric Power Authority as certified by the Financial Oversight and Management Board on June 29, 2020.
23. “Title III” means PREPA’s restructuring case under PROMESA, Case No. 17-BK-4780-LTS.

24. “Front-End Transition” has the meaning contained in the Luma Contract.

25. “Interim Period” has the meaning contained in the Luma Contract.

### **INSTRUCTIONS**

1. All terms defined above shall have the meanings set forth therein.
2. Each Request must be responded to separately and specifically.
3. Each Request operates and should be construed independently and, unless otherwise indicated, no Request limits the scope of any other Request.
4. Each Request shall be answered fully unless it is in good faith objected to, in which in that case, the reason for Your objection shall be stated in detail, as set forth below.
5. If you raise a claim of privilege and/or an objection to any Interrogatory, or any subpart thereof, and an answer is not provided on the basis of your assertion of that objection, you must identify the nature of the privilege or reasons for nondisclosure asserted and provide the following information:

A. For documents:

- (1) the reasons for withholding the document;
- (2) a statement of the basis for the claim of privilege, work product protection or other ground for non-disclosure; and
- (3) a brief description of the document, including:
  - (a) the date of preparation of the document and any date identified on the document;
  - (b) its number of pages, attachments and appendices;
  - (c) the name or names of its authors or preparers and an identification by employment and title of each such person;

(d) the name of each person who was sent or shown, or blind or carbon copied on the document, or who has had access to or custody of the document, together with an identification of each such person;

(e) the present custodian; and

(f) its subject matter and, in the case of any document referring or relating to a meeting or conversation, an identification of such meeting or conversation.

B. For oral communications:

(1) the name of the person making the communication and the name of all persons present while the communication was made, and, where not apparent, the relationship of the persons presents to the person making the communication;

(2) the date and place of the communication; and

(3) the general subject matter of the communication.

6. If an objection pertains only to a portion of a request, or a word, phrase or clause contained within it, You are required to state Your objection to that portion only and to respond to the remainder of the Requests.

7. Each Request contained herein extends to all Documents: (a) in Your possession, custody, or control; or (b) in the possession, custody, or control of anyone acting on Your behalf, including Your counsel or other representatives or advisors. A Document is to be deemed in Your possession, custody or control if: (a) it is in Your physical custody; or (b) it is in the physical custody of any other Person and You (i) own such Document in whole or in part, (ii) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such Document on any terms, (iii) have an understanding, express or implied, that You may use, inspect, examine, or

copy such Document on any terms, or (iv) have, as a practical matter, been able to use, inspect, examine or copy such Document when You sought to do so.

8. If You are requested to produce a Document that is no longer in Your possession, custody, or control, then Your response must state: (a) whether such Document (i) is missing or lost, (ii) has been destroyed, (iii) has been transferred, voluntarily or involuntarily, to others, or (iv) was otherwise disposed of; (b) the reason for, and the facts and circumstances surrounding, such disposition; (c) the Persons who authorized such disposition; (d) the date or approximate date of such disposition; (e) when the Document was most recently in Your possession, custody or control; and (f) the identity of the Person, if any, presently in possession, custody, or control of such Document.
9. Each Document shall be produced in its entirety. You shall include any exhibits or attachments thereto. Except pursuant to a claim of privilege or work product, no Document should be altered, defaced, masked, or redacted before production.
10. If You cannot provide a requested Document (after exercising due diligence to secure it) that was formerly in Your possession, custody, or control, then: (a) Your response must (i) describe in detail the nature of the document and its contents, identify the person(s) who prepared or authored the Document (and, if applicable, the Person(s) to whom the Document was sent), and the date of which the document was prepared or transmitted, (ii) state that You cannot produce the requested Document, (iii) specify the reasons for Your inability to produce the requested Document (e.g., lost, destroyed or otherwise disposed of), (iv) declare that You have exercised due diligence to secure the requested Document, and (v) state all information or knowledge that You have concerning the requested Documents; and (b) You must produce all other requested Documents.

11. If You claim that a requested Document is privileged or attorney work-product, then Your response must: (a) state (i) a description of the Document adequate to support Your contention that the Document is privileged, (ii) the title of the Document, (iii) the date of the Document, (iv) the author of the Document, (v) the addressee of the Document, (vi) the identity of each Person who received or saw the original or any draft, copy, or reproduction of the Document, (vii) whether the Document itself, or any information contained or referred to in the Document is in the possession, custody, or control of any other Persons, and if so, the identity of such Persons, as well as a statement addressing how the information came into their possession, (viii) the claim of privilege under which the Document is withheld, and (ix) all of the circumstances upon which You will rely to support such claim of privilege; and (b) produce a privilege log containing all of the information requested in Part (a) of this Instruction for each Document withheld on the basis of a claim of privilege. If a portion of an otherwise responsive Document contains information subject to a claim of privilege, only that portion of the Document subject to the claim of privilege shall be deleted or redacted from the Document following the instructions above, and the rest shall be produced.
12. Each request for a document or documents shall be deemed to call to produce any identical copy or copies of the original document or documents. Each request should be considered as including all nonidentical copies, whether such copies differ from the originals by reason of any notations made on such copies or otherwise and, to the extent applicable, preliminary drafts of documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content, or by reason of handwritten notes or comments having been added to one copy of a document but not the original or other copies thereof).

13. Pursuant Rule 7026, these Documents Requests are deemed continuing in nature. You are hereby instructed to (a) supplement or correct any responses later learned to be incomplete or incorrect immediately upon learning that a prior response was incomplete or incorrect; and (b) produce any additional Documents that are called for under the Requests.
14. The electronically stored information must be sent in an organized and duly identified matter.

**DOCUMENTS TO BE PRODUCED**

1. Any and all non-confidential communications by and between P3, PREPA, Luma Energy and the FOMB regarding the impact of the Luma Contract on PREPA's Title III unsecured creditors, bondholders and pension obligations.
2. Any and all non-confidential documents that contain the analysis of the impact of the Luma Contract on PREPA's Title III unsecured creditors, bondholders and pension obligations.
3. Any and all non-confidential documents that contain the analysis of the impact of the Front-End Transition payments on PREPA's ability to provide adequate funding to SREAEE.
4. Any and all non-confidential documents that contain the analysis of the impact of the Luma Contract on SREAEE's ability to pay its pension obligations.
5. Any and all non-confidential documents and communications by and between P3, PREPA, Luma Energy and the FOMB concerning the \$136,351,930 projected budget of the Front-End Transition. [Docket No. 2053-1]
6. Any and all non-confidential documents and communications related to the underlying data used to estimate the initial deposit of \$59,374,000. [Docket No. 2053-1]
7. Any and all non-confidential documents that contain the analysis of the impact of the Luma Contract on PREPA's budget.
8. Any and all non-confidential documents related to Luma Energy's managerial expenses under the Luma Contract during the Front-End Transition.
9. Any and all non-confidential documents related to the costs that Luma Energy has already incurred in the Front-End Transition, including but not limited to invoices and time sheets.

10. Any and all non-confidential documents related to PREPA's financial projections as a result of the Luma Contract.

**Dated: July 23, 2020**  
**Ponce, Puerto Rico**

BUFETE EMMANUELLI C.S.P.

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*/s/ Rolando Emmanuelli Jiménez*  
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### **CERTIFICATE OF SERVICE**

I hereby certify that, on this same date, I caused copies of the foregoing document to be served on counsel of record for PREPA and FOMB.

*/s/Rolando Emmanuelli Jiménez*

# **EXHIBIT 2**

## **UCC Discovery Requests**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

----- X  
:  
In re: :  
:  
THE FINANCIAL OVERSIGHT AND : PROMESA  
MANAGEMENT BOARD FOR PUERTO RICO, : Title III  
:  
as representative of : Case No. 17-BK-3283 (LTS)  
:  
THE COMMONWEALTH OF PUERTO RICO *et al.*, : (Jointly Administered)  
:  
Debtors.<sup>1</sup> :  
----- X

----- X  
:  
In re: :  
:  
THE FINANCIAL OVERSIGHT AND : PROMESA  
MANAGEMENT BOARD FOR PUERTO RICO, : Title III  
:  
as representative of : Case No. 17-BK-4780 (LTS)  
:  
PUERTO RICO ELECTRIC POWER AUTHORITY : **This filing relates only to**  
: **Case No. 17-BK-4780 (LTS)**  
:  
Debtor. :  
----- X

**OFFICIAL COMMITTEE OF UNSECURED CREDITORS' DOCUMENT REQUESTS  
TO FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO IN  
CONNECTION WITH LUMA ADMINISTRATIVE EXPENSE MOTION**

<sup>1</sup> The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Pursuant to Federal Rules of Civil Procedure 26 and 34 (applicable here under Rule 9014 of the Federal Rules of Bankruptcy Procedure), the Official Committee of Unsecured Creditors of all Title III Debtors (except COFINA and PBA) (the “Committee”), by its counsel, hereby propounds to the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) these document requests (the “Requests”). These Requests are to be responded to fully and in accordance with the definitions and instructions set out below, and the Documents and Communications identified herein are to be produced to the offices of Paul Hastings LLP, Attn: Zachary Zwillinger, 200 Park Avenue, New York, NY 10166, zacharyzwillinger@paulhastings.com, on or before July 31, 2020 or as otherwise ordered by the Court. These requests are without waiver of the Committee’s rights to serve further discovery requests upon the Oversight Board or any third party based on the information that may be disclosed in response to these requests or other developments in this litigation, and the Committee expressly reserves all such rights.

### **INSTRUCTIONS**

1. Each Request must be responded to separately and specifically. Each Request shall be answered fully unless it is in good faith objected to, in which event the reason for Your objection shall be stated in detail, as set forth below. If an objection pertains only to a portion of a request, or a word, phrase or clause contained within it, You are required to state Your objection to that portion only and to respond to the remainder of the Requests.

2. Electronically stored information must be produced in accordance with the following instructions:

- a) Images. Black and white images must be 300 DPI Group IV single-page TIFF files. Color images must be produced in JPEG format. File names cannot contain embedded spaces or special characters (including the comma). Folder names cannot contain embedded spaces or special characters (including the

comma). All TIFF image files must have a unique file name, i.e. Bates number. Images must be endorsed with sequential Bates numbers in the lower right corner of each image. The number of TIFF files per folder should not exceed 1000 files. Excel spreadsheets should have a placeholder image named by the Bates number of the file.

b) Image Load File.

- a. Concordance® Data File. The data file (.DAT) contains all of the fielded information that will be loaded into the Concordance® database. The first line of the .DAT file must be a header row identifying the field names. The .DAT file must use the following Concordance® default delimiters: Comma ASCII character (020) Quote ¨ ASCII character (254). Date fields should be provided in the format: mm/dd/yyyy. Date and time fields must be two separate fields. If documents includes imaged emails and attachments, the attachment fields must be included to preserve the parent/child relationship between an email and its attachments. An OCRPATH field must be included to provide the file path and name of the extracted text file on the produced storage media. The text file must be named after the FIRSTBATES. Do not include the text in the .DAT file. For Documents with native files, a LINK field must be included to provide the file path and name of the native file. The native file must be named after the FIRSTBATES.
- b. Concordance Image® OR Opticon Cross-Reference File. The image cross-reference file (.LOG or .OPT) links the images to the database records. It should be a comma-delimited file consisting of seven fields per line with a line in the cross-reference file for every image in the database with the following format: ImageID,VolumeLabel,ImageFilePath,DocumentBreak,FolderBreak,BoxBreak,PageCoun.
- c) Document Text. Text must be produced as separate text files, not as fields within the .DAT file. The full path to the text file (OCRPATH) should be included in the .DAT file. It is recommended document level ANSI text files, named per the FIRSTBATES/Image Key. Extracted text files must be in a separate folder, and the number of text files per folder should not exceed 1,000 files. There should be no special characters (including commas in the folder names). Text files must be provided on a document level.
- d) Native Production for Certain File Types. File types that reasonably require viewing in their native format for a full understanding of their content and meaning must be produced in native format. These include, but are not limited to, spreadsheets, spreadsheet-like files (Microsoft Excel, comma separated values, tab separated values, etc.), Microsoft PowerPoint or other special presentation files, database files, and audio/visual files. Provide an image of a Bates numbered slip sheet indicating the presence of a native file, and include

the path to the native as a field in the .dat file. Name the produced native file with the Bates number corresponding to the slip sheet for the file. Group native files within incrementally named “NATIVE” directories, separate from images directories.

- e) De-duplication. Produce a single copy of each electronic document for which exact duplicates exist. For email messages, consolidate duplicates based on MD5 hash generated from the BCC, Body, CC, From, IntMsgID, To, and Attach properties. For email attachments and standalone electronic files, consolidate duplicates based on MD5 hash of the entire file.
- f) Metadata. Produce extracted metadata for each document in the form of a Concordance compliant load file (.dat). The first line of the .DAT file must be a header row identifying the field names. The .DAT file must use the following Concordance default delimiters:  
Comma , ASCII character (020)  
Quote " ASCII character (254)  
Date fields should be provided in the format: mm/dd/yyyy. Date and time fields must be two separate fields. Required metadata listed below:

Field Name	Sample Data	Description
FIRSTBATES	EDC0000001	First Bates number of native file document/email
LASTBATES	EDC0000001	Last Bates number of native file document/email **The LASTBATES field should be populated for single page
ATTACHRANGE	EDC0000001 - EDC0000015	Bates number of the first page of the parent document to the Bates number of the last page of the last attachment “child” document
BEGATTACH	EDC0000001	First Bates number of attachmentrange
ENDATTACH	EDC0000015	Last Bates number of attachmentrange
CUSTODIAN	Smith, John	Email: Mailbox where the email resided Native: Name of the individual or department fromwhose files the document originated
FROM	John Smith	Email: Sender Native: Author(s) of document **semi-colon should be used to separate multiple entries
TO	Coffman, Janice; LeeW <a href="mailto:LeeW@MSN.com">[mailto:LeeW@MSN.com]</a>	Recipient(s) **semi-colon should be used to separate multiple entries
CC	Frank Thompson [mailto: <a href="mailto:frank_Thompson@cdt.com">frank_Thompson@cdt.com</a> ]	Carbon copy recipient(s) **semi-colon should be used to separate multiple entries
BCC	John Cain	Blind carbon copy recipient(s) **semi-colon should be used to separate multiple entries
SUBJECT	Board Meeting Minutes	Email: Subject line of the emailNative: Title of document (ifavailable)

FILE_NAME	BoardMeetingMinutes.docx	Native: Name of the original native file, including extension
DATE_SENT	10/12/2010	Email: Date the email was sent Native: (empty)
TIME_SENT/TIME_ZONE	07:05 PM GMT	Email: Time the email was sent/ Time zone in which the emails were standardized
TIME_ZONE	GMT	The time zone in which the emails were standardized during conversion.
LINK	D:\001\ EDC0000001.msg	Hyperlink to the email or native file document **The linked file must be named per the FIRSTBATES number
FILE_EXTEN	MSG	The file type extension representing the Email or
AUTHOR	John Smith	Email: (empty) Native: Author of the document
DATE_CREATED	10/10/2010	Email: (empty) Native: Date the document was created
TIME_CREATED	10:25 AM	Email: (empty) Native: Time the document was created **This data must be a separate field and cannot be combined with the DATE_CREATED field
DATE_MOD	10/12/2010	Email: (empty) Native: Date the document was last modified
TIME_MOD	07:00 PM	Email: (empty) Native: Time the document was last modified **This data must be a separate field and cannot be combined with the DATE_MOD field
DATE_ACCESSSD	10/12/2010	Email: (empty) Native: Date the document was last accessed
TIME_ACCESSSD	07:00 PM	Email: (empty) Native: Time the document was last accessed **This data must be a separate field and cannot be combined with the DATE_ACCESSSD field
FILE_SIZE	5,952	Size of native file document/email in KB

PGCOUNT	1	Number of pages in native file document/email
PATH	J:\Shared\SmithJ\October Agenda.doc	Email: (empty) Native: Path where native file document was stored including original file name.
INTFILEPATH	Personal Folders\Deleted Items\Board Meeting Minutes.msg	Email: original location of email including original file name. Native: (empty)
INTMSGID	<000805c2c71b\$75977050\$cb8306d1@MSN>	Email: Unique Message ID Native: (empty)
MD5HASH	d131dd02c5e6eec4693d9a0698aff95c2fcab58712467eab4004583eb8fb7f89	MD5 Hash value of the document.
OCRPATH	TEXT/001/EDC0000001.txt	Path to extracted text of the native file

3. Each Request operates and should be construed independently and, unless otherwise indicated, no Request limits the scope of any other Request.

4. All Documents are to be produced as kept in the usual course of business or are to be organized and labeled to correspond with the categories in these Requests.

5. Each Request contained herein extends to all Documents: (a) in Your possession, custody, or control; or (b) in the possession, custody, or control of anyone acting on Your behalf, including Your counsel or other representatives or advisors. A Document is to be deemed in Your possession, custody or control if: (a) it is in Your physical custody; or (b) it is in the physical custody of any other Person and You (i) own such Document in whole or in part, (ii) have a right, by contract, statute or otherwise, to use, inspect, examine or copy such Document on any terms, (iii) have an understanding, express or implied, that You may use, inspect, examine, or copy such

Document on any terms, or (iv) have, as a practical matter, been able to use, inspect, examine or copy such Document when You sought to do so. Each Document shall be produced in its entirety.

6. If You are requested to produce a Document that is no longer in Your possession, custody, or control, then Your response must state: (a) whether such Document (i) is missing or lost, (ii) has been destroyed, (iii) has been transferred, voluntarily or involuntarily, to others, or (iv) was otherwise disposed of; (b) the reason for, and the facts and circumstances surrounding, such disposition; (c) the Persons who authorized such disposition; (d) the date or approximate date of such disposition; (e) when the Document was most recently in Your possession, custody or control; and (f) the identity of the Person, if any, presently in possession, custody, or control of such Document.

7. If You are requested to produce a Document that has been destroyed, then Your response must state, in addition to the information required by the preceding Instruction: (a) the reason for the Document's destruction; (b) the identity of the Person who destroyed the Document; and (c) the identity of the Person who directed that the Document be destroyed.

8. If You claim that a requested Document is privileged or attorney work-product, then Your response must: (a) state (i) a description of the Document adequate to support Your contention that the Document is privileged, (ii) the title of the Document, (iii) the date of the Document, (iv) the author of the Document, (v) the addressee of the Document, (vi) the identity of each Person who received or saw the original or any draft, copy, or reproduction of the Document, (vii) whether the Document itself, or any information contained or referred to in the Document is in the possession, custody, or control of any other Persons, and if so, the identity of such Persons, as well as a statement addressing how the information came into their possession, (viii) the claim of privilege under which the Document is withheld, and (ix) all of the circumstances

upon which You will rely to support such claim of privilege; and (b) produce a privilege log containing all of the information requested in Part (a) of this Instruction for each Document withheld on the basis of a claim of privilege. If a portion of an otherwise responsive Document contains information subject to a claim of privilege, only that portion of the Document subject to the claim of privilege shall be deleted or redacted from the Document following the instructions above, and the rest shall be produced.

9. If You cannot provide a requested Document (after exercising due diligence to secure it) that was formerly in Your possession, custody, or control, then: (a) Your response must (i) describe in detail the nature of the document and its contents, identify the person(s) who prepared or authored the Document (and, if applicable, the Person(s) to whom the Document was sent), and the date of which the document was prepared or transmitted, (ii) state that You cannot produce the requested Document, (iii) specify the reasons for Your inability to produce the requested Document (e.g., lost, destroyed or otherwise disposed of), (iv) declare that You have exercised due diligence to secure the requested Document, and (v) state all information or knowledge that You have concerning the requested Documents; and (b) You must produce all other requested Documents.

10. The Requests are continuing in nature. You are hereby instructed to (a) supplement or correct any responses later learned to be incomplete or incorrect immediately upon learning that a prior response was incomplete or incorrect; and (b) produce any additional Documents that are called for under the Requests.

### **RULES OF CONSTRUCTION**

11. The use of (a) any singular noun shall be construed to include the plural, and vice versa, and (b) a verb in any tense shall be construed as the use of the verb in all other tenses.

12. The terms (a) “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of any request all responses that might otherwise be construed to be outside of its scope, and (b) “each” and “any” shall be deemed to include and encompass the words “every” and “all.”

### **DEFINITIONS<sup>2</sup>**

13. “Oversight Board,” “You” or “Your” means and refers to the Financial Oversight and Management Board for Puerto Rico and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies, instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on the Oversight Board’s behalf.

14. “Administrative Expense Motion” means and refers to the *Motion for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services Under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement with LUMA Energy* [Dkt. No. 1947 in Case No. 17-4780].

15. “Supplemental Agreement” means and refers to the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement, made and entered into on June 22, 2020.

16. “Communication” includes every manner of transmitting or receiving facts, information, opinions, or thoughts from one person to another person, whether orally, by documents, writing, e-mail, text message, web messaging, or any other form of instant messaging, or a copy thereof, and to words transmitted by telephone, radio, or any method of voice recording.

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings set forth in the Administrative Expense Motion.

17. “Concerning” and/or “relating to” means, without limitation: describing, discussing, constituting, containing, considering, embodying, evaluating, mentioning, memorializing, supporting, collaborating, demonstrating, proving, evidencing, showing, refuting, disputing, rebutting, regarding, controverting, contradicting, made in connection with or by reason of, or derived or arising therefrom.

18. “Document” is used in the broadest sense contemplated by Federal Rules of Civil Procedure, including all materials, documents, electronically stored information and tangible things within the scope of Rule 34(a). Document means and refers to any writing, thing, record of any type, or description that is or has been in Your possession, control, or custody, or of which You have knowledge, including but not limited to: agreements; drafts; communications; correspondence; e-mails; text messages; instant messages; web messages; WhatsApp messages; social media messages; telegrams; cables; facsimiles; memoranda; records; books; financial statements; summaries of records or notes of personal conversations or interview; diaries; calendars; forecasts; statistical statements; accountants work papers; graphs; charts; maps; diagrams; blue prints; tables; indexes; pictures; recordings; tapes; microfilm; charge clips; accounts; analytical records; minutes or records of meetings or conferences; reports and/or summaries of investigations; opinions or reports of consultants; appraisals; reports and/or summaries of negotiations; brochures; pamphlets; circulars; trade letters; press releases; contracts; stenographic, handwritten or any other notes; projections; working papers; federal and state income tax returns; checks, front and back; check stubs or receipts; shipping documents; manifests; invoice vouchers; computer printouts and computer disks and tapes; and tape data sheets or data processing cards or disks or any other written, recorded, transcribed, punched, taped, filmed or graphic matters; however produced or reproduced. Document also means any electronic copy

which is not identical to the original, including metadata and other electronically stored information.

**DOCUMENTS TO BE PRODUCED**

1. All Documents and Communications relating to the requirement in Section 6.1 of the Supplemental Agreement that a Title III Plan and confirmation order be “reasonably acceptable to Operator.”

2. All Documents and Communications relating to the Operator Termination Fee, as that term is defined in the Supplemental Agreement.

Dated: July 24, 2020  
San Juan, Puerto Rico

/s/ Nicholas A. Bassett

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Creditors for all Title III Debtors (except COFINA  
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- and -

/s/ Juan J. Casillas Ayala

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*Local Counsel to the Official Committee of  
Unsecured Creditors for all Title III Debtors (except  
COFINA and PBA)*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

----- X  
:  
In re: :  
:  
THE FINANCIAL OVERSIGHT AND : PROMESA  
MANAGEMENT BOARD FOR PUERTO RICO, : Title III  
:  
as representative of : Case No. 17-BK-3283 (LTS)  
:  
THE COMMONWEALTH OF PUERTO RICO *et al.*, : (Jointly Administered)  
:  
Debtors.<sup>1</sup> :  
----- X

----- X  
:  
In re: :  
:  
THE FINANCIAL OVERSIGHT AND : PROMESA  
MANAGEMENT BOARD FOR PUERTO RICO, : Title III  
:  
as representative of : Case No. 17-BK-4780 (LTS)  
:  
PUERTO RICO ELECTRIC POWER AUTHORITY : **This document relates only to**  
: **Case No. 17-BK-4780 (LTS)**  
:  
Debtor. :  
----- X

**OFFICIAL COMMITTEE OF UNSECURED CREDITORS' NOTICE OF DEPOSITION  
TO FEDERAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO IN  
CONNECTION WITH LUMA ADMINISTRATIVE EXPENSE MOTION PURSUANT  
TO FED. R. CIV. P. 30(B)(6)**

<sup>1</sup> The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

**PLEASE TAKE NOTICE** that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, made applicable to these proceedings pursuant to Rules 7026, 7030 and 9014 of the Federal Rules of Bankruptcy Procedure, the Official Committee of Unsecured Creditors of all Title III Debtors (other than COFINA and PBA) (the “Committee”) will take the deposition upon oral examination of the Federal Oversight and Management Board for Puerto Rico (“Oversight Board”) on the topics referenced in the accompanying rider. This deposition will commence on August 6, 2020 at 1:00 pm via videoconferencing application. The deposition will be taken pursuant to all applicable rules of the Court before a notary public or other such person authorized by law to administer oaths. The deposition will be recorded by stenographic means and video.

**PURSUANT TO** Fed. R. Civ. P. 30(b)(6), the Oversight Board must designate one or more officers, directors, or managing agents, or other persons who consent to testify on their behalf with respect to the matters set forth in the attached Schedule A.

*[Remainder of page intentionally left blank.]*

Dated: July 24, 2020  
San Juan, Puerto Rico

/s/ Nicholas A. Bassett

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Creditors for all Title III Debtors (except COFINA  
and PBA)*

- and -

/s/ Juan J. Casillas Ayala

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*Local Counsel to the Official Committee of  
Unsecured Creditors for all Title III Debtors (except  
COFINA and PBA)*

**SCHEDULE A: OVERSIGHT BOARD 30(B)(6) RIDER**

**DEFINITIONS<sup>2</sup>**

1. “Oversight Board”, “You” or “Your” means and refers to the Federal Oversight and Management Board for Puerto Rico and any of its affiliates, parents, subsidiaries, partners, associates, divisions, agencies, instrumentalities, departments, offices, officers, directors, shareholders, members, agents, attorneys, representatives, employees, predecessors or successors in interest and/or anyone acting on the Oversight Board’s behalf.

2. “Administrative Expense Motion” means and refers to the *Motion for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services Under the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement with LUMA Energy* [Dkt. No. 1947 in Case No. 17-4780].

3. “Supplemental Agreement” means and refers to the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement, made and entered into on June 22, 2020.

4. “Communication” includes every manner of transmitting or receiving facts, information, opinions, or thoughts from one person to another person, whether orally, by documents, writing, e-mail, text message, web messaging, or any other form of instant messaging, or a copy thereof, and to words transmitted by telephone, radio, or any method of voice recording.

5. “Committee’s Document Requests” means and refers to the *Official Committee of Unsecured Creditors’ Document Requests to Federal Oversight and Management Board for Puerto Rico in Connection with Luma Administrative Expense Motion*.

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings set forth in the Administrative Expense Motion.

**TOPICS OF EXAMINATION**

1. The Documents produced by You in response to the Committee's Document Requests.
2. Your negotiation and consideration of, basis for, and communications regarding the requirement in Section 6.1 of the Supplemental Agreement that a Title III Plan and confirmation order be "reasonably acceptable to Operator."
3. Your negotiation and consideration of, basis for, and communications regarding the Operator Termination Fee, as that term is defined in the Supplemental Agreement.

# **EXHIBIT 3**

## **Whitefish Discovery Requests**

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

-----X

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*

Debtors.<sup>1</sup>

-----X

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY  
("PREPA"),

Debtor.

-----X

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

PROMESA

Title III

No. 17 BK 4780-LTS

**Court Filing Relates Only to PREPA  
and Shall Only be Filed in Case No.  
17-BK-4780 (LTS)**

**CREDITOR WHITEFISH ENERGY HOLDINGS, LLC'S FIRST SET OF  
INTERROGATORIES TO THE FINANCIAL OVERSIGHT AND MANAGEMENT  
BOARD FOR PUERTO RICO AND PUERTO RICO ELECTRIC POWER AUTHORITY**

Pursuant to Federal Rules of Civil Procedure 26 and 33, made applicable to this matter through Federal Rules of Bankruptcy Procedure 7026 and 7033 and PROMESA Section 310, administrative creditor Whitefish Energy Holdings, LLC ("WEH"), by and through its undersigned

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (iv) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747). Confirm date, this is 7 days before our objection would be due

counsel, hereby requests that The Financial Oversight Management Board for Puerto Rico and the Puerto Rico Electric Power Authority respond to each of the following Interrogatories separately, fully, in writing, and under the penalties of perjury, by August 5, 2020.

### **DEFINITIONS**

1. “Person” or “Individual” means the plural as well as the singular, and includes any natural person, firm, corporation, limited liability company, partnership, association, joint venture, governmental unit or entity (or agency thereof), quasi-public entity, proprietorship, trust, estate, and any other form of legal entity.

2. “You,” “Your,” and “Yourself,” means the Puerto Rico Electric Power Authority and its attorneys, accountants, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

3. “PREPA” means the Puerto Rico Electric Power Authority and its attorneys, accountants, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

4. “Oversight Board” means the Financial Oversight Management Board for Puerto Rico, and its attorneys, accountants, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

5. “WEH” means Whitefish Energy Holdings, and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

6. “WEH Invoices” means the invoices submitted by WEH to PREPA for electrical restoration work performed by WEH and/or its subcontractors arising from Hurricanes Maria and Irma in 2017.

7. “WEH Project Worksheet” means the documentation PREPA provided to the Government Authorized Representative, COR3 and/or FEMA as part of its request to FEMA for reimbursement or payment of the electrical restoration work performed by WEH and/or its subcontractors arising from Hurricanes Maria and Irma in 2017.

8. “FEMA” means the Federal Emergency Management Agency, and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

9. “Administrative Claimants” refers to any Person or entity who has a claim against PREPA arising after the commencement of this matter.

10. “Administrative Claims” refers to any claim against PREPA arising after the commencement of this matter.

11. “COR3” refers to Central Office for Recovery, Reconstruction and Resilience and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

12. “LUMA” refers to LUMA Energy and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

13. “Motion” refers to the *Motion of PREPA for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services Under Puerto*

*Rico Transmission and Distribution System Operation and Maintenance Agreement with Luma Energy.*

14. “Document” means the original and each non-identical copy, whether different from the original by reason of notations made on such copy or otherwise, of any written material, electronically stored information, sound recordings, films and other physical objects, including, without limitation, the original or copies of all letters, memoranda, correspondence, e-mails, text messages, telegrams, handwritten notes, periodicals, pamphlets, reports, records, audits, studies, working papers, diaries, contracts, agreements, understandings, charts, maps, papers, graphs, indices, data sheets, data processing cards, computer tapes, microfilm, any notes or drafts relating to the foregoing, or any other physical object, however produced or reproduced, and by whomever originated or to whomever addressed, in Your possession, custody or control.

15. “Communication” means any oral or written correspondence, contracts, memoranda, expression of words, thoughts or ideas, or transmission of data or other information to another Person, whether person-to-person, in a group, by telephone, letter, e-mail, telex, fax, or any other process, electric, electronic or otherwise. All such Communications in writing shall include, without limitation, printed, typed, handwritten or other readable Documents.

16. The singular form of a word should be interpreted as plural, where appropriate.

17. The words “and” or “or” shall be construed conjunctively or disjunctively, as necessary, to bring within the scope of each request all responses that might otherwise be construed to be outside of the scope.

18. The term “any” includes the word “all” and vice versa.

### **INSTRUCTIONS**

19. Whenever in these interrogatories there is a request to identify an Individual Person, set forth: (i) his or her full name; (ii) his or her position and business affiliation at the time referred to; (iii) his or her last known position and business affiliation; (iv) his or her last known names, home and business addresses, and home, business and mobile telephone numbers; and (v) his or her last known e-mail addresses.

20. Whenever in these interrogatories there is a request to identify a firm, corporation, limited liability company, partnership, association, joint venture, governmental unit or entity (or agency thereof), quasi-public entity, proprietorship, trust, estate, or other legal entity, set forth its full name, the address of its principal place of business, the nature of the entity (e.g., corporation, limited liability company, partnership, etc.), and its telephone number.

21. “Identify,” when used with reference to a Document or other tangible item, means (regardless of whether any claim of privilege is asserted) to state the following information, subject to the option to produce Documents as provided by Federal Rules of Civil Procedure Rule 33(d):

- a. Its character or nature (e.g., letter, memorandum, report, etc.);
- b. The date it bears or, if undated, the date it was written or created;
- c. The identity of the Person(s) who wrote or created it;
- d. The identity of the Person(s) who received it;
- e. Its file number or other identifying mark or code; and
- f. Its present or last known location or custodian.

22. “Identify” means, with respect to an oral Communication or other event, to set forth the following information:

- a. The date it occurred and the time;
- b. The place it occurred and, if different (as with a telephone Communication), the place it was received;
- c. For a Communication, the identity of each originator and recipient, and for an event, the identity of each participant; and
- d. The identities of all Persons present when the Communication or event occurred.

23. “Describe,” “explain,” or “state,” when used in reference to a factual situation, means to state with particularity all facts known to You, connected with, bearing upon, or relating to the matter addressed in the subject interrogatory.

24. If You opt to produce records in lieu of providing written answers to any of these interrogatories, specify those records in sufficient detail to permit Defendants to locate and to identify the records from which the answers may be derived or ascertained.

25. If any information responsive to any of the following interrogatories is withheld based on any claim of privilege, furnish a detailed description of the information withheld, describe generally the substance or subject matter of the information withheld, state the privilege being relied upon or claimed and the basis therefor, and identify all Persons or entities who have had access to such information.

26. The answers to these interrogatories are to be signed under oath and objections, if any, are to be signed by the attorney making them.

27. These interrogatories are continuing in nature. You are hereby requested to supplement each and every response as new information is discovered or becomes available from now until trial. You are also under a continuing duty to correct any incorrect responses.

28. Unless stated otherwise, these Interrogatories cover the period from January 1, 2004 until the present.

29. The foregoing instructions are not intended to limit Your obligations under the Federal Rules of Civil Procedure or any other applicable rule, regulation, or law. As such, if any of the foregoing instructions is deemed to require the provision of less information than otherwise would be required by the Federal Rules of Civil Procedure or any other applicable rule, regulation, or law, then such other rule, regulation, or law is to govern in relevant part.

### **INTERROGATORIES**

1. Identify each Person who assisted in responding and/or provided information used by You to respond to these interrogatories, and with respect to each Person, state by number the interrogatory(ies) for which he, she, or it assisted in responding and/or provided information.

**ANSWER:**

2. Identify each Person who has knowledge of facts or other information relating to the status of COR3 and/or FEMA's review the WEH Project Worksheet and the status of PREPA's payment on the WEH Invoices.

**ANSWER:**

3. Identify each Person who has knowledge of facts or other information relating to the impact that the proposed Administrative Claim to be granted to LUMA will have on i) PREPA's ability to pay or ii) likelihood of paying or iii) timing of paying other Administrative Claims.

**ANSWER:**

4. Identify each Person who has knowledge of facts or other information relating to the status of any remaining analysis by PREPA or anyone acting on its behalf of any unpaid Administrative Claims.

**ANSWER:**

5. Identify all Documents and Communications between or among PREPA and/or FEMA and/or COR3 regarding the status of the review of the WEH Project Worksheet or are otherwise related to the WEH Invoices and/or the WEH Project Worksheet.

**ANSWER:**

6. Identify all Documents and Communications between PREPA and the Oversight Board regarding the WEH Invoices and/or the WEH Project Worksheet.

**ANSWER:**

7. Identify all Documents and Communications between PREPA and the Oversight Board regarding the status of unpaid Administrative Claims.

**ANSWER:**

8. Identify all Documents and Communications between PREPA and the Oversight Board regarding the impact of allowing and paying the proposed Administrative Claim to LUMA on the likelihood or timing of payment of other Administrative Claims.

**ANSWER**

9. Identify the Project Worksheet Number that has been assigned to the WEH Project Worksheet.

**ANSWER**

10. Identify the proposed witnesses for the hearing in support of the Motion, as well as the qualifications and reports of any expert witness you may use in connection with the Motion, including but not limited to those witnesses who will testify as to the ability of PREPA of to pay all allowed administrative expenses as required by PROMESA.

**ANSWER**

San Juan, Puerto Rico

July 24, 2020

Respectfully submitted,

/s/ Ann Marie Uetz  
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*Counsel for WEH*

and

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/s/Luisa S. Valle Castro  
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ls.valle@condelaw.com  
*Counsel for WEH*

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

-----X

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*

Debtors.<sup>1</sup>

-----X

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY  
("PREPA"),

Debtor.

-----X

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

PROMESA

Title III

No. 17 BK 4780-LTS

**Court Filing Relates Only to PREPA  
and Shall Only be Filed in Case No.  
17-BK-4780 (LTS)**

**CREDITOR WHITEFISH ENERGY HOLDINGS, LLC'S FIRST REQUESTS FOR  
PRODUCTION OF DOCUMENTS TO THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO AND PUERTO RICO ELECTRIC  
POWER AUTHORITY**

Pursuant to Federal Rule of Civil Procedure 34, made applicable to this matter through  
Federal Rule of Bankruptcy Procedure 7034 and PROMESA Section 310, administrative creditor

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (iv) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747).

Whitefish Energy Holdings, LLC (“WEH”), by and through its undersigned counsel, hereby request that The Financial Oversight Management Board for Puerto Rico and the Puerto Rico Electric Power Authority produce for inspection and copying at the offices of C. Conde & Associates, 254 San José Street, 5<sup>th</sup> Floor, Old San Juan, Puerto Rico 00901, or at a place agreeable to counsel for both parties, the documents requested herein on or before August 5, 2020.

### **DEFINITIONS**

1. “Person” or “Individual” means the plural as well as the singular, and includes any natural person, firm, corporation, limited liability company, partnership, association, joint venture, governmental unit or entity (or agency thereof), quasi-public entity, proprietorship, trust, estate, and any other form of legal entity.

2. “You,” “Your,” and “Yourself,” means the Puerto Rico Electric Power Authority and its attorneys, accountants, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

3. “PREPA” means the Puerto Rico Electric Power Authority and its attorneys, accountants, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

4. “Oversight Board” means the Financial Oversight Management Board for Puerto Rico, and its attorneys, accountants, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

5. “WEH” means Whitefish Energy Holdings, and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

6. “WEH Invoices” means the invoices submitted by WEH to PREPA for electrical restoration work performed by WEH and/or its subcontractors arising from Hurricanes Maria and Irma in 2017.

7. “WEH Project Worksheet” means the documentation PREPA provided to the Government Authorized Representative, COR3 and/or FEMA as part of its request to FEMA for reimbursement or payment of the electrical restoration work performed by WEH and/or its subcontractors arising from Hurricanes Maria and Irma in 2017.

8. “FEMA” means the Federal Emergency Management Agency, and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

9. “Administrative Claimants” refers to any Person or entity who has a claim against PREPA arising after the commencement of this matter.

10. “Administrative Claims” refers to any claim against PREPA arising after the commencement of this matter.

11. “COR3” refers to Central Office for Recovery, Reconstruction and Resilience and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

12. “LUMA” refers to LUMA Energy and its officers, directors, affiliates, employees, attorneys, consultants, agents, and all other Persons, both past and present, acting or authorized to act on its behalf.

13. “Motion” refers to the *Motion of PREPA for Entry of an Order Allowing Administrative Expense Claim for Compensation for Front-End Transition Services Under Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement with Luma Energy*.

14. “Document” means the original and each non-identical copy, whether different from the original by reason of notations made on such copy or otherwise, of any written material, electronically stored information, sound recordings, films and other physical objects, including, without limitation, the original or copies of all letters, memoranda, correspondence, e-mails, text messages, telegrams, handwritten notes, periodicals, pamphlets, reports, records, audits, studies, working papers, diaries, contracts, agreements, understandings, charts, maps, papers, graphs, indices, data sheets, data processing cards, computer tapes, microfilm, any notes or drafts relating to the foregoing, or any other physical object, however produced or reproduced, and by whomever originated or to whomever addressed, in Your possession, custody or control.

15. “Communication” means any oral or written correspondence, contracts, memoranda, expression of words, thoughts or ideas, or transmission of data or other information to another Person, whether person-to-person, in a group, by telephone, letter, e-mail, telex, fax, or any other process, electric, electronic or otherwise. All such Communications in writing shall include, without limitation, printed, typed, handwritten or other readable Documents.

16. The singular form of a word should be interpreted as plural, where appropriate.

17. The words “and” or “or” shall be construed conjunctively or disjunctively, as necessary, to bring within the scope of each request all responses that might otherwise be construed to be outside of the scope.

18. The term “any” includes the word “all” and vice versa.

### **INSTRUCTIONS**

1. When responding to these document requests, You are asked to furnish all information in your possession, custody, or control, or in that of Your attorneys, employees, agents, or any other person acting on Your behalf or on whose behalf you are acting.

2. For any responsive document You object to producing, on the basis of a claim of attorney-client, or any other privilege, or on the basis of the work-product doctrine, with respect to each such document, please provide a privilege log under Rule 26(b)(5) of the Federal Rules of Civil Procedure, which incorporates the following information:

- a. Its date or the date when it was prepared;
- b. Its author;
- c. Its addressees and all parties receiving copies of said document
- d. The name and title of each person to whom the contents of the document have been communicated by copy, exhibition, reading, or substantial summarization;
- e. The nature and substance of the document with sufficient particularity to enable it to be identified;
- f. The purpose(s) for which the document was prepared;
- g. The basis upon which the document is being withheld from production;
- h. All facts that support the basis asserted for not producing the document.

3. If any document requested was, but is no longer in Your possession or subject to Your control or in existence:

- a. state whether each such document is missing, or lost or has been destroyed or otherwise disposed of;
- b. explain the circumstances surrounding, and the authorization for, each such disposition;
- c. state the date or approximate date of such disposition; and
- d. describe the document, they type(s) of information contained therein, and the identity of all persons having knowledge of the contents and disposition thereof.

4. In responding to these requests, You must make a diligent search of your records and of other papers and material in Your possession or available to You or Your representatives.

5. These requests are continuing in nature. You are hereby requested to supplement each and every response as new information is discovered or becomes available from now until trial. You are also under a continuing duty to correct any incorrect responses.

6. Unless stated otherwise, these requests cover the period from January 1, 2009 until the present.

7. The foregoing instructions are not intended to limit Your obligations under the Federal Rules of Civil Procedure or any other applicable rule, regulation, or law. As such, if any of the foregoing instructions is deemed to require the provision of less information than otherwise would be required by the Federal Rules of Civil Procedure or any other applicable rule, regulation, or law, then such other rule, regulation, or law is to govern in relevant part.

8. In making a production, electronically stored information (“ESI”) is to be produced in a single-page TIFF format, with load files demarcating document breaks, providing parent-child information, OCR, and relevant metadata (defined in the following Instruction), except that Excel

or other spreadsheets are to be produced in native format. Responsive non-ESI documents are to be produced: (i) in a single-page TIFF format, with load files demarcating document breaks, and containing searchable document text (that is, OCR data), (ii) in a manner that reflects physical boundaries such as boxes, folders, tabs, etc., and (iii) in a manner which reflects the document custodian.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

All Documents that relate to, refer to, or provide the basis for any of Your responses to WEH's First Set of Interrogatories, including but not limited to any Documents You reference in Your responses to the First Set of Interrogatories and any Documents You relied upon in preparing those responses.

#### **REQUEST FOR PRODUCTION NO. 2:**

All Documents which You reasonably expect or intend to use at the hearing on the Motion, including but not limited to all written statements, opinions, memoranda, reports of witnesses, records of oral statements, and Documents reasonably expected or intended to be used for impeachment purposes which refer or relate to the impact that the Proposed Administrative Claim in favor of LUMA Energy will have on the timing and likelihood of payment of other Administrative Claims.

#### **REQUEST FOR PRODUCTION NO. 3:**

All Documents and Communications between PREPA and the Oversight Board that relate or refer to the WEH Invoices and/or the WEH Project Worksheet, including but not limited

to the status of COR3 and/or FEMA's review of the WEH Project Worksheet and the status of PREPA's payment on the WEH Invoices.

**REQUEST FOR PRODUCTION NO. 4:**

All Documents and Communications between PREPA and the Oversight Board that refer or relate to the status of unpaid Administrative Claims.

**REQUEST FOR PRODUCTION NO. 5:**

All Documents and Communications between PREPA and the Oversight Board regarding the impact that allowing and paying an Administrative Claim to LUMA as provided for in the Motion on the other Administrative Claims will have on the likelihood and/or timing of payments on other Administrative Claims.

**REQUEST FOR PRODUCTION NO. 6:**

All Documents and Communications between PREPA or the Oversight Board, on the one hand, and COR3 or FEMA, on the other hand, regarding or referring to or related to FEMA's review of the WEH Project Worksheet.

San Juan, Puerto Rico

July 24, 2020

Respectfully submitted,

/s/ Ann Marie Uetz  
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and

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# **EXHIBIT 4**

**From:** [Stafford, Laura](#)  
**To:** [Bassett, Nicholas](#); [lucdespins@paulhastings.com](mailto:lucdespins@paulhastings.com); [Comerford, Mike](#); [Cassel, Michael H.](#); [rgmason@wlrk.com](mailto:rgmason@wlrk.com); [eakleinhaus@wlrk.com](mailto:eakleinhaus@wlrk.com); [tdolcourt@foley.com](mailto:tdolcourt@foley.com); [zoe.negron4@gmail.com](mailto:zoe.negron4@gmail.com); [auetz@foley.com](mailto:auetz@foley.com); [etoomey@foley.com](mailto:etoomey@foley.com); [msmall@foley.com](mailto:msmall@foley.com); [rolando@emmanueli.law](mailto:rolando@emmanueli.law)  
**Cc:** [Pavel, Ashley](#); [Katuska Bolaños](#); [McKeen, Elizabeth L.](#); [Mitchell, Nancy](#); [Possinger, Paul V.](#); [DiConza, Maria J.](#); [Jones, Jennifer L.](#); [Stevens, Elliot](#); [Desatnik, Daniel](#); [Barak, Ehud](#); [Barefoot, Luke A.](#); [Maraliz Vázquez](#); [Canelas Fernandez, Alejandro](#); [del Rio-Guarner, Victoria](#); [Finkelberg, Eric](#); [Lynch, Thomas](#); [Kordula, Chantal E.](#)  
**Subject:** In re PREPA, 17-bk-4780  
**Date:** Monday, July 27, 2020 9:59:12 AM  
**Attachments:** [Exhibit 1 ECF No. 1052 - Receiver Motion Protective Order.pdf](#)  
[LUMA PO Stip.DOCX](#)

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Counsel –

We are writing with respect to the LUMA administrative expense motion. We have received the discovery served by you on Friday, July 24.

As you know, the parties must present any unresolved discovery disputes in a joint status report due this Tuesday, July 28. We would like to schedule a meet and confer today to address your requests. We can be available anytime today between 12-12:30, 1:30-2, 3-4, or 4:45 to 6.

To help focus the parties' meet and confer discussions, the Government Parties note that discovery regarding the impact of LUMA's administrative expense claim on other claimants and other parties is not relevant to the relief requested in the motion and is outside the scope of the limited issues the Court must consider. Accordingly, the Government Parties object to any discovery requests seeking information regarding the impact of the LUMA contract or of LUMA's administrative expense claim on other parties as overbroad, but we are willing to meet and confer regarding an appropriate scope for these requests.

With respect to the potential objectors' remaining requests, the Government Parties are willing to produce, at a minimum, certain documents exchanged between P3 and LUMA, including drafts of term sheets and contracts; comments from LUMA to the term sheets and contracts, including issues lists; memos to LUMA from P3 regarding LUMA's comments; and minutes of Partnership Committee meetings and written resolutions of the Partnership Committee; to the extent each of those documents is responsive to the potential objectors' discovery requests.

In addition, we are attaching a draft of a protective order for this contested matter. This is the same protective order utilized during the 9019 proceedings, so we are hopeful the parties will be able to quickly reach agreement on its terms. Please let us know if you have any comments.

Many thanks.

**Laura Stafford**  
Associate

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