



David A. Skeel Jr.  
**Chair**

## **Members**

Andrew G. Biggs  
Arthur J. González  
Antonio L. Medina  
John E. Nixon  
Justin M. Peterson  
Betty A. Rosa

Robert F. Mujica Jr.  
**Executive Director**

## **BY ELECTRONIC MAIL**

April 24, 2023

Mr. Josué Colón Ortiz  
Executive Director  
Puerto Rico Electric and Power Authority

Dear Mr. Colón Ortiz,

We are in receipt of your letter dated April 18, 2023 regarding the proposed retirement window for transitioning employees with 25 years of service or more to Genera PR, LLC (“Genera”). We agree with your statements pertaining to the need for Genera to recruit essential employees with the required technical expertise and knowledge to continue carrying out the operation and maintenance of the legacy generation units, particularly given the age of these assets.

However, we must also note that the Puerto Rico Electric Power Authority (PREPA) Employee Retirement System (“ERS”) had been underfunded before PREPA became a covered entity under PROMESA and the Oversight Board filed a voluntary petition under Title III of PROMESA to restructure PREPA’s liabilities, including pensions. As of May 2017, PREPA’s pension liability exceeded \$4.3B, of which \$3.6B was unfunded, the equivalent of \$2,400 per customer.<sup>1</sup> In other words, for every \$1.00 owed to existing and future retirees, PREPA’s pension plan had less than 20 cents available to pay pensioners.

The Oversight Board has consistently sought through the Title III restructuring to ensure the current and future payment of accrued benefits up to the effective date of the PREPA Plan of Adjustment (the “PoA”), as it did for participants in the Commonwealth’s retirement systems. Accordingly, we understand that the concerns of PREPA employees about “losing their retirement benefits” are unfounded. Assuming confirmation and consummation of the PoA, accrued pensions up to the date of consummation would be protected. Once the PoA is confirmed and becomes effective, however, accrual of further pension benefits would be frozen, and no employees would

---

<sup>1</sup> See 2022 Certified PREPA Fiscal Plan, citing an independent actuarial study conducted by Aon Hewitt, valuation results as of June 30, 2020.

be able to continue actively contributing to the ERS pension plan, regardless of whether they are employed by PREPA, Genera, or the Commonwealth.

As such, we understand that the sample 25-year tenure generation employee you are referring to currently has the following **long-term** options, **assuming PREPA's PoA is confirmed and becomes effective**:

Genera:	Current Status (N/A):	Commonwealth Mobilization:
↑ Higher base salary than at PREPA (most likely). ↔ Frozen Pension Accrual (accrued pension preserved under POA) ↑ Voluntary Transition Program (VTP) Incentive (6 mo. salary w/o PR-state tax)	N/A - Current salary and OT benefits N/A - Frozen Pension accrual (accrued pension preserved under POA)	↔ Same Salary as PREPA (with likely less overtime). ↔ Frozen Pension accrual (accrued pension preserved under POA)

Assuming the filed PoA is confirmed, as it stands, the above shows that these employees have substantially more incentives to accept an offer of employment with Genera rather than transferring to the Commonwealth. **Under all scenarios, including in a mobility employment at the Commonwealth, the PREPA ERS pension plan is frozen**, and the employee will only be eligible to collect his/her accrued benefit through the freeze date, and not a complete merit pension.

Employees should be aware of the true financial consequences of their decisions, including the fact that their pension treatment under a confirmed PoA will be the same regardless of who their employer is. The true differentiators of their options are clear as outlined above – meaningful employment in their line of work, likely higher base salaries with better opportunities for overtime pay, and a PR state tax-free 6-month VTP by accepting offers of employment with Genera. PREPA, AAFAF and all related stakeholders should be looking to guide employees through their decision-making process, so they are equipped with the truth about the economic impact of their decision, and are not misguided by unreliable word of mouth. PREPA employees should make the best decision possible with the best information available for the good of themselves, their families and hopefully for the good of Puerto Rico.

Though you cite a nominal annual contribution of \$2.179M to provide the enhanced benefits mentioned above, establishing a 25 years of service pre-retirement window would be discriminatory for other employees who also have long tenures such as 20+ years (or even 15+ years), but have not reached “merit pension” (30+ year of service) status under PREPA ERS regulations. This situation could cause these other employees to request similar preferential treatment that none are entitled to in order to accept offers of employment with Genera, further exacerbating the current situation and potentially multiplying costs at the expense of the ratepayer.

Mr. Colón Ortiz

April 24, 2023

Page: 3

Importantly, as explained above, none of these employees could get similar treatment under any other scenario, including under a mobility scenario. Moreover, these costs would be incremental to the Legacy Charge and the pension charge needed for the PoA and would last an uncertain amount of time. Lastly, opening the door to these arrangements will only lead to unnecessary complications and challenges from different stakeholders on the Title III front.

For all of the previously noted reasons, we deny your request.

We look forward to continuing working with you for the benefit of the people of Puerto Rico.

Sincerely,



Robert F. Mujica, Jr.  
Executive Director

Cc: Hon. Omar Marrero Díaz  
PREPA Governing Board