

CENTRAL OFFICE FOR RECOVERY, RECONSTRUCTION AND RESILIENCE (COR3)

Questions from Rep. Westerman:

- 1. From your perspective, what are the key reasons for the continued blackouts in Puerto Rico and what is your recommendation for addressing these challenges and for ensuring that Puerto Rico has access to reliable and resilient energy?**

The key reasons for the continued blackouts in Puerto Rico are no secret:

- Limited maintenance and lack of capital improvements to the power grid: the financial hardships and economic crisis Puerto Rico was going through pre-hurricanes Irma and Maria contributed to deferred maintenance and repairs to our energy systems; and
- Outdated energy grid: On average, the Puerto Rico energy infrastructure is over 30 years older than anywhere else in the United States. Power is derived from 98 percent fossil fuels and the system basically does not meet the needs of the 21st century. In essence, it is not an effective, dependable and cost-effective system. Moreover, the power generation assets owned by PREPA are outdated and beyond their useful life.
- Construction in hazardous areas: Construction was allowed to occur in areas that are known to be hazardous, such as areas prone to flooding and landslides. Similarly, unmetered water connections and inconsistent electricity metering were common, and laws and regulations governing these activities were not rigorously enforced.
- Vegetation: After Hurricane Maria struck the island in 2017, and due to PREPA's financial hardship, island-wide vegetation (urban and rural) grew out of control, creating unmanageable conditions that cannot be mitigated by traditional maintenance activities.

To overcome these challenges, we are maximizing **FEMA disaster recovery federal dollars (Public Assistance and Hazard Mitigation Grants Program)** based on a 5-year Plan and an Integrated Resilience Plan, both jointly prepared COR3, PREPA, LUMA Energy and Genera PR.

- Short-Medium Term: Accelerate the one-time vegetation clearance/mitigation program, repair existing PREPA plants, including a Critical Components Program (to reduce the frequency of breakdowns and blackouts), expand the distribution automation program, accelerate the Battery Energy Storage System program, complete the installation of 10 new peaking units, while continue to repair damaged substations, and replace damaged poles, public lights and customer meters (with advance infrastructure).
- Medium-Long Term: Install micro-grids in Vieques and Culebra, replace/install new critical power transformers, switchyards, transmission lines/centers, transmission and distribution substations, complete the new Energy

Management System project and complete dams retrofitting and reservoirs dredging.

2. **There have been growing concerns about LUMA and Genera’s capacity to carry out the responsibilities they took on when receiving their respective contracts. However, it must be made clear that the challenges to rebuilding Puerto Rico’s electrical grid will not be resolved by simply finding alternative utility firms to carry out these responsibilities. This would inevitably result in further delays in ensuring Puerto Rico has access to reliable and resilient energy. A productive way forward is to find ways to address the challenges and concerns together.**

The concerns surrounding LUMA and Genera’s capacity to fulfill their contractual responsibilities are understandable given the complexity of rebuilding Puerto Rico’s electrical grid. However, it is important to recognize that privatization, when effectively managed and executed, including full compliance with federal requirements associated with FEMA disaster recovery funds, remains a key part of the long-term solution to modernizing Puerto Rico's energy infrastructure.

The challenges facing the island’s electrical grid are immense. Years of underinvestment, compounded by the devastation caused by Hurricanes Irma and María (later exacerbated by subsequent events such as Hurricane Fiona), as well as PREPA’s bankruptcy, have left the system fragile and inefficient. Privatization was pursued as a means to bring in technical expertise, investment, and operational efficiencies that the public sector had struggled to deliver.

Nonetheless, the path has been far from smooth. The challenges faced include:

- a. **Aging Infrastructure:** LUMA and Genera inherited a grid that was not only old but severely damaged. Rebuilding and modernizing such a system entails time, substantial capital, and careful planning. Expectations for immediate results must be tempered by the reality of the scale of the work required.
- b. **Regulatory and Financial Hurdles:** Privatization efforts must navigate a complicated web of federal, state, and local regulations. Additionally, the ongoing bankruptcy of the Puerto Rico Electric Power Authority (PREPA) and its outstanding debt complicates the ability to secure necessary financing for long-term investments.
- c. **Cost Inflation:** The rising costs of materials and labor, exacerbated by global supply chain disruptions, have made it more expensive to carry out grid improvements. Fixed-price contracts under FEMA’s Section 428 pose additional financial challenges, limiting flexibility to address unexpected costs.

Despite these difficulties, it is important to stress that reverting to a public utility entity would likely result in further delays, inefficiencies, and additional costs. Instead, a more productive approach has been implemented (and is currently in place) for all stakeholders—including the Government of Puerto Rico, FEMA, DOE, and the

operators—to work collaboratively to effectively address the identified challenges. This includes ensuring a full understanding of each stakeholder’s roles and responsibilities, a better coordination with federal and local agencies, and fostering transparent communication with the public.

In conclusion, while the challenges are significant, they are not insurmountable. Privatization remains a viable path forward, but it requires addressing these hurdles through a cooperative effort. Ensuring Puerto Rico’s access to reliable and resilient energy must remain the ultimate goal, and achieving this will require ongoing commitment and adaptation by all parties involved.

3. How much of the obligated FEMA funds have been disbursed? If not all funds have been disbursed, why not? What barriers exist that slow down the process from obligation to disbursement? How has the fact that FEMA funds have not been fully disbursed affected the rebuilding process for Puerto Rico’s electrical grid?

To date, FEMA has allocated approximately \$16.3 billion in permanent work funds through its Public Assistance Program. This includes approximately \$9.5 billion under Section 428 (FAASt September Master Recovery Budget) and \$6.8 billion in mitigation funds under Sections 406 and 404 of the Robert T. Stafford Disaster Relief Act (FEMA January 2023 Letter to COR3).

As of today, there have been \$3.34 billion in disbursements for the energy system (\$1.872 billion for emergency work and \$1.467 for permanent work). Under FEMA’s Public Assistance (PA) program, disbursements occur as **reimbursements**, meaning funds can only be disbursed once the subrecipient (PREPA) has expended the money and requested reimbursement from COR3.

It's important to clarify that while FEMA has allocated these funds, the process is bureaucratic and complex:

- a. In 2019, FEMA introduced a new Public Assistance delivery model (the “National Delivery Model”). While Puerto Rico broadly supported this model, there were concerns since it had never before been applied to a disaster where Section 428 alternative procedures governed nearly all the disaster grant funding.
- b. To “expedite” the process, particularly for Puerto Rico’s electrical grid, in 2019 FEMA implemented the **FEMA Accelerated Award Strategy (FAASt)**, which for the first time used a statistical sampling methodology to create fixed-cost estimates for groups of critical infrastructure projects, rather than conducting individual inspections and estimates. While FAASt helped accelerate the allocation of funds, it essentially created a master recovery budget for each FAASt subrecipient. However, this did not immediately authorize construction. Each project still had to go through the traditional obligation process under FEMA’s National Delivery Model.

- c. As a result of FAASt, in September 2020 FEMA \$9.5 billion to build back better and a more resilient our electrical infrastructure. However, this obligation effectively acted as a master recovery budget, since FAASt did not authorized any construction activity or disbursement of funds. In order to do that, Scopes of Work must be submitted to FEMA to conduct an Environmental and Historic Preservation review and approve additional funding to finance hazard mitigation measures. Once the Scope of Work is obligated, the project is authorized for construction and allows the process to request disbursements.
- d. In June 2022, to address the liquidity issue , COR3, with FEMA's approval, developed and launched the **Working Capital Advance (WCA)** pilot program in June 2022. The program provides cash advances to subrecipients for approved permanent work, up to 75% of the federal share of the project disbursed in installments of 25%. The WCA has expedited the pace of recovery across the island. This has been highlighted by FEMA in a 2024 report, stating that the WCA is an example of "Innovation in the Field".
- e. In January 2023, FEMA, implemented the Island-Wide Benefit Cost-Analysis (IWBCA), a methodology to evaluate the cost-effectiveness of hazard mitigation projects for the electrical infrastructure. FEMA estimated the system's maximum aggregated benefit at \$6.8 billion, increasing the total funding allocation to \$16.3 billion.
- f. In March 2023, FEMA notified the Government of Puerto Rico that vegetation clearance around critical infrastructure, such as the transmission and distribution (T&D) system, is an eligible hazard mitigation activity. The first vegetation project started in May 2024.

In conclusion, while FEMA has allocated \$16.3 billion, **each individual project still needs to pass through FEMA's traditional obligation steps before construction could begin and any disbursement of funds can be requested and processed.** For example, as of January 2021, there were no projects obligated under FAASt. Today, however, 191 projects have been obligated, representing a total of \$6.1 billion approved for construction and for disbursements. **In other words, today COR3 can only process requests for disbursements (advances or traditional reimbursements) up to \$6.1 billion. In the case of the WCA, COR3 can only advance in 25% installments for an obligated project by FEMA. The majority of the \$1.467 billion disbursed for permanent work has occurred thanks to the WCA pilot program.**

Questions from Rep. Grijalva:

1. **What is the status of the FEMA "Integrated Resiliency Plan" (IRP) to budget the \$20 billion in recovery and repair funds provided by Congress? Does the IRP include enough funding to enhance the resilience and reliability of the electric grid? What is the allocation included in the IRP to future-proof the island's distribution grid to enable the high integration of renewables as required by Puerto Rico Law 17 of 2019?**

The Integrated Resilience Plan is a plan jointly developed by COR3, PREPA, LUMA Energy and Genera PR, and submitted to FEMA, focused on ensuring the successful reconstruction of the electric power system in Puerto Rico in a resilient manner, based on the deployment of FEMA's Public Assistance Program and Hazard Mitigation Grants Program funding. Specifically, it focuses on mitigating damage to facilities caused by Hurricanes Maria and Irma across three main assets: Generation, Transmission and Distribution, and Water Assets. The plan outlines the strategy used to maximize FEMA mitigation funding (406/404) to enhance the resilience of the electrical system, and by maximizing the provisions set forth by the Bipartisan Budget Act of 2018 (restore disaster-damaged facilities or systems to industry standard and to restore functionality of the disaster-damaged facility or system without regard to pre-disaster condition).

The FAAS program has allocated so far \$16.3 billion (not counting insurance payment and the 10% cost share to be covered by PREPA) to rebuild Puerto Rico's electrical power grid, in accordance with FEMA's Public Assistance and Mitigation Grants Programs guides and policy requirements. However, it is not expected that these funds will cover the entire rebuild of the electrical system, as not all facilities were included under the Public Assistance program and the whole modernization of the grid is not contemplated within these funds.

Questions from Rep. Carl.

[That is a question you would have to ask FOMB.]

Questions from Rep. González-Colón.

1. Are LUMA's submissions consistently compliant with federal requirements so that COR3 and FEMA can accelerate reimbursements, minimize additional Requests For Information, and obtain the 10% local share funding?

As part of COR3's Chapter 7 Payment and Cash Management Policy, we are required to ensure that all documentation submitted by subrecipients, including LUMA on behalf of PREPA, complies with applicable federal regulations. During the review of these submissions, as is the case with other subrecipients, we have identified discrepancies, insufficient descriptions, lack of supporting documentation, and other issues that necessitate Requests for Information (RFIs). These RFIs are sent to LUMA for clarification or to provide additional documentation.

LUMA has consistently worked to resolve these RFIs, addressing any outstanding issues to ensure compliance with FEMA's requirements. Once all the necessary information is provided and verified by COR3, we are able to proceed with the disbursement of funds.

The validation process is expedited when Request for Reimbursements (RFRs) are complete and thorough upon submission. Incomplete or deficient RFRs, which should

ideally not be submitted due to their insufficiency, inevitably require additional time, as they must be returned for corrections. This rigorous validation process is crucial to maintaining transparency and ensuring that all disbursements meet federal standards. It serves to safeguard against compliance issues that could affect the eligibility of expenses long-term. Our commitment is to ensure every dollar spent is reimbursed and compliant with FEMA guidelines, thereby reducing risks of financial mismanagement or future audits.

As to the FAAS process to approve/obligate projects, COR3 has provided (and will continue to provide) the necessary technical assistance to LUMA in order for FEMA to receive and evaluate complete/accurate detailed Scopes of Work, and ensure FEMA can complete in an expedited fashion (to the extent possible and subject to federal requirements) the appropriate assessments related to Environmental and Historic Preservation compliance, as well as to add project funding for eligible hazard mitigation measures.

- 2. LUMA has expended nearly \$1.3 billion in FEMA-eligible capital project expenses but in the hearing states they only have obtained \$173 million in reimbursements. A large part of LUMA expenditures are covered by transfers from PREPA up front, to then await recovery from the reimbursements.**
 - a. Is this a drain on PREPA's standing accounts?**
 - b. How does this affect PREPA's ability to continue with its reassigned functions and deal with its fiscal restructuring and its own emergency recovery and mitigation work?**

To date, FEMA has allocated approximately \$16.3 billion in funds for permanent work through its Public Assistance Program. The permanent work allocation includes approximately \$9.5 billion in funds under Section 428 and \$6.8 billion in mitigation funds under Sections 406 and 404 of the Robert T. Stafford Disaster Relief Act. Of the \$16.3 billion allocation, FEMA has obligated \$3.55 billion for LUMA, based on detailed Scopes of Work submitted by them.

The FEMA Public Assistance and Hazard Mitigation Programs are primarily reimbursement programs which require LUMA to incur costs to be able to submit reimbursements to COR3. Nevertheless, in June 2022 COR3 launched the Working Capital Advance (WCA) pilot program. The program provides cash advances to subrecipients for approved permanent work, up to 75% of the federal share of the project disbursed in installments of 25%. These cash advances ensure that projects can move forward before reimbursement funds are made available, addressing cash flow issues upfront.

Under COR3's Chapter 7 Payment and Cash Management Policy, LUMA has three mechanisms available to fund their FEMA-obligated projects: (1) Request for Reimbursement, (2) Request for Advance, and (3) Request for a Working Capital

Advance. By following the guidelines outlined in Chapter 7 and utilizing these mechanisms, LUMA should be able to efficiently leverage federal funds to cover eligible project costs without tapping into their operational expense accounts to be able to cover any other additional/future emergency.

As of September 20, 2024, a total of \$502 million had been disbursed, with \$83 million reimbursed through the traditional reimbursement method and \$418 million advanced via the WCA program (additional disbursements have occurred after September 20, for example, a \$217 million WCA payment for Architectural and Engineering services). It is important to note that when a Reconciliation RFR is submitted to reconcile an advance (for example, WCA), no new funds will be disbursed. If LUMA has expended more than the amounts disbursed by COR3, they must submit traditional RFRs to enable validation and subsequent disbursement.