

Hearing Date: February 7, 2018 at 9:30 a.m. (Atlantic Standard Time)
Objection Deadline: February 1, 2018 at 5:00 p.m. (Eastern Standard Time)

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

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

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In re: PROMESA
THE FINANCIAL OVERSIGHT AND Title III
MANAGEMENT BOARD FOR PUERTO RICO, No. 17 BK 4780-LTS
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY **Court Filing Relates Only to PREPA
("PREPA"), and Shall Only be Filed in Case No.
17-BK-4780 (LTS)**
Debtor.

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**URGENT JOINT MOTION OF THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO AND THE PUERTO RICO FISCAL AGENCY AND
FINANCIAL ADVISORY AUTHORITY FOR ENTRY OF INTERIM AND FINAL
ORDERS (A) AUTHORIZING POSTPETITION SECURED FINANCING,
(B) GRANTING PRIMING LIENS AND PROVIDING SUPERPRIORITY
ADMINISTRATIVE EXPENSE CLAIMS, (C) MODIFYING THE AUTOMATIC STAY,
(D) SCHEDULING A FINAL HEARING, AND (E) GRANTING RELATED RELIEF**

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

The Puerto Rico Electric Power Authority ("PREPA" or the "Debtor"), by and through
the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board"), as the

¹ 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).

Debtor's representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* ("PROMESA"),² and the Puerto Rico Fiscal Agency and Financial Authority ("AAFAF"), as the entity authorized to act on behalf of PREPA pursuant to the authority granted to it under the Enabling Act of the Fiscal Agency and Financial Advisory Authority, Act 2-2017, respectfully submit this joint urgent motion (the "Urgent Motion"), pursuant to PROMESA section 207, sections 105(a), 361, 362, 364(c), 364(d), 503, 507, and 922 of title 11 of the United States Code (the "Bankruptcy Code"), made applicable to the Debtor's title III case pursuant to PROMESA section 301(a), rule 4001 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), made applicable to this case pursuant to PROMESA section 310, and rule 4001-2 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Puerto Rico (the "Local Bankruptcy Rules"), made applicable to this case pursuant to the *Order Further Amending Case Management Procedures* [Case No. 17-3283, Docket No. 1512] (the "Case Management Order"), for entry of an interim order substantially in the form attached hereto as **Exhibit A** (the "Interim Financing Order") and a final order (the "Final Financing Order,"³ and together with the Interim Financing Order, the "Financing Orders"), (i) authorizing the Debtor to obtain postpetition financing on terms and conditions set forth herein and such other terms as are agreed to by the Debtor, the Commonwealth of Puerto Rico ("Puerto Rico" or the "Government of Puerto Rico" and in its capacity as lender, the "Lender"), as lender, and the Oversight Board and set forth in the credit agreement (as amended, supplemented or otherwise modified from time to time in accordance with the Financing Orders, the "Credit Agreement") and the other agreements, documents, and instruments executed and delivered in connection therewith (each as hereafter amended,

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

³ The Debtor will file the form of Final Financing Order prior to the Final Hearing (as defined herein).

supplemented, or otherwise modified from time to time in accordance with the Financing Orders, and, together with the Credit Agreement, the “Credit Documents”), by and between the Debtor, as borrower, and the Lender,⁴ (ii) granting the Lender superpriority expense claims pursuant to Bankruptcy Code section 364(c)(1) and granting priming liens on the Collateral (defined below) pursuant to Bankruptcy Code section 364(d), each subject only to the Carve Out (as defined in the Interim Financing Order) (iii) granting stay relief, and (iv) prescribing the form and manner of notice and setting the time and date for the final hearing (the “Final Hearing”) on the Urgent Motion. In support of this Urgent Motion, the Debtor submits the declaration of Andrew Wolfe, attached hereto as **Exhibit B** (the “Wolfe Declaration”), the declaration of Todd W. Filsinger, attached hereto as **Exhibit C** (the “Filsinger Declaration”) and the declaration of Dustin Mondell, attached hereto as **Exhibit D** (the “Mondell Declaration”).⁵ In further support of this Urgent Motion, the Debtor respectfully represents as follows:

⁴ PREPA anticipates filing a substantially final form of the Credit Agreement with the Court on or prior to January 31, 2018.

⁵ The Wolfe Declaration, the Filsinger Declaration and the Mondell Declaration have been filed simultaneously herewith.

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Bankruptcy Rule 4001 Concise Statement

1. In accordance with Bankruptcy Rule 4001(c)(1)(B) and Local Rule 4001-2, below is a summary of selected terms of the Facility (defined below), together with references to the applicable sections and provisions of the Interim Financing Order and the Credit Documents.¹

| Material Term | Summary |
|---------------------------------|---|
| Borrower | The Puerto Rico Electric Power Authority, Title III debtor |
| Lender | The Commonwealth of Puerto Rico, Title III debtor |
| Revolving Facility | Up to \$1.3 billion revolver. A senior secured priming super-priority revolving credit facility in an aggregate amount at any one time outstanding of not in excess of \$1.3 billion (the “ <u>Facility</u> ”), subject at any time to the then applicable Commitment of the Lender. |
| Commitment of the Lender | The Commitment of the Lender shall initially be \$550 million (the “ <u>Commitment</u> ”, which Commitment may be increased (a) only if subsequently approved by the Lender and the Oversight Board (defined below), (b) only in increments of \$250 million each, up to a maximum Commitment amount of \$1.3 billion (each, a “ <u>Step Increase</u> ”), (c) only after entry of the Final Financing Order, and (d) to the extent approved by necessary governmental action of the Lender. For the avoidance of doubt, each Step Increase will require the approval of the Lender and the Oversight Board, but will not require the approval of the Title III Court. |
| Availability | Prior to Final Hearing: up to \$550 million After Final Hearing: up to \$1.3 billion Until the Maturity Date (as defined below) and so long as no default or event of default exists under the Facility that has not been cured or waived, upon satisfaction or waiver of the conditions precedent to loans as set forth in the final documentation for the Facility, revolving loans under the Facility (“ <u>Loans</u> ”) shall be available to the Debtor; provided that the Loans in the aggregate at any one time outstanding shall not exceed the then applicable Commitment (the “ <u>Availability</u> ”) as |

¹ The summaries contained in this Urgent Motion are qualified in their entirety by the provisions of the documents referenced. To the extent anything in this Urgent Motion is inconsistent with such documents, the terms of the applicable documents shall control. Capitalized terms used in the summary chart but not otherwise defined have the meanings given to them in the Interim Financing Order or the Credit Documents, as applicable.

| Material Term | Summary |
|---------------------------------|--|
| | <p>approved by the Lender and the Oversight Board as set forth above (including any then-approved Step Increase); provided, however, upon 60 days' notice to the Debtor, if cash in the Puerto Rico Department of Treasury Treasury Single Account is projected to fall below \$800 million during such 60-day period and no third-party source of capital (e.g. a community disaster loan under the Stafford Act (42 U.S.C. § 5121 <i>et seq.</i>) ("<u>CDL</u>")) is available to the Lender (a "<u>Commonwealth Financing</u>"), no further Loans shall be available under the Facility unless otherwise agreed to by the Lender with the consent of the Oversight Board.</p> <p>Subject to the terms and conditions of the final documentation for the Facility, the Loans may be borrowed, repaid and borrowed and shall be available as follows:</p> <p>(i) upon entry of an the Interim Financing Order confirming the provisions set forth in "Security and Priority" below, including granting to the Lender a perfected first priority priming lien on all Revenues for the full amount of all obligations under the Facility and otherwise in form and substance satisfactory to the Lender, the Oversight Board, and the Debtor, the amounts available under the Facility shall not exceed \$550 million; and</p> <p>(ii) upon entry of the Final Financing Order confirming the provisions set forth in "Security and Priority" below, including granting to the Lender a perfected first priority priming lien on all Revenues for the full amount of all obligations under the Facility and otherwise in form and substance satisfactory to the Lender, the Oversight Board, and the Debtor, the remaining Loans (the "<u>Full Availability</u>") shall become available to the Debtor under the Facility subject to the then applicable Commitment as approved by the Oversight Board.</p> |
| Existing Trust Agreement | <p>That certain Trust Agreement, dated as of January 1, 1974, between the Debtor and State Street Bank and Trust Company, N.A., as amended, restated or otherwise modified from time to time (the "<u>Trust Agreement</u>"), pursuant to which, among other things, the Debtor issued certain bonds (the "<u>Power Revenue Bonds</u>") secured by a lien on all the Debtor's "Revenues" (as defined in the Trust Agreement).</p> |
| Segregated Account | <p>Proceeds of the Loans shall be maintained in a segregated account (the "<u>Segregated Account</u>") and the Financing Orders shall provide that such proceeds are not subject to any lien of any creditor other than the Lender and shall be used solely as permitted herein.</p> |
| Security and Priority | <p>Superpriority claim</p> |

| Material Term | Summary |
|--------------------------|--|
| | <p>First priming lien</p> <p>All obligations under the Facility shall constitute a superpriority administrative claim in the Title III Case pursuant to 11 U.S.C. § 364(c)(1) and shall be secured by a perfected first priority priming security interest in all Revenues (as defined in the Trust Agreement) pursuant to 11 U.S.C. § 364(d). For the avoidance of doubt, the liens and security interests of the Lender in the Revenues shall prime the liens securing the Power Revenue Bonds.</p> <p>All payments under the Facility shall be payable from the General Fund at the level of Current Expenses under the Trust Agreement and, upon confirmation of a plan of adjustment, as a superpriority administrative claim and, subject to the Carve Out (as defined below) before payment or distribution on other administrative claims and pre-petition claims (including those for Current Expenses) and senior to the repayment of the Power Revenue Bonds.</p> <p>The security interests, liens and superpriority administrative claim will be subject only to a carve-out for professional fees and costs of administration incurred during the Title III Case (defined below) of the Debtor (as approved by the Court), any state matching requirements of Federal grants and loans and certain fees due and owing to the Office of the United States Trustee as set forth in the Title III Order (collectively the “<u>Carve Out</u>”).</p> |
| Required Consents | <p>Prior to the Closing (defined below) and Interim Borrowing, the Facility shall have been approved (a) by (i) the Oversight Board (ii) the Puerto Rico Fiscal Agency & Financial Advisory Authority (“<u>AAFAF</u>”), and (iii) the PREPA Board of Directors and (b) through (i) appropriate governmental action of the Lender approving the making of the Loans and (ii) entry of the Financing Orders by the Court.</p> |
| Use of Proceeds | <p>The proceeds of the Loans shall be used to make expenditures and disbursements: (i) for the Debtor’s operations including, without limitation, employee payroll and benefits, facilities maintenance costs that are not capital expenditures or infrastructure improvements, and normal operational materials, supplies, fuel and power supplies, vendor, and services payments (collectively, “<u>Eligible Uses</u>”) and (ii) for reimbursement of amounts expended for Eligible Uses from September 6, 2017 until the funding of the Loans.</p> |
| Ineligible Uses | <p>Unless otherwise specifically consented to in writing by the Lender and the Oversight Board, the proceeds of the Loans shall not be used for debt service; capital improvements; repair or restoration of damaged</p> |

| Material Term | Summary |
|----------------------|--|
| | <p>public facilities; paying the non-federal share of any Federal program; tax refunds; lobbying; Title III costs including but not limited to judgments arising from Title III cases and related cases, and legal or advisory fees; deposits, transfers, or payments to accrual accounts, reserve funds, or contingency accounts that do not represent an actual, immediate cash disbursement to continue current government operations for essential services; administrative costs of Federal disaster assistance grants and loans; or disaster related expenditures eligible for reimbursement from the Federal Government; or any expense that is not a “Current Expense” under the Trust Agreement (collectively, the “<u>Ineligible Uses</u>”).</p> |
| <p>Budget</p> | <p>Subject to the limitations on use of proceeds set forth herein, the Loans shall be available to fund disbursements consistent with the Debtor’s initial 13-week cash-flow budget setting forth all projected cash receipts and cash disbursements on a weekly basis for the Debtor as approved by the Lender and the Oversight Board (the “<u>Initial 13-Week Budget</u>,” attached hereto as Exhibit E² and together with any updated 13-Week Budget approved by the Lender, the “<u>13-Week Budget</u>”) and thereafter the 13-Week Budget.</p> <p>The 13-Week Budget shall separately identify disbursements for Eligible Uses (or permitted reimbursement thereof) and Ineligible Uses. The 13-Week Budget shall also identify the uncommitted balance in the Segregated Account.</p> <p>Disbursements for Eligible Uses (other than disbursements that are to be paid from Federal funds that have been obligated, which shall not be subject to the test or limited by the 13-Week Budget) may exceed those set forth in the applicable 13-Week Budget for any cumulative four-week period (beginning with the period ending after the first full four-week period after the Facility is entered into) for Eligible Uses by 15% in the aggregate (the “<u>Eligible Use Variance</u>”).</p> <p>All disbursements for Ineligible Uses (other than Ineligible Uses that are subject to the Carve Out or any FEMA reimbursable expense for contracts that have been obligated by FEMA and approved by the Oversight Board, which uses shall not be subject to the test or limited by the 13-Week Budget) may exceed those set forth in the applicable 13-Week Budget for any cumulative four week period (beginning with the period ending after the first full four week period after the Facility is entered into) for Ineligible Uses by 15% in the aggregate (the</p> |

² Exhibit E, attached hereto, includes a proposed Initial 13-Week Budget.

| Material Term | Summary |
|------------------------------|--|
| | <p>“<u>Ineligible Use Variance</u>”).</p> <p>The Debtor shall update the Initial 13-Week Budget no later than the second week after the Initial Draw and every four weeks thereafter (the “<u>Regular Updates</u>”) and submit such updated 13-Week Budget to the Lender and the Oversight Board. Unless objected to by the Lender and the Oversight Board pursuant to the following provision, such updated 13-Week Budget pursuant to a Regular Update shall be the 13-Week Budget for all purposes under the Facility commencing on the first day of the period set forth in such updated 13-Week Budget. The Lender and the Oversight Board shall have 14 calendar days to approve or object to a Regular Update. If either the Lender or the Oversight Board objects, the prior 13-Week Budget shall remain in effect until the end of the 13-week period, or the Debtor submits a revised budget that is not objected to by the Lender or the Oversight Board.</p> <p>With the Regular Updates, and as otherwise reasonably requested by the Lender or the Oversight Board, the Debtor shall provide reasonable financial information and supporting data requested by Lender and the Oversight Board.</p> |
| Voluntary Prepayments | The Loans shall be prepayable by the Debtor in whole or in part at any time without premium or penalty. |
| Mandatory Prepayments | Promptly upon the receipt of any Revenues, the Debtor shall apply such Revenues to the repayment of the outstanding Loans; provided, that the Debtor may retain Revenues sufficient to (i) pay budgeted expenses for Ineligible Uses provided for in the 13-Week Budget, expenses for Ineligible Uses that are subject to the Carve Out, or any FEMA reimbursable expense for contracts that have been obligated by FEMA and approved by the Oversight Board and (ii) maintain an operating reserve of up to \$300 million (which funds can be used at the discretion of the Debtor for expenses for Eligible Uses provided for in the 13-Week Budget or for expenses for Ineligible Uses provided for in the 13-Week Budget, expenses for Ineligible Uses that are subject to the Carve Out, or any FEMA reimbursable expense for contracts that have been obligated by FEMA and approved by the Oversight Board). |
| Refinancing | <p>If CDLs become available directly to the Debtor (on the same or better terms) and under the definitive documentation of the CDL refinancing is permitted, the Debtor shall refinance the Facility with the CDL.</p> <p>In addition, after entry of the Interim Financing Order, the Debtor shall publicly post a term sheet setting forth the terms of the Facility on EMMA and the Debtor (through AAFAF) shall reasonably consider all proposals submitted to the Debtor to refinance the Facility. In</p> |

| Material Term | Summary | | | | | | | | | | | | | | | | |
|---------------------------|---|------------------------|----------------------|--------------------------|-------|---------------------------|-------|--------------------------|-------|---------------------------|-------|--------------------------|-------|--------------------------|-------|------------|-------|
| | considering such proposals the Debtor shall take into account all economic terms and other terms and conditions of such proposal and shall consult with the Oversight Board with respect to any such proposals. Any alternative financing shall be subject to Oversight Board approval under PROMESA section 207. | | | | | | | | | | | | | | | | |
| Maturity Date | The outstanding balance of the Loans will mature (in any event, the “ <u>Maturity Date</u> ”) on the earlier of (i) the 30 th anniversary of the Closing Date (defined below) or (ii) the Termination Date (defined below). | | | | | | | | | | | | | | | | |
| Closing | The date on which the closing occurs (the “ <u>Closing Date</u> ”). | | | | | | | | | | | | | | | | |
| Termination Date | The Termination Date shall occur on the earliest of (i) the date on which all the Loans and other obligations thereunder have been indefeasibly repaid in full in cash (and the Commitment has been terminated), (ii) the effective date of a confirmed plan of adjustment in the Title III Case (unless an alternative treatment is agreed to by the Lender and consented to by the Oversight Board), and (iii) the date of termination of the Commitment and/or acceleration of any outstanding extensions of credit under the Facility following the occurrence and during the continuance of an Event of Default (as defined below). | | | | | | | | | | | | | | | | |
| Interest Rate | <p>Each Loan shall bear interest in the following amounts on the following schedule commencing for each Loan on the date of funding of such loan:</p> <table data-bbox="634 1066 1273 1413"> <thead> <tr> <th data-bbox="634 1066 1073 1100"><u>Interest Period</u></th> <th data-bbox="1101 1066 1273 1100"><u>Interest Rate</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="634 1106 1073 1140">First Semi-Annual Period</td> <td data-bbox="1101 1106 1273 1140">0.00%</td> </tr> <tr> <td data-bbox="634 1146 1073 1180">Second Semi-Annual Period</td> <td data-bbox="1101 1146 1273 1180">0.50%</td> </tr> <tr> <td data-bbox="634 1186 1073 1220">Third Semi-Annual Period</td> <td data-bbox="1101 1186 1273 1220">1.00%</td> </tr> <tr> <td data-bbox="634 1226 1073 1260">Fourth Semi-Annual Period</td> <td data-bbox="1101 1226 1273 1260">1.50%</td> </tr> <tr> <td data-bbox="634 1266 1073 1299">Fifth Semi-Annual Period</td> <td data-bbox="1101 1266 1273 1299">2.00%</td> </tr> <tr> <td data-bbox="634 1306 1073 1339">Sixth Semi-Annual Period</td> <td data-bbox="1101 1306 1273 1339">2.50%</td> </tr> <tr> <td data-bbox="634 1346 1073 1379">Thereafter</td> <td data-bbox="1101 1346 1273 1379">3.00%</td> </tr> </tbody> </table> <p>In addition, in the event the Lender funds any Loans with proceeds of a Commonwealth Financing, the interest rate on such Loans shall automatically step-up to be equal to the interest rate on such Commonwealth Financing (the “<u>Step-Up</u>”). In the event of a Step-Up, interest shall be payable on the same interest payment dates provided for in the Commonwealth Financing.</p> | <u>Interest Period</u> | <u>Interest Rate</u> | First Semi-Annual Period | 0.00% | Second Semi-Annual Period | 0.50% | Third Semi-Annual Period | 1.00% | Fourth Semi-Annual Period | 1.50% | Fifth Semi-Annual Period | 2.00% | Sixth Semi-Annual Period | 2.50% | Thereafter | 3.00% |
| <u>Interest Period</u> | <u>Interest Rate</u> | | | | | | | | | | | | | | | | |
| First Semi-Annual Period | 0.00% | | | | | | | | | | | | | | | | |
| Second Semi-Annual Period | 0.50% | | | | | | | | | | | | | | | | |
| Third Semi-Annual Period | 1.00% | | | | | | | | | | | | | | | | |
| Fourth Semi-Annual Period | 1.50% | | | | | | | | | | | | | | | | |
| Fifth Semi-Annual Period | 2.00% | | | | | | | | | | | | | | | | |
| Sixth Semi-Annual Period | 2.50% | | | | | | | | | | | | | | | | |
| Thereafter | 3.00% | | | | | | | | | | | | | | | | |
| Loan Forgiveness | If all or any portion of any Commonwealth Financing is forgiven by its lender from time to time, the Facility shall be forgiven in an amount equal to the amount of the third-party source of capital that is forgiven. | | | | | | | | | | | | | | | | |
| Other Terms and | The Facility will contain, in addition to those items set forth in this | | | | | | | | | | | | | | | | |

| Material Term | Summary |
|----------------------------|---|
| Conditions | Urgent Motion, representations and warranties, financial, affirmative and negative covenants, conditions precedent and such other terms and conditions as may be agreed to between the Lender, the Oversight Board, and the Debtor; provided, however, that there shall be no terms and conditions that provide for restrictions on the transformation of the energy sector or on the transfer of the Debtor’s assets. |
| Reporting Covenants | <p>The affirmative covenants shall include that the Debtor shall provide the following reporting to the Lender and the Oversight Board (with copies provided to the creditors of the Lender and Debtor who are party to the mediation agreement) updated on a weekly basis:</p> <ul style="list-style-type: none"> (i) Cash balance; (ii) Statement of cash flows; (iii) Total accounts payable and, if available, accounts payable aging schedule; (iv) Total accounts receivable and, if available, accounts receivable aging schedule; (v) Grid restoration report while the restoration activities are ongoing; and (vi) Generation status report while the restoration activities are ongoing. |
| Event of Default | <p>“Events of Default” under the Loan Documents shall include (i) the failure by the Debtor to pay, when due and payable, all or any portion of the obligations consisting of principal, interest, fees, or charges due to the Lender under the Facility, and (ii) after 30-days’ written notice, any breach of material covenants that have not been cured or waived.</p> <p>Upon an Event of Default, the Lender shall have the right to declare the Commitment terminated and/or to accelerate the repayment obligations under the Facility (the “<u>Acceleration</u>”).</p> <p>The loan documents shall provide that, upon Acceleration, Revenues shall be applied on an ongoing basis first, to the payment of expenses that constitute the Carve Out; second, to the payment of Eligible Uses in accordance with the 13 Week Budget; third, unless consented to by the Lender and the Oversight Board, to the repayment of any outstanding Loans under the Facility; forth, to the payment of any Current Expenses or necessary operating expenses that do not constitute Eligible Uses, and fifth, to the extent not covered by one of the proceeding categories, in accordance with Article 5 of the Trust Agreement.</p> |

Jurisdiction and Venue

2. The Court has subject matter jurisdiction over this Urgent Motion pursuant to PROMESA section 306(a).

3. Venue is proper in this district pursuant to PROMESA section 307(a).

4. The statutory bases for the relief requested herein are PROMESA section 207, Bankruptcy Code sections 105(a), 361, 362, 364(c), 364(d), 503, 507, and 922 made applicable to this case pursuant to PROMESA section 301(a), Bankruptcy Rule 4001, made applicable to this case pursuant to PROMESA section 310, and Local Bankruptcy Rule 4002-1, made applicable to this case pursuant to the Case Management Order.

5. Prior to filing this Urgent Motion, certain holders of general obligation (“GO”) debt of Puerto Rico advised the Oversight Board in writing that they oppose any lending from the Government of Puerto Rico to the Debtor without court approval, and that they oppose the concept of the Government of Puerto Rico borrowing from the federal government to lend to the Debtor. While the Government of Puerto Rico and the Debtor never intended to enter into this loan transaction without court approval in the PREPA Title III case, the Government of Puerto Rico cannot necessarily assuage the GO debtholders’ general opposition or their statements that they might seek stay relief and oppose any plan of adjustment. The terms of the Facility provide Puerto Rico with the best protections allowed under the statutes. Additionally, Puerto Rico and the Debtor must be recognized as integral components of one economy where they must act in the best interests of the territory, and not act as lone rangers. The Government of Puerto Rico created the Debtor for the benefit of the territory and they rely on each other to safeguard and foster health, safety, and commerce for the benefit of all the people, businesses, and creditors.

Background

I. General Background

6. On June 30, 2016, the Oversight Board was established under PROMESA section 101(b). On August 31, 2016, President Obama appointed the Oversight Board's seven voting members.

7. Pursuant to PROMESA section 315, "[t]he Oversight Board in a case under this title is the representative of the debtor" and "may take any action necessary on behalf of the debtor to prosecute the case of the debtor, including filing a petition under section 304 of [PROMESA] . . . or otherwise generally submitting filings in relation to the case with the court."

8. On September 30, 2016, the Oversight Board designated the Debtor as a covered entity under PROMESA section 101(d).

9. On June 29, 2017, the Oversight Board issued a restructuring certification pursuant to PROMESA sections 104(j) and 206. On July 2, 2017 (the "Petition Date"), the Oversight Board filed a voluntary petition for relief for the Debtor pursuant to section 304(a) of PROMESA, commencing a case under title III thereof (the "Title III Case").

10. Background information regarding the Debtor and the commencement of the Debtor's Title III Case is contained in the *Notice of Statement of Oversight Board Regarding PREPA's Title III Case* [Case No. 17-4780, Docket No. 2].

II. The Debtor is Critical to the Recovery and Revitalization of Puerto Rico

11. Puerto Rico is in the midst of an unprecedented economic and humanitarian crisis³ exacerbated by Hurricanes Irma and Maria. Complicating Puerto Rico's ability to service

³ Before Congress enacted PROMESA, the Obama Administration and a dozen U.S. Senators concluded Puerto Rico faced a humanitarian crisis. See Jeffrey Zients, *Puerto Rico's Fiscal Crisis: What You Need to Know*, THE

its debt is the reality that, prior to the passage of Hurricanes Irma and Maria, Puerto Rico was already on the verge of being unable to provide its citizens with the most basic services, such as police and fire protection, education, sewer and water services, medical care, and critically, electricity.⁴ Indeed, Puerto Rico has declared a state of fiscal emergency in which it has acknowledged that it does not have sufficient resources to protect the health, safety, and welfare of the people of Puerto Rico.⁵

12. As was true before Hurricanes Irma and Maria, and what has become more evident after them, the Debtor is the linchpin in Puerto Rico's overall recovery and revitalization. The Debtor was created in 1941 as a public corporation and governmental instrumentality of Puerto Rico by Act No. 83 of the Legislative Assembly of Puerto Rico, approved May 2, 1941 (the "Authority Act"). Pursuant to the Authority Act, the Debtor is charged with the conservation, development, and utilization of the energy resources of Puerto Rico to promote the general welfare of Puerto Rico's inhabitants and to increase commerce and prosperity. Authority Act § 6. The Debtor generates, transmits, and distributes substantially all the electric power used in Puerto Rico. *See* Docket No. 1, at 7. The Debtor is one of the largest municipal utilities in the United States, ranking first in number of clients and revenues.⁶ *See* Debtor's Fiscal Plan at 8. The Debtor has issued approximately \$8.3 billion in Power Revenue Bonds under the Trust

WHITE HOUSE (June 7, 2016, 1:40 PM), <https://obamawhitehouse.archives.gov/blog/2016/06/07/puerto-ricos-fiscalcrisis-what-you-need-know>; Letter from Richard Blumenthal et al. to Charles Grassley, Chair, S. Judiciary Comm. (Sept. 30, 2015), <http://www.puertoricoreport.com/wp-content/uploads/2015/10/Letter-to-Grassley-re-Puerto-Rico-9-30-15.pdf>. *See, e.g., Puerto Rico v. Franklin Cal. Tax-Free Tr.*, 136 S. Ct. 1938, 1942 (2016).

⁴ *See* PROMESA § 405(m).

⁵ *See* Act No. 21-2016 and Act No. 3-2017.

⁶ *Puerto Rico Electric Power Authority Fiscal Plan* at 8, Apr. 28, 2017, available at <https://juntasupervision.pr.gov/wp-content/uploads/wpdf/50/590a2c5d7d41d.pdf> (hereinafter, the "Debtor's Fiscal Plan").

Agreement, which are purportedly secured by security interests on the Debtor's Revenues (as defined in the Trust Agreement)

13. Because economic growth in Puerto Rico is highly sensitive to electricity prices, the Debtor's reconstruction and ultimate ability to provide reliable power at reasonable rates is essential not only to the Debtor's recovery, but also to that of Puerto Rico and its other instrumentalities.⁷ The Debtor's recovery efforts in the coming months will set the stage for providing reliable and safe electrical service to Puerto Rico at rates consistent with the Debtor's and Puerto Rico's economic recovery and revitalization efforts.

III. The Debtor's Historical Challenges

14. Prior to the devastation of Hurricanes Irma and Maria and over the past several decades, the Debtor faced challenges that have degraded its financial and operating condition.⁸ Those challenges include: a prolonged recession leading to a significant drop in energy sales; inadequate reinvestment leading to old, inefficient, and unreliable transmission, distribution, and generation facilities and outdated information and technology systems; a high dependence on expensive fuel oil; relatively high levels of electricity theft and non-technical losses; and a disorganized customer service infrastructure.⁹ Those challenges were compounded by the fact that the Debtor operates in a challenging terrain and in an environment prone to natural

⁷ See *Declaration of Andrew Wolfe in Support of Opposition of the Financial Oversight and Management Board for Puerto Rico to the Motion of the Ad Hoc Group of PREPA Bondholders, National Public Finance Guaranty Municipal Corp., Assured Guaranty Corp., Assured Guaranty Municipal Corp., and Syncora Guarantee Inc. for Relief from the Automatic Stay to Allow Movants to Enforce their Statutory Right to Have a Receiver Appointed* [Case No. 17-4780, Docket No. 149-2] (the "Wolfe Receiver Declaration") at ¶¶ 48–59.

⁸ Debtor's Fiscal Plan at 9.

⁹ *Id.*

disasters.¹⁰ Lower demand due to outmigration was a challenge even before Hurricane Maria exacerbated the situation.¹¹

15. As a result of those challenges, the condition of the Debtor's facilities has fallen significantly below industry standards.¹² It has been estimated that, prior to the devastation of Hurricanes Irma and Maria, it would take approximately \$6 billion in infrastructure improvements to stabilize and improve the Debtor's operational efficiency, safety, reliability, environmental compliance, and conversion to clean energy.¹³ Further, the Debtor historically has suffered from above-industry-average outages, which significantly affect the energy grid, the economy, and its residents.¹⁴ The environmental health cliff facing the Debtor under revised federal Clean Air Act emission standards is an additional fiscal challenge.¹⁵ Moreover, the Debtor has historically had difficulty meeting its operating expenses and has been forced to use proceeds from bond issuances to cover operational shortfalls.¹⁶ All of these factors have resulted in years of underinvestment, infrastructure that is unsafe and unreliable, and an unsustainable debt structure.

16. In 2014, the Debtor's financial situation became so dire that the capital markets were no longer available.¹⁷ With no access to liquidity and insufficient revenues to cover both operating costs and debt service, the Debtor faced a serious likelihood of default.¹⁸ The Debtor's

¹⁰ *Id.* at 10.

¹¹ *Id.* at 26.

¹² *Id.*

¹³ *Id.* at 9.

¹⁴ *Id.* at 14.

¹⁵ *Id.* at 19.

¹⁶ *Id.* at 15.

¹⁷ *Id.* at 9.

¹⁸ *Id.* at 16.

liabilities currently exceed \$14 billion,¹⁹ which, in addition to rebuilding its infrastructure damaged by Hurricanes Irma and Maria, it must restructure to remain a viable business entity.²⁰

IV. The Impact of Hurricanes Irma and Maria on the Debtor's Liquidity

17. The Debtor's already fragile infrastructure was devastated by the combined impacts of Hurricanes Irma and Maria. Filsinger Declaration ¶ 7. The hurricanes caused catastrophic damage to the transmission and distribution system, impacted certain of the generation assets, and took down critical communications and control infrastructure. *Id.* The Debtor's generation plants, though still standing, suffered structural and water damage. Damage from the hurricanes resulted in the longest power outage in U.S. history, and the power outage continues to this day for a material number of the Debtor's customers. *Id.* Repairs to Puerto Rico's electric system and infrastructure are ongoing. At this time, approximately 60-70% of customers have access to lines that have been energized. Filsinger Declaration ¶ 8.

18. Ancillary to the devastation to the island's power grid was the Debtor's inability to continue pre-storm cash collection levels. In the immediate aftermath of Hurricane Maria, the Debtor's collections ground to a trickle, and they have remained low because the Debtor is still transmitting electricity at levels that are materially less than full capacity and critical equipment has not yet been repaired. *Id.* ¶ 9. Moreover, beyond the physical damage to transmission and distribution lines, customers' metering equipment and the accompanying communication pathways that utilize fiber optic cable or repeating stations were also damaged. *Id.* The process of converting customer power usage into billings relies on these communication pathways, and the repairs to the communications systems continue to this day. *Id.* Numerous customers also

¹⁹ *Id.* at 8, 20.

²⁰ *Id.* at 8, 20.

suffered damaged “weatherheads,” which prevent customers from drawing from the grid even if power has been restored to the distribution lines servicing their homes. *Id.*

19. Currently, the Debtor has restored the capability of billing approximately 35–40% of its customers. Based on its regular collection cycle, the Debtor expects to resume collections before March 31, 2018, but does not expect to achieve a pre-hurricanes level of collections until power is fully restored to customers in mid-2018. *Id.* ¶ 10. Further, the Debtor estimates that the total loss of revenues collected (measured as budgeted revenue collections less actual and projected cash collections) for the first six months after the hurricanes will be approximately \$1.2 billion. *Id.* ¶ 14. In addition to the loss of revenue, the Debtor has made substantial emergency expenditures necessitated by the storms. *Id.* While some of the emergency expenditures already incurred by the Debtor are being reimbursed by the FEMA, the timing and amount of the reimbursements remain uncertain. *Id.*

V. The Debtor Has an Immediate Need for Cash

20. The devastation wrought by Hurricanes Irma and Maria exponentially worsened the Debtor’s already difficult financial situation. The Debtor’s General Fund cash balance as of January 19, 2018 had fallen to approximately \$187 million and is projected to be negative by the week ending February 16, 2018. *Id.* ¶ 11. Taking into account a sixty-day operating reserve, by April 6, 2018, the Debtor projects a funding gap of approximately \$1 billion. *Id.* ¶ 14. Indeed, without implementing cash conservation measures, the General Fund cash balance would already be negative. *Id.* ¶ 11. Without an immediate infusion of liquidity, the Debtor may be forced to cease operations within the coming month. *Id.* This setback would further weaken and

destabilize Puerto Rico's economy and compound the problem of demonstrating to its residents and industry that Puerto Rico has a reliable energy source. Wolfe Declaration ¶ 26.

21. The Government of Puerto Rico has agreed to provide the Facility to the Debtor to ensure that the Debtor can continue to operate.²¹ Further, the Oversight Board has authorized and approved the Commitment pursuant to PROMESA section 207. The impact of a Debtor shutdown would be catastrophic, leaving substantially all of the Island without access to electricity.²² The shutdown would have a cascading effect on infrastructure and services that rely on electric power to operate (such as airports, seaports, hospitals, water systems, communication networks, hotels, traffic and street lights, etc.), plunge homes and businesses across the island into darkness, impair residents in need of power for medical operations, dialysis, and other patient needs, and impair Puerto Rico's fragile economy. The shutdown would also cause incalculable damage to Puerto Rico's ongoing restructuring efforts and jeopardize creditor recoveries across all Puerto Rico agencies and instrumentalities.

22. The requested relief for the use of funds from the Government of Puerto Rico to fund the Facility is intended to be an interim, stop-gap funding measure pending availability of federal loan proceeds the Government of Puerto Rico is attempting to negotiate. A portion of such proceeds would be lent by the Government of Puerto Rico to the Debtor through the Facility. In that regard, on October 26, 2017, Congress enacted the *Additional Supplemental Appropriations for Disaster Relief Requirements Act*, which authorized \$36.5 billion of disaster

²¹ On January 26, 2018, the Puerto Rico Legislature passed a joint resolution authorizing the Government of Puerto Rico to provide financing for PREPA (the "Joint Resolution"). The Joint Resolution provides that the Facility must be approved by the Puerto Rico Secretary of the Treasury. In addition, without further legislative authority, the Facility is capped at \$550 million and does not authorize loans to be drawn after June 30, 2018.

²² Filsinger Declaration ¶ 21.

relief funds to support recovery efforts in the aftermath of Hurricanes Harvey, Irma, and Maria.²³ The disaster relief package included approximately \$4.9 billion in loans under the Community Disaster Loan (“CDL”) Program, for which Puerto Rico, the U.S. Virgin Islands, and local governments of Florida and Texas are eligible. AAFAF and the Debtor have been actively engaged in discussions with the United States Department of the Treasury and FEMA about the possibility of a CDL loan directly to the Debtor or for the central government of Puerto Rico.

23. While AAFAF, the Oversight Board, and the Debtor strongly believe that a CDL loan is necessary to provide the needed level of funding for the Debtor, there is little confidence that a CDL loan will be forthcoming in time to address the Debtor’s immediate liquidity needs. The Facility, however, is structured to allow for it to be refinanced by a future CDL loan or, more likely, to allow the Government of Puerto Rico to downstream CDL loan proceeds advanced to it under a Commonwealth Financing to the Debtor through the Facility. While the Oversight Board, AAFAF, the Government of Puerto Rico, and the Debtor would prefer a loan be made directly from the U.S. Treasury to the Debtor (and have made that preference clear in discussions with the U.S. Treasury), the current position of the U.S. Treasury is that any CDL provided to the public corporations, like the Debtor, will be done through the Government of Puerto Rico.²⁴

24. The Debtor’s cash on hand and projected revenues are simply insufficient to cover the utility’s upcoming operational expenses.²⁵ Without the requested postpetition financing from the Lender, the Debtor will soon have insufficient funds to maintain its operations, which will

²³ See Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2017, Pub. L. No. 115-27, 131 Stat. 1224 (enacted Oct. 26, 2017).

²⁴ FEMA letter to AAFAF, dated January 9, 2018, a copy of which is attached hereto as **Exhibit F**.

²⁵ Filsinger Declaration ¶ 22.

lead to a reduction or even the elimination of electricity services altogether for the island of Puerto Rico.²⁶ As described above, the consequences of the Debtor's shutdown to the population of Puerto Rico and restructuring efforts would obviously be dire and must be avoided.

VI. The Structure of the Proposed Transaction Guarantees Adequate Protection

25. As explained below, the existing lien securing bonds under the Trust Agreement already provides for "Current Expenses" (including a sixty-day operating reserve) to be paid from revenues. Because the Lender's loan to the Debtor can only be used to pay Current Expenses, the existing lien is not diminished or impaired by the first lien to be granted to the Lender because Current Expenses already have a prior right to be paid from the Debtor's revenues before any positive net revenues exist that could go to creditors. This situation is unique because the priming lien the Lender is requesting, does not subordinate the existing creditors' lien to anything to which it is not already subordinated. For example, in the ordinary course, if the Debtor had \$1 billion of revenue and \$1 billion of current expenses, the revenues would pay the Current Expenses, not creditors. If instead, the Debtor has \$200 million of revenues and \$1 billion of Current Expenses, the \$200 million of revenues and the next \$800 million of revenues would be paid to cover Current Expenses before there would be collateral available to creditors. The instant loan is simply bridging the gap and supplying temporary funds to pay the Current Expenses before additional revenues are collected.

26. All amounts borrowed under the Facility will be senior in right of payment to the Power Revenue Bonds issued by the Debtor under the Trust Agreement. Specifically, the Debtor's repayment obligations for the amounts borrowed under the Facility will be (i) secured by a perfected first priority priming lien on all the Debtor's revenues and (ii) treated as a

²⁶ Filsinger Declaration ¶¶ 15, 22.

superpriority administrative claim in the Debtor's Title III Case, in each case subject only to the Carve Out.

27. The Lender's priming lien, which can be granted pursuant to Bankruptcy Code section 364(d), as incorporated by PROMESA, which lien would be senior in all respects to the existing liens securing the Power Revenue Bonds and any other existing secured claims against the Debtor (and subordinate only to the Carve Out). The secured claims under the Power Revenue Bonds, as required under Bankruptcy Code section 364, will be adequately protected because, among other things, (a) all loan proceeds will be used only for Current Expenses that under the Trust Agreement are already allowed to be paid out of the revenues that secure the bonds, (b) without the loans the Debtor would have to shut down, creating extra expenses of bringing it back up, (c) a further shutdown can only increase outmigration which would diminish the Debtor's future revenue stream, and (d) the collateral for the secured claims is a pledge of the net revenues (revenues minus expenses) and there can be no positive net revenues in the near and medium terms so there is no collateral value to protect in the near and medium terms. Indeed, without the Facility, the Debtor will not be able to generate positive net revenues.

28. As mentioned above, the Debtor's use of funds borrowed under the Facility will be limited to payment of essential operating costs of the utility, including payroll, benefits, facility maintenance expenses that are not capital expenditures or infrastructure improvements, and normal operational materials, supplies, vendor, and services payments that fall squarely within the definition of "Current Expenses" under the Trust Agreement (indeed, there are several categories of "Current Expenses" that are not even included as Eligible Uses for the loan, such as the Debtor's professional fees). As such, all expenses to be paid with advances under the

Facility would otherwise have been prioritized and paid from the Debtor's "Revenues" ahead of debt service payments on the Power Revenue Bonds. Specifically, pursuant to the Trust Agreement, the holders of the Power Revenue Bonds are entitled to payment of "Net Revenues" after the payment of "Current Expenses."²⁷ "Net Revenues" are defined as the difference between the Debtor's revenues and its "Current Expenses."²⁸ The term "Current Expenses" is defined as:

[The Debtor's] reasonable and necessary current expenses of maintaining, repairing and operating the System and shall include, without limiting the generality of the foregoing, all administrative expenses, insurance premiums, expenses of preliminary surveys not chargeable to Capital Expenditures, engineering expenses relating to operation and maintenance, fees and expenses of the Trustee, the 1947 Trustee, the Paying Agents and of the paying agents under the 1947 Indenture, legal expenses, any payment to pension or retirement funds, and all other expenses required to be paid by the Authority under the provisions of the 1947 Indenture, this Agreement or by law, or permitted by standard practices for public utility systems, similar to the properties and business of the Authority and applicable in the circumstances but shall not include any deposits to the credit of the Sinking Fund, the Reserve Maintenance Fund, the Subordinate Obligations Fund, the Self-insurance Fund and the Capital Improvement Fund or the 1947 Sinking Fund or deposits under the provisions of Sections 511, 512 and 513 of the 1947 Indenture.

Trust Agreement, at 18. As the Debtor's "Revenues" are presently insufficient, these expenses will be paid from advances from the Facility. Thus, neither the holders of the Power Revenue Bonds nor their asserted security interests in the "Revenues" under the Trust Agreement will be diminished by the Facility.

29. Importantly, in light of the Lender's own financial situation, the Lender expects that the net amount of the advances under the Facility from its funds on hand will not exceed \$550 million, and that the balance of the Commitment amount of \$1.3 billion will be funded, if

²⁷ Trust Agreement § 505.

²⁸ Trust Agreement § 505.

required, from proceeds of CDLs to be provided by the federal government to the Government of Puerto Rico.²⁹ All advances to the Debtor under the Facility that are made by the Lender from proceeds of CDLs will bear the same interest rate as the CDLs. Moreover, in the event that any or all of the CDLs are subsequently forgiven by the federal government, the amount of CDLs that were subsequently advanced to the Debtor under the Facility will also be forgiven by the Lender. In essence, the Lender expects that a significant portion, if not the majority, of the Facility will be a pass-through of CDLs to the Debtor.

VII. Alternative Sources of Financing are Not Readily Available

30. Congress established the Oversight Board with the purpose of providing Puerto Rico with a method to achieve fiscal responsibility and access to the capital markets. PROMESA § 101(a). By doing so, Congress recognized that Puerto Rico and its instrumentalities have been cut off from normal market access. *See* PROMESA § 405(m)(6) (“the ability of the Government of Puerto Rico to obtain funds from capital markets in the future will be severely diminished without congressional action to restore its financial accountability and stability.”); *see also* ANNE O. KRUEGER ET AL., PUERTO RICO – AWAY FORWARD (2015) (the “Krueger Report”) at 1 (“Structural problems, economic shocks and weak public finances have yielded a decade of stagnation, outmigration and debt. Financial markets once looked past these realities but have since cut off the Commonwealth from normal market access.”).

31. That Puerto Rico and its instrumentalities lack access to the capital markets is uncontroversial.

²⁹ As noted above, at present, the Debtor and the Commonwealth believe the federal government will not lend CDLs directly to the Debtor, and thus the Facility will need to be kept in place to advance CDL proceeds to the Debtor.

32. Despite the Debtor's publicly-disclosed liquidity crisis, no financing of the magnitude required is readily available and committed other than the attractive financing offered by Puerto Rico. Shortly after Hurricanes Irma and Maria, the Debtor received an unsolicited, publicly announced offer for financing from a group of holders of its Power Revenue Bonds. Mondell Declaration ¶ 7. That offer was for \$1 billion of financing, but was tied to a roll-up of \$1 billion in existing bonds into an additional \$850 million of post-petition financing (which would have resulted in a senior credit facility of \$1.85 billion, out of which \$1 billion of cash would have been available for advancement to the Debtor). *Id.* The offer carried a stated per annum interest rate of LIBOR plus 4.5% and a two-year maturity date. *Id.* In addition, the interest rate would have increased to LIBOR plus 6.5% upon the one year anniversary of initial borrowing. *Id.* The roll-up feature also provided investors in the loan facility with enhanced security provisions on a portion of their pre-petition claims. *Id.* The proposal also required the appointment of a receiver and had the potential to limit the future transformation of the electric grid. *Id.* For reasons that were publicly stated by AAFAF at the time, the proposal therefore was turned down.

33. Beginning on January 21, 2018, the Debtor, through Rothschild, initiated a marketing effort to obtain alternative financing. Mondell Declaration ¶ 11. As part of that process, Rothschild, with the assistance of advisors for the Debtor and AAFAF, prepared marketing materials and assembled a data room populated with relevant diligence information. *Id.* In consultation with the advisors to the Oversight Board, professionals from Rothschild have been in contact with ten potential funding providers, which consisted of four existing PREPA, Commonwealth, and COFINA bondholders and bondholder groups, and six third-parties capable

of providing financing of this magnitude. *Id.* As set forth in the Mondell Declaration, the contacted parties included all of parties that had previously expressed to either Rothschild or the Oversight Board's financial advisor interest in providing such financing to the Debtor. *Id.* ¶ 12. To date, seven of these prospective lenders have signed non-disclosure agreements (“NDAs”) (or are operating under existing NDAs) and have been provided access to the data room maintained by Rothschild containing relevant information on the current financial conditions of the Debtor. *Id.* Rothschild has requested interested parties to submit initial indications of interest by February 2, 2018. The Debtor will submit an updated Mondell Declaration to the Court after proposals have been submitted and reviewed.

34. The Debtor, through Rothschild, will continue the solicitation process until the Final Hearing to determine whether a superior financing proposal can be obtained. Mondell Declaration ¶ 13. Importantly, because the terms of the financing contemplated in the Urgent Motion include a zero percent interest rate for the first six months, no closing fees, and no prepayment penalty, the Debtor can refinance the Facility if desired (to the extent of available financing in the future), without the Debtor having incurred costs on the Facility even following approval of the Urgent Motion. *Id.*

35. Further, despite the efforts of the Debtor's advisors, the Debtor could not obtain a commitment for the financing sought through this Urgent Motion on an unsecured basis, on a junior lien basis, or on a *pari passu* lien basis. Mondell Declaration ¶ 15. Lastly, and critically, no party has offered to extend a loan that has the potential to be cancelled or forgiven.

Relief Requested

36. The Debtor requests that the Court:

- a. authorize the Debtor to obtain the Facility consisting of \$1.3 billion in the form of a senior secured priming super-priority revolving credit facility, with authority to borrow up to \$550 million available on an interim basis pending entry of the Final Financing Order (the “Initial Borrowing”), subject to and pursuant to the terms and conditions set forth in the Interim Financing Order, the Final Financing Order, and the Credit Documents;
- b. grant first priority priming liens on the Collateral to the Lender, and grant superpriority administrative expense claims to the Lender, in each case subject to the Carve Out;
- c. schedule the Final Hearing to consider entry of the Final Financing Order authorizing the borrowings under, and the Debtor’s entry into, the Credit Documents on a final basis; and
- d. modify the automatic stay imposed by Bankruptcy Code sections 362 and 922 to the extent necessary to implement and effectuate the terms of the Financing Orders.

Basis for Relief

I. The Debtor Should be Authorized to Obtain Postpetition Financing through the Credit Documents

A. Entering into the Credit Documents Is an Exercise of the Debtor’s Sound Business Judgment

37. The Debtor seeks authority to obtain access to the Facility immediately because a cash shortage may arise at any time. Bankruptcy Code sections 364(c) and (d)³⁰ authorize a debtor to obtain secured financing under certain circumstances discussed in detail below. Courts grant a debtor considerable deference in acting in accordance with its business judgment in obtaining postpetition secured credit, so long as the agreement to obtain such credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code. *See, e.g., Bray v.*

³⁰ Pursuant to PROMESA section 301(a), subsections (c), (d), and (e) of Bankruptcy Code section 364 are incorporated into PROMESA but subsections (a) and (b) (authorizing the incurrence of administrative priority, unsecured debt) are not. As the Facility will be secured by priming liens on the Debtor’s “Revenues” (as defined in the Trust Agreement), subsections (a) and (b) are not implicated by this Urgent Motion. Further, section 363 of the Bankruptcy Code is not incorporated into PROMESA. Thus, the Urgent Motion is predicated on sections 364(c) and (d) alone.

Shenandoah Fed. Sav. & Loan Ass'n (In re Snowshoe Co.), 789 F.2d 1085, 1088 (4th Cir. 1986); *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) (“[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender.”); *In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (noting that interim financing was approved because it “[r]eflected sound and prudent business judgment on the part of [the debtor] . . . reasonable under the circumstances and in the best interest of [the debtor] and its creditors.”); *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (“[C]ases consistently reflect that the court’s discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.”); *In re Simasko Production Co.*, 47 B.R. 444, 448–49 (D. Colo. 1985) (authorizing interim financing where debtor’s best business judgment indicated financing was necessary and reasonable for benefit of estate).

38. To determine whether the business judgment standard is met, a court need only “examine whether a reasonable business person would make a similar decision under similar circumstances.” *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006); *see also In re Curlew Valley Assocs.*, 14 B.R. 506, 513–14 (Bankr. D. Utah 1981) (noting that courts should not second guess a debtor’s business decision when that decision involves “a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor’s] authority under the [Bankruptcy] Code”).

39. Furthermore, in considering whether the terms of postpetition financing are fair and reasonable, courts consider the terms in light of the relative circumstances of both the debtor

and the potential lender. *In re Farmland Indus., Inc.*, 294 B.R. 855, 886 (Bankr. W.D. Mo. 2003); *see also Unsecured Creditors' Comm. Mobil Oil Corp. v. First Nat'l Bank & Trust Co. (In re Elingsen McLean Oil Co., Inc.)*, 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing a debtor may have to enter into "hard bargains" to acquire funds for its reorganization); *Richmond Leasing Co. v. Capital Bank, NA.*, 762 F.2d 1303, 1311 (5th Cir. 1985) ("More exacting scrutiny [of the debtor's business decisions] would slow the administration of the debtor's estate and increase its cost, interfere with the Bankruptcy Code's provision for private control of administration of the estate, and threaten the court's ability to control a case impartially."); *In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (noting that approval of postpetition financing requires, *inter alia*, an exercise of "sound and reasonable business judgment."):

The Court should interfere with the Debtor's management decisions only if it is made clear that those decisions are, *inter alia*, clearly erroneous, made arbitrarily, are in breach of the officers' and directors' fiduciary duty to the corporation, are made on the basis of inadequate information or study, are made in bad faith, or are in violation of the Bankruptcy Code. *See In re United Artists Theatre Co.*, 315 F.3d 217, 233 (3rd Cir. 2003); *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985); *In re Defender Drug Stores, Inc.*, 145 B.R. 312 at 317 (B.A.P. 9th Cir. 1992).

40. The Debtor's determination to move forward with the Facility is an exercise of its sound business judgment following a careful evaluation of alternatives. Given the Debtor's nearly-exhausted cash reserves exacerbated by the passage of Hurricanes Irma and Maria and resulting delay in collection of "Revenues," the Debtor and its advisors, together with the Oversight Board, determined that the Debtor would require significant postpetition financing to continue operations (including addressing its post-hurricane recovery efforts) and to fully reestablish, maintain, and improve electricity services for the citizens of Puerto Rico.

41. More specifically, the Debtor's General Fund cash balance as of January 19, 2018 had fallen to approximately \$187 million and is projected to be negative by the week ending February 16, 2018. Filsinger Declaration ¶11. Without an immediate infusion of liquidity, the Debtor may be forced to cease operations within the coming month. As described further above, the impact of a Debtor shutdown would be catastrophic, leaving the entire Island without access to electricity. Without power, Puerto Rico's businesses cannot operate, citizens who have evacuated the Island have little reason to return, and those who have remained have greater reason to leave—exacerbating the loss of the Government of Puerto Rico's and the Debtor's revenues. As a consequence, the Government of Puerto Rico's ability to actually collect, and its citizens' ability to actually pay, taxes will be hampered. Wolfe Declaration ¶ 28. Absent an infusion of additional funds into the Debtor, the Government of Puerto Rico cannot realistically continue to operate, recover, and rebuild the Island's basic infrastructure and stabilize the economy.

42. Given the devastation caused by Hurricanes Irma and Maria, the Debtor's projected near-term liquidity shortfall, the delays in obtaining federal funding, and the devastating impact of any interruption to Puerto Rico's power supply or delay in restoration efforts, the Debtor believes the Facility is amply justified and should be approved. Moreover, the Facility is being provided at a highly competitive interest rate (subject to step-up in certain circumstances), and as shown in the Mondell Declaration, it is superior to any similar financing for which the Debtor has yet received a proposal from a third-party lender, though the Debtor continues to diligently seek competing offers. Mondell Declaration ¶ 13, 15.

43. As described further below, from the standpoint of the Lender (itself a Title III debtor), it reasonably requires the protections of a superpriority administrative claim pursuant to Bankruptcy Code section 364(c)(1) and priming liens on the Debtor's "Revenues" pursuant to section 364(d). Without such protections, the Lender would be placing a significant amount of its own liquidity at material risk of not being repaid to the obvious detriment of its restructuring effort and its mission to serve the population of Puerto Rico and interests of its creditors. The Lender has agreed to provide the Facility at minimal interest cost to the Debtor (and no interest for the first six months), and with the possibility of forgiving some or all of the Facility indebtedness based on future circumstances (subject to the forgiveness of the CDLs), but in the interest of preserving its own liquidity, it has required the superpriority claims and priming liens sought hereby. The Lender is providing the only lifeline reasonably available to save its primary power utility and with it Puerto Rico's own prospects for financial recovery. The Debtor, the Lender, and the Oversight Board assert and agree that the Facility appropriately balances the interests of the Debtor and Puerto Rico.

44. The Facility will enable the Debtor to continue the long road back to viability and prosperity. To this end, the Debtor negotiated the Credit Documents with the Commonwealth in good faith and with the assistance of its advisors and the Oversight Board, and the Debtor believes it has obtained the best financing available. Further, after conducting a rigorous diligence process, the Oversight Board has authorized and approved the Commitment pursuant to PROMESA section 207. Accordingly, the Court should authorize the Debtor's entry into the Credit Documents as it is a reasonable exercise of the Debtor's business judgment.

B. The Debtor Should be Authorized to Grant Superpriority Claims and Priming Liens to the Lender

45. The Debtor proposes to obtain financing under the Facility by providing superpriority expense claims and first priority priming liens on the Collateral as set forth in the Credit Documents pursuant to Bankruptcy Code subsections 364(c) and (d).

i. Bankruptcy Code Section 364(c)

46. The statutory requirement for obtaining postpetition credit under Bankruptcy Code section 364(c) is that a debtor is “unable to obtain unsecured credit allowable under Section 503(b)(1) of [the Bankruptcy Code].” 11 U.S.C. § 364(c). *See In re Crouse Grp., Inc.*, 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987) (secured credit under section 364(c) of the Bankruptcy Code is authorized, after notice and hearing, upon showing that unsecured credit cannot be obtained). Courts have articulated a three-part test to determine whether a debtor is entitled to financing under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

- a) the debtor is unable to obtain unsecured credit under section 364(b) of the Bankruptcy Code, *i.e.*, by allowing a lender only an administrative claim;
- b) the credit transaction is necessary to preserve the assets of the estate; and
- c) the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and proposed lenders.

See In re Ames Dep’t Stores, 115 B.R. 34, 37–40 (Bankr. S.D.N.Y. 1990); *see also In re St. Mary Hosp.*, 86 B.R. 393, 401–02 (Bankr. E.D. Pa. 1988); *Crouse Grp.*, 71 B.R. at 549.

47. Regarding the first *Ames* factor, if a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, section 364(c) provides a court “may authorize the obtaining of credit or the incurring of debt (1) with

priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of [the Bankruptcy Code]; (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien.”³¹ As described further in the Mondell Declaration and the Background Section of this Urgent Motion, the Debtor is unable to obtain unsecured credit.

48. Regarding the second and third *Ames* factors, as described above and as set forth in the Filsinger Declaration, the Debtor is in need of an immediate capital infusion to stem the devastating effects of Hurricane Maria on the Debtor’s existing dire economic situation. Absent the availability of such funds being used for the Debtor’s recovery, the Debtor may be forced to cease operations within the coming month. Filsinger Declaration ¶ 15. Should the Debtor cease operations for three to six months, the impact on Puerto Rico’s economy would be catastrophic—resulting in an estimated decline in real economic growth of 15-20% and outmigration of 300,000 to 365,000 individuals in fiscal year 2018 alone. *See* Wolfe Declaration ¶ 25. The outmigration, in turn, would lead to a substantially lower tax base, loss of customers for existing businesses, and an erosion of faith in Puerto Rico as a stable environment to conduct business. *Id.* ¶ 26. With such a loss, the Government of Puerto Rico would not have sufficient funds to provide the most basic services to its people, let alone service any debt. Without the reestablishment of basic services, Puerto Rico’s outmigration will accelerate, further depressing the Government of Puerto Rico’s and the Debtor’s revenues. *Id.* ¶ 26.

49. Accordingly, approving a superpriority claim in favor of the Lender is reasonable and appropriate. Indeed, this Court has recently granted similar relief for the United States in the event any federal funding becomes de-obligated. *See* FEMA Order ¶ 9.

³¹ 11 U.S.C. § 364(c).

ii. *Bankruptcy Code Section 364(d)*

50. Bankruptcy Code section 364(d) provides a debtor may obtain credit secured by a senior or equal lien on property of the estate already subject to a lien, after notice and a hearing, where the debtor is “unable to obtain such credit otherwise” and “there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.” 11 U.S.C. § 364(d)(1). Consent by the secured claimholders to priming obviates the need to show adequate protection. *See Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 122 (N.D. Ga. 1989) (“[B]y tacitly consenting to the superpriority lien, those [undersecured] creditors relieved the debtor of having to demonstrate that they were adequately protected.”). Accordingly, the Debtor may incur priming liens under the Facility if it is unable to obtain unsecured or junior secured credit and either (a) the Debtor’s secured claimholders have consented or (b) such secured claimholders’ interests in the Collateral are adequately protected.

51. Here, adequate protection is objectively demonstrated in Section VI above because the Trust Agreement already provides the bondholders’ lien is subordinate to payment of Current Expenses, and the Facility can only be used for Current Expenses. Thus, while what constitutes adequate protection is decided on a case-by-case basis, *see, e.g., In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) (“The determination of adequate protection is a fact-specific inquiry . . . left to the vagaries of each case”); *In re Realty Sw. Assocs.*, 140 B.R. 360 (Bankr. S.D.N.Y. 1992); *In re Beker Indus. Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986) (the application of adequate protection “is left to the vagaries of each case, but its focus is protection of the secured creditor from diminution in the value of its collateral during the

reorganization process” (citations omitted)), the determination of adequate protection in this case is clear and straight forward. Moreover, “adequate protection, not absolute protection, is the statutory standard.” *In re Beker Indus. Corp.*, 58 B.R. 725, 741 (Bankr. S.D.N.Y. 1986) (citing *In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985)).

52. Here, the interests of the secured claimholders’ (*i.e.*, the holders of the Power Revenue Bonds) in the Collateral are adequately protected. Significant outmigration exacerbated by Hurricane Maria is projected to be on the magnitude of 300,000 to 365,000 individuals in fiscal year 2018 if the current conditions on the island are left unabated and the Debtor is forced to cease operations for three to six months.³² Absent a material improvement in the Debtor’s current operations, its “Revenues” would suffer immense depletion from the loss of its customer base even if it does not shut down entirely, and would be insufficient to cover operating expenses in the long term.³³ The Facility thus represents the bondholders’ best chance of realizing any value from their collateral, which may have no value at present.

53. This Court has held maintenance of infrastructure and assets generating revenue is sufficient adequate protection to ensure that any encumbered revenues will be available in the future (*i.e.*, that there will be no diminution in the value of the collateral).³⁴ Other courts have also recognized that a debtor’s ability to maintain business value by operating in the ordinary course is itself a significant source of adequate protection. *See In re Salem Plaza Assocs.*, 135 B.R. 753, 758 (Bankr. S.D.N.Y. 1992) (holding a debtor’s use of cash collateral to pay operating expenses, thereby “preserv[ing] the base that generates the income stream,” provided adequate

³² See Wolfe Declaration ¶ 25.

³³ See Filsinger Declaration ¶ 11, 20.

³⁴ See *Opinion and Order Denying Motion for Preliminary Injunction and Motion for Relief from the Automatic Stay* at 15–16, Sept. 8, 2017, Case No. 17-03567, Docket No. 260.

protection to the secured claimholder). As a general matter, continued operations are far more likely to maintain or increase underlying collateral values compared with the catastrophic loss of value that could result from a debtor's inability to operate in the ordinary course. *See, e.g., In re Jim Kelley Ford of Dundee, Ltd.*, 14 B.R. 812 (N.D. Ill. 1981) (finding lender was adequately protected and debtor was authorized to use cash collateral to fund operations where lender benefited from the difference between the average sale price of a car sold at retail and the average sale price if the same vehicle were sold at a wholesale auction).

54. Here, the critical funds the Debtor will receive under the Facility will be used for funding the Debtor's functions under its 2018-2019 budgets, and will thereby make all parties, including its bondholders, better off. The Debtor estimates such funds will help stem the outmigration experienced by Puerto Rico to approximately 255,000 in fiscal year 2018 and 62,000 in fiscal year 2019.³⁵ Specifically, the Facility is designed to give the Debtor the ability to: (a) provide and improve electricity services to the people of Puerto Rico; (b) reestablish the necessary conditions in Puerto Rico to maximize the collection of taxes and fees; and (c) allow for larger creditor recoveries under the Debtor's plan of adjustment. Without covering the Debtor's operational needs in the wake of Hurricanes Irma and Maria, the Debtor's and Puerto Rico's recovery and, ultimately their revitalization, are not possible. Fully reestablishing the Debtor's electricity services and funding its 2018-2019 budgets are a critical first step in rebuilding the Debtor and Puerto Rico.

55. Because the value of the secured claimholders' Collateral is tied to the Revenues of the Debtor, if the Debtor were to cease operating, the value of the Collateral would

³⁵ Wolfe Declaration ¶ 19.

evaporate.³⁶ Even if the Debtor were eventually to come back online, the shuttering of businesses and outmigration that would have taken place in the intervening period would cut significantly into the Debtor's customer base and thereby diminish its future revenue streams.³⁷ Therefore, the Debtor's secured claimholders' interests in their Collateral are adequately protected because the value of the Collateral would be preserved or increase by granting Debtor access to funding under the Facility. *See In re Lagoon Breeze Dev. Corp.*, No. BR 10-15177-MM11, 2011 WL 939016, at *1 (Bankr. S.D. Cal. Mar. 14, 2011) (finding that prepetition lender was adequately protected because "the value of [its] collateral [would] increase by approximately \$4 million . . . double the amount of the approximately \$2 million priming loan"); *In re Hudson*, No. 208-09480, 2011 WL 1004630, at *9-10 (Bankr. M.D. Tenn. Mar. 16, 2011); *In re Yellowstone Mountain Club, LLC*, No. 08-61570-11, 2008 WL 5875547, at *17 (Bankr. D. Mont. Dec. 17, 2008) (approving priming loan that would maximize the going concern value of the debtor to the benefit of the creditor and maximize the overall return to the lender); *In re Campbell Sod, Inc.*, 378 B.R. 647, 655 (Bankr. D. Kan. 2007) ("The record supports a conclusion that the working capital infusion will result in increased asset value that will adequately protect the [prepetition lender]"); *In re Hamilton Square Assocs.*, No. 91-14720S, 1992 WL 98294, at *1 (Bankr. E.D. Pa. May 5, 1992) (finding the improvement of the debtor's financial condition as a result of the postpetition loan and the replacement of the debtor's anchor tenant constituted adequate protection for the priming of the creditor's lien); *Bank of New England v. BWL, Inc.*, 121 B.R. 413, 418 (D. Me. 1990); *In re 495 Cent. Park Ave. Corp.*, 136 B.R. 626, 631 (Bankr. S.D.N.Y. 1992) (in the context of a Bankruptcy Code section 364(d)

³⁶ Wolfe Declaration ¶ 27.

³⁷ *Id.*

priming lien, “there is no question that the property would be improved by the proposed renovations and that an increase in value will result. In effect, a substitution occurs in that the money spent for improvements will be transferred into value. This value will serve as adequate protection for [the creditor’s] secured claim.”); *In re Ralar Distribs.*, 166 B.R. 3, 6 (Bankr. D. Mass. 1994) (“[a]ctivities of a debtor can enhance collateral value and thereby provide adequate protection”); *In re Ledgemere Land Corp.*, 125 B.R. 58, 62 (Bankr. D. Mass. 1991) (holding “chance of a decline in the value of the property is more than offset by the likelihood of enhancement in value due to the Debtor’s construction and marketing plans. Completion of the building will increase its value by more than the requested \$500,000” of priming indebtedness to complete the construction); *see also Confederation Life Ins. Co. v. Beau Rivage Ltd.*, 126 B.R. 632, 639 (N.D. Ga. 1991) (in the context of a debtor’s use of cash collateral, “[s]ince the rents were used for structural and cosmetic repairs, thereby increasing the occupancy and income of the apartments and making the property more valuable, [the creditor’s] security was not depleted.”); *In re Hubbard Power & Light*, 202 B.R. 680, 685 (Bankr. E.D.N.Y. 1996) (holding county’s lien on debtor’s property would be adequately protected as substantial portion of postpetition priming loan funds would go to cleaning up environmental damage on the encumbered property):

There is no question in this Court’s mind that the property will be improved by the clean-up since it is presently either unsaleable or has a nominal value at best, because of the restraint imposed by the DEC regulations. Without this investment and improvement to Debtor’s property, the County itself may have to invest the cost of the clean-up if it wishes to have any benefit from its collateral. It is further clear to this Court that the investment made to clean-up the property will result in a benefit not only to the Debtor and its estate, but to all secured creditors and parties-in-interest.

56. As supported by the Wolfe Declaration, the use of the funds sought by this Urgent Motion will ensure that the Collateral (*i.e.*, the Debtor's "Revenues" net of "Current Expenses" under the Trust Agreement) does not decrease in value by preventing the catastrophic consequences that would result from a shutdown of the Debtor. All stakeholders will have a far better chance of recovery on account of claims against the Debtor if the postpetition financing sought pursuant to this Urgent Motion is expeditiously authorized.³⁸ Indeed, all stakeholders will fare better in a scenario where electricity services are fully restored as "a rising tide lifts all boats." Further, the use of the funds advanced under the Facility will be limited to Eligible Uses (all of which are "Current Expenses" under the Trust Agreement) and restricted by the 13-Week Budget which will require the approval of the Oversight Board pursuant to its authority under PROMESA section 207 and the Credit Documents. Therefore, the relief requested pursuant to Bankruptcy Code section 364(d)(1) is appropriate.

C. The Debtor Will Provide Substantial Information To the Creditors' of PREPA and The Lender

57. Prior to the filing of this Motion, the Debtor began providing periodic reporting to its creditors who are party to the Mediation Agreement. Likewise, the Credit Documents require substantial information be provided to these creditors, including the Debtor's: (i) cash balance; (ii) statement of cash flows; (iii) total accounts payable and, if available, accounts payable aging schedule; (iv) total accounts receivable and, if available, accounts receivable aging schedule; (v) grid restoration report while the restoration activities are ongoing; and (vi) generation status report while the restoration activities are ongoing.

³⁸ See Wolfe Declaration ¶¶ 27-28.

D. No Comparable Alternative to the Facility is Reasonably Available

58. A debtor need only demonstrate “by a good faith effort that credit was not available without” the protections afforded to potential lenders by sections 364(c) and 364(d) of the Bankruptcy Code. *In re Snowshoe Co., Inc.*, 789 F.2d 1085, 1088 (4th Cir. 1986); *see also In re Plabell Rubber Prods., Inc.*, 137 B.R. 897, 900 (Bankr. N.D. Ohio 1992). Moreover, in circumstances where only a few lenders likely can or will extend the necessary credit to a debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing.” *Sky Valley, Inc.*, 100 B.R. at 113; *see also In re Snowshoe Co.*, 789 F.2d 1085, 1088 (4th Cir. 1986) (demonstrating that credit was unavailable absent the senior lien by establishment of unsuccessful contact with other financial institutions in the geographic area); *In re Stanley Hotel, Inc.*, 15 B.R. 660, 663 (D. Colo. 1981) (bankruptcy court’s finding that two national banks refused to grant unsecured loans was sufficient to support conclusion that section 364 requirement was met); *In re Ames Dep’t Stores*, 115 B.R. at 37–39 (debtor must show that it made reasonable efforts to seek other sources of financing under section 364(a) and (b)).

59. Despite the Debtor’s very public need for emergency financing, no financing of the magnitude required to address the Debtor’s pending liquidity crisis has been earnestly offered by any parties other than the financing sought through this Urgent Motion. Congress recognized as much when it established the Oversight Board with the purpose of providing Puerto Rico and its instrumentalities with a method to achieve fiscal responsibility and access to the capital markets: “Structural problems, economic shocks and weak public finances have yielded a decade of stagnation, outmigration and debt. Financial markets once looked past these realities

but have since cut off the Commonwealth from normal market access.” Krueger Report, at 1. The impact of the hurricanes on the Debtor’s already fragile circumstances has been devastating.

60. Shortly after Hurricanes Irma and Maria, the Debtor received an unsolicited, publicly announced offer for financing from a group of holders of its Power Revenue Bonds. Mondell Declaration ¶ 7. That offer was for \$1 billion of financing, but was tied to a roll-up of \$1 billion in existing bonds into an additional \$850 million of post-petition financing (which would have resulted in a senior credit facility of \$1.85 billion, out of which \$1 billion of cash would have been available for advancement to the Debtor). *Id.* The offer carried a stated per annum interest rate of LIBOR plus 4.5% and a two-year maturity date. *Id.* In addition, the interest rate would have increased to LIBOR plus 6.5% upon the one year anniversary of initial borrowing. *Id.* The roll-up feature also provided investors in the loan facility with enhanced security provisions on a portion of their pre-petition claims. *Id.* The proposal also required the appointment of a receiver and had the potential to limit the future transformation of the electric grid. *Id.* For reasons that were publicly stated by AAFAF at the time, the proposal therefore was turned down.

61. Beginning on January 21, 2018, the Debtor, through Rothschild, initiated a marketing effort to obtain alternative financing. Mondell Declaration ¶ 11. As part of that process, Rothschild, with the assistance of advisors for the Debtor and AAFAF, prepared marketing materials and assembled a data room populated with relevant diligence information. *Id.* In consultation with the advisors to the Oversight Board, professionals from Rothschild have been in contact with ten potential funding providers, which consisted of four existing PREPA, Commonwealth, and COFINA bondholders and bondholder groups, and six third-parties capable

of providing financing of this magnitude. *Id.* As set forth in the Mondell Declaration, the contacted parties included all of parties that had previously expressed to either Rothschild or the Oversight Board's financial advisor interest in providing such financing to the Debtor. *Id.* ¶ 12. To date, seven of these prospective lenders have signed non-disclosure agreements (“NDAs”) (or are operating under existing NDAs) and have been provided access to the data room maintained by Rothschild containing relevant information on the current financial conditions of the Debtor. *Id.* Rothschild has requested interested parties to submit initial indications of interest by February 2, 2018. The Debtor will submit an updated Mondell Declaration to the Court after proposals have been submitted and reviewed.

62. The Debtor, through Rothschild, will continue the solicitation process until the Final Hearing to determine whether a superior financing proposal can be obtained. Mondell Declaration ¶ 13. Importantly, because the terms of the financing contemplated in the Urgent Motion include a zero percent interest rate for the first six months, no closing fees, and no prepayment penalty, the Debtor can refinance the Facility if desired (to the extent of available financing in the future), without the Debtor having incurred costs on the Facility even following approval of the Urgent Motion. *Id.*

63. Further, despite the efforts of the Debtor's advisors, the Debtor could not obtain a commitment for the financing sought through this Urgent Motion on an unsecured basis, on a junior lien basis, or on a *pari passu* lien basis. Mondell Declaration ¶ 15. Lastly, and critically, no party has offered to extend a loan that has the potential to be cancelled or forgiven.

II. The Lender Should be Afforded Good-Faith Protection under Bankruptcy Code Section 364(e)

64. Bankruptcy Code section 364(e) protects a good-faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal.

Section 364(e) of the Bankruptcy Code provides:

The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.³⁹

65. As explained herein, the Credit Documents are a result of (i) the Debtor's reasonable and informed determination that the Lender, over all, offered the most suitable terms on which to obtain sufficient and vital postpetition financing, and (ii) extensive good-faith negotiations between the Debtor and the Lender. Importantly, the Lender is not charging any interest or fees, and has merely insisted on protections contemplated by Bankruptcy Code section 364(c), (d), and (e) to preserve its own liquidity in the interest of its own restructuring. The Debtor submits the terms and conditions of the Credit Documents are reasonable and appropriate under the circumstances, and the proceeds of the Facility will be used only for purposes (i) approved by the Oversight Board and (ii) permissible under PROMESA and the Bankruptcy Code as incorporated by PROMESA section 301. Accordingly, the Court should find that the obligations under the Facility and other financial accommodations made to the Debtor have been

³⁹ In addition to Bankruptcy Code section 364(e), the Commonwealth is protected by PROMESA section 304(e), which provides that "[t]he reversal on appeal of a finding of jurisdiction shall not affect the validity of any debt incurred that is authorized by the court under section 364(c) or 364(d) of title 11, United States Code."

extended by the Lender in “good faith” within the meaning of section 364(e) of the Bankruptcy Code and therefore the Lender is entitled to all protections afforded by that section.

III. The Automatic Stay Should be Modified on a Limited Basis

66. The Credit Documents contemplate the automatic stay arising under section 362 of the Bankruptcy Code shall be vacated or modified to the extent necessary to permit the Lender to exercise, upon the occurrence and during the continuation of any Event of Default, but subject to any applicable motion requirements in the Financing Orders, all rights and remedies provided for in the Credit Documents, without further order of or application to the Court.

67. Whether or not a default or an Event of Default under the Credit Documents or a default by the Debtor of any of its obligations under the Financing Orders has occurred, the Credit Documents contemplate the automatic stay will be further vacated or modified to (A) require all cash, checks or other collections or proceeds from Collateral received by the Debtor to be deposited in accordance with the requirements of the Credit Documents, and to apply any amounts so deposited and other amounts paid to or received by the Lender under the Credit Documents in accordance with any requirements of the Credit Documents, (B) file or record any financing statements, mortgages or other instruments or other documents to evidence the security interests in and liens upon the Collateral in accordance with the Credit Documents, (C) charge and collect any interest, fees, costs and other expenses accruing at any time under the Credit Documents as provided therein, and (D) give the Debtor any notice provided for in or contemplated by any of the Credit Documents or this Interim Financing Order.

68. Stay modifications of this kind are ordinary and standard features of debtor-in-possession financing arrangements, and, in the Debtor’s business judgment, are reasonable and

fair under the circumstances of this Title III case. *See, e.g., In re City of Detroit, Michigan*, No. 13-53846 (SWR), Docket No. 4108 (Bankr. E.D. Mich. Apr. 16, 2014) (modifying automatic stay as necessary to effectuate the terms of the order); *In re Buckingham Oil Interests, Inc.*, No. 15-13441 (JNF) (Bankr. D. Mass. Dec. 2, 2015); *In re Autoseis, Inc.*, No. 14-20130 (RSS) (Bankr. S.D. Tex. Mar. 27, 2014) (same); *In re TMP Directional Mktg., LLC*, No. 11-13835 (MFW) (Bankr. D. Del. Jan. 17, 2012) (same); *In re Broadway 401 LLC*, No. 10-10070 (KJC) (Bankr. D. Del. Feb. 16, 2010) (same); *In re Hights Cross Commc'ns, Inc.*, No. 10-10062 (BLS) (Bankr. D. Del. Feb. 8, 2010) (same).

IV. Failure to Obtain Immediate Interim Access to the Facility Would Cause Immediate and Irreparable Harm

69. Bankruptcy Rules 4001(b) and 4001(c) provide a final hearing on a motion to obtain credit pursuant to section 364 of the Bankruptcy Code may not be commenced earlier than 14 days after the service of such motion. Upon request, however, the Court may conduct a preliminary, expedited hearing on the motion and authorize the obtaining of credit to the extent necessary to avoid immediate and irreparable harm to a debtor.

70. The Debtor requests that the Court hold an emergency hearing to consider entry of the Interim Financing Order authorizing the Debtor, from and after entry of the Interim Financing Order until the Final Hearing, to receive the Initial Borrowing under the Facility. The Debtor requires the Initial Borrowing prior to the Final Hearing and entry of the Final Financing Order to continue its post-hurricane recovery efforts to safeguard the health, safety, and welfare of the people of Puerto Rico. Without borrowed funds on an immediate basis, there is a material risk the Debtor would have to substantially reduce the pace of its recovery efforts, and the Debtor's ability to fully reestablish electricity services would continue to be hamstrung and

imperiled by the Island's post-hurricane conditions and on-going financial constraints. Critically, the Debtor's suboptimal state, if allowed to continue, will negatively impact Puerto Rico's broader recovery. Without the contemplated funds, the Debtor may be forced to cease operations.⁴⁰ Should PREPA shutdown persist for three to six months, Puerto Rico is projected to experience outmigration of approximately 300,000 to 365,000 individuals in fiscal year 2018, further depressing revenues that the Government of Puerto Rico can collect and shrinking the Debtor's customer base.⁴¹ A fast response to ensure the availability of liquidity so that electricity services can be fully restored may reduce massive emigration from the island. The requested relief will enable the Debtor to continue its post-hurricane recovery efforts and reestablish electricity services for the citizens of Puerto Rico,⁴² and preserve and maximize value and, therefore, avoid immediate and irreparable harm and prejudice to its property and all parties in interest, pending the Final Hearing.⁴³

Request for Final Hearing

71. Pursuant to Bankruptcy Rule 4001(c)(2), the Debtor requests that the Court set a date for the Final Hearing that is as soon as practicable, and fix the time and date prior to the Final Hearing for parties to file objections to this Urgent Motion.

Urgent Motion Certification

72. Pursuant to Local Bankruptcy Rule 9013-1 and the Case Management Order, the Debtor makes the following certifications. First, the Debtor has carefully examined the matter and concluded that there is a true need for an urgent hearing to approve the Debtor obtaining the

⁴⁰ Filsinger Declaration ¶ 15.

⁴¹ Wolfe Declaration ¶ 25.

⁴² Filsinger Declaration ¶ 22.

⁴³ Wolfe Declaration ¶ 27-28.

Facility so that the Debtor can address its immediate liquidity needs and begin the process of rebuilding its infrastructure. Second, as described above, for several months the Government of Puerto Rico has been negotiating with U.S. Treasury over the terms of the CDLs for itself and the Debtor, but CDLs are not yet available. In the meantime, the Debtor's liquidity crisis has become dire; the Debtor's cash on hand and projected revenues are insufficient to cover the utility's operational expenses beyond February. Thus, the Debtor urgently needs financing from the Government of Puerto Rico, the only source currently available. Since January 21, 2018, AAFAF's financial advisor has contacted, among other potential funding sources, bond creditors of both the Debtor and the Government of Puerto Rico to determine their interest in providing financing. This Urgent Motion and the Debtor's urgent need for financing should not come as a surprise. Although certain of the Debtor's creditors have indicated they are planning to object to the relief sought in Urgent Motion, the Oversight Board and AAFAF will continue to work and negotiate in good faith to resolve any objection prior to the Interim Hearing.

Notice

73. The Debtor has provided notice of this Urgent Motion to: (a) the Office of the United States Trustee for the District of Puerto Rico; (b) the indenture trustees and/or agents, as applicable, for the Debtor's bonds; (c) any party that has requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure; (d) counsel to the statutory committee appointed in the Title III Case; (e) the Office of the United States Attorney for the District of Puerto Rico; (f) counsel to AAFAF; (g) the Puerto Rico Department of Justice; the Puerto Rico Treasury

Department; (h) the Other Interested Parties;⁴⁴ and (i) all parties filing a notice of appearance in this Title III Case. The Debtor submits that, in light of the nature of the relief requested herein, no other or further notice need be given.

Reservation of Rights

74. The Oversight Board, as representative of the Commonwealth of Puerto Rico and the Debtor, has consented to the Commonwealth of Puerto Rico providing and the Debtor incurring the Facility, subject to the Oversight Board's rights under the Facility as described herein and in the Credit Documents. The Debtor files this Urgent Motion without prejudice to or waiver of its rights pursuant to PROMESA section 305.⁴⁵

No Prior Request

75. No prior request for the relief sought in this Urgent Motion has been made to this or any other court.

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⁴⁴ The "Other Interested Parties" include the following: (i) counsel to certain of the insurers and trustees of the bonds issued or guaranteed by the Debtor and (ii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtor.

⁴⁵ PROMESA section 305 provides:

LIMITATION ON JURISDICTION AND POWERS OF COURT.

Subject to the limitations set forth in titles I and II of this Act, notwithstanding any power of the court, unless the Oversight Board consents or the plan so provides, the court may not, by any stay, order, or decree, in the case or otherwise, interfere with—

- (1) any of the political or governmental powers of the debtor;
- (2) any of the property or revenues of the debtor; or
- (3) the use or enjoyment by the debtor of any income producing property.

WHEREFORE the Debtor respectfully requests the Court to enter the Financing Orders, granting the relief requested herein and granting the Debtor any other relief as is just and proper.

Dated: January 27, 2018
San Juan, Puerto Rico

Respectfully submitted,

/s/ Martin J. Bienenstock

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Paul V. Possinger (*pro hac vice*)

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By its attorneys,

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*Co-Attorneys for the Financial Oversight and
Management Board as representative for the
Debtor*

Exhibit A

Interim Financing Order

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

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

-----X
In re: PROMESA
THE FINANCIAL OVERSIGHT AND Title III
MANAGEMENT BOARD FOR PUERTO RICO, No. 17 BK 4780-LTS
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY
("PREPA"),
Debtor.

-----X
**INTERIM ORDER (A) AUTHORIZING
DEBTOR PUERTO RICO ELECTRIC POWER AUTHORITY
TO OBTAIN POSTPETITION SECURED FINANCING, (B) GRANTING
PRIMING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE
EXPENSE CLAIMS, (C) MODIFYING THE AUTOMATIC STAY,
(D) SCHEDULING A FINAL HEARING, AND (E) GRANTING RELATED RELIEF**

Upon the *Urgent Joint Motion of the Financial Oversight and Management Board for Puerto Rico and the Puerto Rico Fiscal Agency and Financial Advisory Authority for Entry of Interim and Final Orders (a) Authorizing Postpetition Secured Financing, (b) Granting Priming*

¹ 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).

Liens and Providing Superpriority Administrative Expense Claims, (c) Modifying the Automatic Stay, (d) Scheduling a Final Hearing, and (e) Granting Related Relief (the “Urgent Motion”);² and the Court having found it has subject matter jurisdiction over this matter pursuant to section 306(a) of PROMESA; and it appearing that venue in this district is proper pursuant to section 307(a) of PROMESA; and the Court having found the relief requested in the Urgent Motion is in the best interests of the Debtor, its creditors, and other parties in interest; and the Court having found the Debtor provided adequate and appropriate notice of the Urgent Motion under the circumstances and that no other or further notice is required; and the Court having reviewed the Urgent Motion and having heard the statements of counsel in support of the Urgent Motion at an interim hearing held before the Court (the “Hearing”); and the Court having determined that the legal and factual bases set forth in the Urgent Motion and at the Hearing establish just cause for the relief granted herein; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and upon the record herein, after due deliberation thereon, the Court having found that good and sufficient cause exists for the granting of the relief as set forth herein,

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. Purpose and Necessity of Financing. The Debtor has an immediate need to obtain the financing under the Facility described in the Urgent Motion, subject to and consistent with the terms set forth in the Postpetition Credit Agreement substantially in the form attached hereto as **Exhibit 1** (the “Credit Agreement”) and the other Credit Documents, to finance operating

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Urgent Motion or the Credit Documents, as applicable.

³ Findings of fact shall be construed as conclusions of law, and conclusions of law shall be construed as findings of fact, as applicable, pursuant to Bankruptcy Rule 7052.

expenses that (i) constitute Eligible Uses and (ii) are included in the initial 13-week cash flow budget attached hereto as Exhibit 2 and any subsequent 13-week cash flow budget submitted by the Debtor to the Lender as provided in the Credit Agreement and approved by the Lender and the Oversight Board (collectively, the “Budget”). The financing under the Facility is necessary to the continued operation of the Debtor and, if it does not obtain authorization to enter into the Facility with the Lender and obtain Loans under the Credit Documents, both the Debtor and the Lender could suffer immediate and irreparable harm. The Debtor is unable to obtain adequate unsecured credit allowable as an administrative expense under section 503 of the Bankruptcy Code, or other sufficient secured financing under sections 364(c) or (d) of the Bankruptcy Code, on equal or more favorable terms than those set forth in the Credit Documents, based on the totality of the circumstances. A loan facility in the amount provided by the Credit Documents, at a low rate of interest, is not available to the Debtor without granting the Lender superpriority claims and priming liens pursuant to sections 364(c)(1) and 364(d) of the Bankruptcy Code as provided in this Interim Financing Order and the Credit Documents. After considering all alternatives, the Debtor has exercised its sound business judgment in determining the Facility represents the best financing available to it at this time and is in the best interests of its stakeholders.

B. Preservation of the Value of Collateral. Absent access to the Facility in accordance with this Interim Financing Order, the value of the Collateral could be severely and irreparably harmed. Access to the Facility, subject to this Interim Financing Order, will preserve, and ultimately enhance, the value of the Collateral. Accordingly, any secured claimholders of the Debtor are deemed to be adequately protected.

C. Good Cause Shown. Good and sufficient cause has been shown for entry of this Interim Financing Order. The ability of the Debtor to obtain sufficient working capital and liquidity under the Credit Documents is vital to the Debtor, its creditors, its customers, and the Lender. The liquidity to be provided under the Credit Documents will enable the Debtor to continue to operate in the ordinary course and preserve the value of the Debtor's assets. Among other things, entry of this Interim Financing Order is necessary to maximize the value of the Debtor's assets and to avoid immediate and irreparable harm to the Debtor and, accordingly, is in the best interests of the Debtor and its creditors.

D. Good Faith. The terms of the Credit Documents are more favorable to the Debtor than those available from alternative sources. Based on the totality of the circumstances, the terms of the Credit Documents are fair to the Lender and the Debtor. Any obligations under the Facility and other financial accommodations made to the Debtor by the Lender pursuant to the Credit Documents and this Interim Financing Order shall be deemed to have been extended by the Lender in good faith, as that term is used in section 364(e) of the Bankruptcy Code, and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and the Lender shall be entitled to the full protections of section 364(e) of the Bankruptcy Code if this Interim Financing Order or any other provision hereof is vacated, reversed, or modified, on appeal or otherwise.

E. Fair Consideration and Reasonably Equivalent Value. The Debtor has received and will receive fair and reasonable consideration in exchange for access to the Facility and all other financial accommodations provided under the Credit Documents and this Interim Financing Order. The terms of the Credit Documents are fair and reasonable, reflect the

Debtor's exercise of prudent business judgment consistent with its fiduciary duties, and are supported by reasonably equivalent value and fair consideration.

F. Good Cause for Immediate Entry of Interim Financing Order. Good and sufficient cause has been shown for immediate entry of this Interim Financing Order pursuant to Bankruptcy Rule 4001(c)(2) and the Local Bankruptcy Rules. The authorization granted herein to enter into the Credit Documents and to obtain funds under the Facility is necessary to avoid immediate and irreparable harm to the Debtor. Entry of this Interim Financing Order is in the best interests of the Debtor and its creditors because it will, among other things, allow for access to the financing necessary for the Debtor to continue to operate and further enhance the Debtor's prospects for a successful restructuring. Based upon the foregoing findings, acknowledgements, and conclusions, and upon the record made before this Court at the Hearing, and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Disposition. The Urgent Motion is GRANTED on the terms set forth in this Interim Financing Order. Any objection to the relief sought in the Urgent Motion that has not previously been withdrawn or resolved is hereby overruled on its merits.

AUTHORIZATION FOR FINANCING

2. Authorization for Financing. The Debtor is hereby authorized to execute, perform and incur the obligations arising under the Facility, subject to the terms of this Interim Financing Order and the Credit Documents, in the aggregate principal amount of up to \$550 million. From and after entry of this Interim Financing Order, available financing and advances shall be made

in accordance with the Credit Documents and at the discretion of the Lender and the approval of the Oversight Board for the purpose of funding “Eligible Uses,” as defined in the Motion.

3. Authority to Execute and Deliver Necessary Documents.

(a) The Debtor is authorized to negotiate, prepare, enter into and deliver the Credit Documents, in each case including any amendments, supplements and modifications thereto. The Debtor is further authorized to negotiate, prepare, enter into and deliver any UCC financing statements, account control agreements, pledge and security agreements, mortgages or deeds of trust, or similar documents or agreements encumbering any and all of the Collateral and securing any and all of the Debtor’s obligations under the Credit Documents, each as may be reasonably requested by the Lender in accordance with the Credit Documents.

(b) The Debtor is further authorized and directed to (i) perform all its obligations under the Credit Documents, and such other agreements as may be required by the Credit Documents to give effect to the terms of the financing provided for therein and in this Interim Financing Order, and (ii) perform all acts required under the Credit Documents and this Interim Financing Order.

4. Valid and Binding Obligations. All obligations under the Credit Documents shall constitute valid and binding obligations of the Debtor in accordance with the terms of the Credit Documents and the terms of this Interim Financing Order, and no obligation, payment, transfer, or grant of a lien or security interest under the Credit Documents or this Interim Financing Order shall be stayed, restrained, voidable, or recoverable under PROMESA, the Bankruptcy Code, or under any applicable law or subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, cross-claims,

defenses, or any other challenges under PROMESA, the Bankruptcy Code, or any applicable law or regulation by any person or entity.

5. Termination Date. Notwithstanding anything in this Interim Financing Order to the contrary, the Facility shall expire, and the loans made pursuant to this Interim Financing Order and the Credit Documents will mature, and together with any other obligations accruing under the Credit Documents, will become due and payable (unless such obligations become due and payable earlier pursuant to the terms of the Credit Documents and this Interim Financing Order by way of acceleration or otherwise), on the earliest of (in each case, the “Termination Date”): (i) the date on which all the Loans and other obligations thereunder have been indefeasibly repaid in full in cash (and the Commitment has been terminated); (ii) the effective date of a confirmed plan of adjustment in the Title III Case (unless an alternative treatment is agreed to by the Lender); and (iii) the date of termination of the Commitment and/or acceleration of any outstanding extensions of credit under the Facility following the occurrence and during the continuance of an “Event of Default” (as defined in the Credit Agreement).

6. Amendments, Consents, Waivers, and Modifications. Subject to the approval of the Oversight Board, PREPA may enter into any amendments, consents, waivers or modifications to the Credit Documents, in accordance with the terms thereof, without the need for further notice and hearing or any order of this Court.

**SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIM, FIRST
PRIORITY PRIMING LIEN, AND CURRENT EXPENSE CLASSIFICATION**

7. The Lender’s Superpriority Claim. The Lender is hereby granted an allowed superpriority administrative expense claim (the “Superpriority Claim”) pursuant to section 364(c)(1) of the Bankruptcy Code in the Debtor’s Title III Case for all obligations arising under

the Facility, having priority over any and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kinds specified in or arising or ordered, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed Superpriority Claim shall be considered administrative expenses allowed under sections 503(b) and 507(a)(2) of the Bankruptcy Code, and which Superpriority Claim shall be payable from and have recourse to all pre- and postpetition property of the Debtor and all proceeds thereof. The Superpriority Claim shall be subject and subordinate in priority of payment only to the Carve Out. Except as otherwise provided in this Interim Financing Order, the Superpriority Claim shall be senior in all respects to any superpriority claims granted in this Title III Case.

8. Priming Liens and Priority.

(a) Subject and subordinate to the Carve Out, to secure the obligations arising under the Facility, and as more fully set forth in the Credit Documents, the Lender is hereby granted: pursuant to section 364(d)(1) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected, non-avoidable first priority senior priming lien on, and security interest in, all Revenues of the Debtor. The liens and security interests identified in the preceding clauses are referred to herein as the “Liens” and the collateral to which such Liens attach is referred to herein as the “Collateral.”

(b) The Liens shall be effective immediately upon the entry of this Interim Financing Order and, other than with respect to the Carve Out, shall not at any time be made subject or subordinated to, or made *pari passu* with, any other lien, security interest or claim.

9. Survival of Liens and Superpriority Claim. Except as otherwise provided herein, the Liens, the Superpriority Claim, and other rights and remedies granted under this Interim Financing Order to the Lender shall continue in this Title III Case, and such liens and security interests shall maintain their priority as provided in this Interim Financing Order until all the obligations arising under the Facility have been indefeasibly paid in full in cash or otherwise satisfied, and any commitment of the Lender has been terminated in accordance with the Credit Documents.

10. Current Expense Classification. “Eligible Uses” of the proceeds of the Loans pursuant to this Interim Financing Order and the Credit Documents are limited to certain categories of expenses, all of which constitute “Current Expenses” under the Trust Agreement. As such, the Debtor’s repayment obligations to the Lender for amounts borrowed under the Facility shall be deemed to be “Current Expenses” under the Trust Agreement.

ADEQUATE PROTECTION

11. Adequate Protection. All secured claimholders of the Debtor, including holders of the Debtor’s Power Revenue Bonds,⁴ are adequately protected for the use of the Collateral, the granting of the Liens, the imposition of the automatic stay under sections 362 and 922 of the Bankruptcy Code, and the subordination (if any) of any liens, security interests, or rights such secured claimholders may have to receive payment from the proceeds of any Collateral.

CARVE OUT; RESTRICTIONS ON USE OF FUNDS

12. Carve Out. The Liens, the Superpriority Claim, and the obligations arising under any secured prepetition financing shall be subject and subordinate to the Carve Out. “Carve

⁴ This Interim Financing Order shall not constitute a finding with respect to the validity, priority, extent, or enforceability of any asserted lien on or security interest in any property of the Debtor.

Out” means the sum of: (i) all fees required to be paid to the Clerk of the Court and to the U.S. Trustee under 28 U.S.C. § 1930 plus interest at the statutory rate; (ii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise all unpaid fees, costs, and expenses (the “Professional Fees”) incurred by persons or firms retained by the Debtor (the “Debtor Professionals”), the Oversight Board (the “Oversight Board’s Professionals”) and the Official Committee of Unsecured Creditors (the “Creditors’ Committee,” together with the Oversight Board’s Professionals and the Debtor Professionals, the “Professional Persons”); and (iii) any state matching requirements of Federal grants and loans.

13. Prohibition on Granting of Additional Liens and Interests. No liens, claims, interests or priority status, other than the Carve Out, having a lien or administrative priority superior to, *pari passu* with, that of the Liens or the Superpriority Claim, shall be granted while any portion of the obligations arising under the Facility remains outstanding, or any commitments of the Lender under the Credit Documents remains in effect, without the prior written consent of the Lender.

MODIFICATION OF AUTOMATIC STAY

14. Stay Modification.

(a) The automatic stay provisions of sections 362 and 922 of the Bankruptcy Code are, to the extent applicable, vacated and modified without further application or motion to, or order from, the Court, to the extent necessary so as to permit the following, and neither section 105 of the Bankruptcy Code nor any other provision of PROMESA, the Bankruptcy Code, or applicable law shall be utilized to prohibit the exercise, enjoyment and enforcement of any of such rights, benefits, privileges, or remedies regardless of any change in circumstances (whether

or not foreseeable): Whether or not a default or an Event of Default under the Credit Documents or a default by the Debtor of any of its obligations under this Interim Financing Order has occurred (A) to require all cash, checks or other collections or proceeds from Collateral received by the Debtor to be deposited in accordance with the requirements of the Credit Documents, and to apply any amounts so deposited and other amounts paid to or received by the Lender under the Credit Documents in accordance with any requirements of the Credit Documents, (B) to file or record any financing statements, mortgages or other instruments or other documents to evidence the security interests in and liens upon the Collateral in accordance with the Credit Documents, (C) to charge and collect any interest, fees, costs and other expenses accruing at any time under the Credit Documents as provided therein, and (D) to give the Debtor any notice provided for in or contemplated by any of the Credit Documents or this Interim Financing Order.

(b) This Court shall retain exclusive jurisdiction to hear and resolve any disputes and enter any orders required by the provisions of this Interim Financing Order and relating to the application, re-imposition or continuance of the automatic stay of sections 362 and 922 of the Bankruptcy Code or other injunctive relief requested.

MISCELLANEOUS

15. Successors and Assigns. The Credit Documents and the provisions of this Interim Financing Order shall be binding upon the Debtor and the Lender (and each of their respective successors and assigns), and shall inure to the benefit of the Debtor and the Lender (and each of their respective successors and assigns). The terms and provisions of this Interim Financing Order shall also be binding on all of the Debtor's creditors and all other parties in interest.

16. Binding Nature of Agreement. Each of the Credit Documents shall constitute legal, valid, and binding obligations of the Debtor, enforceable in accordance with their terms. The Credit Documents have been or will be properly executed and delivered to the Lender by the Debtor, no later than one business day after entry of this Interim Financing Order. Unless otherwise consented to in writing by the Oversight Board, the rights, remedies, powers, privileges, liens, and priorities of the Lender provided for in this Interim Financing Order, the Credit Documents, or otherwise shall not be modified, altered, or impaired in any manner by any subsequent order (including a confirmation or sale order), by any plan of adjustment in this Title III Case, by the dismissal of this Title III Case or in any subsequent case under PROMESA unless and until the obligations arising under the Facility have first been indefeasibly paid in full in cash and/or completely satisfied and any commitments of the Lender terminated in accordance with the Credit Documents.

17. Subsequent Reversal or Modification. This Interim Financing Order is entered pursuant to section 364 of the Bankruptcy Code, and Bankruptcy Rules 4001(b) and (c), granting the Lender all protections afforded by section 364(e) of the Bankruptcy Code. If any or all of the provisions of this Interim Financing Order are hereafter reversed, modified, vacated or stayed, that action will not affect (a) the validity of any obligation, indebtedness or liability incurred hereunder by the Debtor to the Lender, prior to the date of receipt by the Lender of written notice of the effective date of such action, or (b) the validity and enforceability of any lien or priority authorized or created for the benefit of the Lender under this Interim Financing Order or pursuant to the Credit Documents. Notwithstanding any such reversal, stay, modification or *vacatur*, any postpetition indebtedness, obligation or liability incurred by the Debtor to the

Lender prior to the receipt of written notice by the Lender of the effective date of such action, shall be governed in all respects by the original provisions of this Interim Financing Order, and the Lender shall be entitled to all the rights, remedies, privileges, and benefits granted herein and in the Credit Documents with respect to all such indebtedness, obligations or liability.

18. Dismissal. Except as otherwise provided herein, (a) the protections afforded under this Interim Financing Order, and any actions taken pursuant thereto, shall survive the entry of an order dismissing this Title III Case, and (b) the Liens and the Superpriority Claim shall continue in this Title III Case or after any such dismissal. Except as otherwise provided herein, the Liens, and the Superpriority Claim shall maintain their priorities as provided in this Interim Financing Order and the Credit Documents, and not be modified, altered or impaired in any way by any other financing, extension of credit, incurrence of indebtedness, or dismissal of this Title III Case, or by any other act or omission until all obligations for amounts borrowed under the Facility are indefeasibly paid in full in cash and completely satisfied, and any commitments of the Lender under the Credit Documents are terminated in accordance therewith. This Court shall retain jurisdiction, notwithstanding any such dismissal, for purposes of enforcing the Liens and the Superpriority Claim.

19. Priority of Terms. To the extent of any conflict between or among (a) the express terms or provisions of any of the Credit Documents, the Urgent Motion, any other order of this Court, or any other agreements, on the one hand, and (b) the terms and provisions of this Interim Financing Order, on the other hand, except to the extent such term or provision herein is phrased in terms of “as defined in” “as set forth in” or “as more fully described in” the Credit Documents

(or words of similar import), the terms and provisions of this Interim Financing Order shall govern.

20. Adequate Notice. The notice given by the Debtor of the Hearing was given in accordance with Bankruptcy Rules 2002 and 4001 and Local Bankruptcy Rule 4001-2. Such notice was good and sufficient under the particular circumstances and no other or further notice of the request for the relief granted at the Hearing is required.

21. Immediate Binding Effect; Entry of Interim Financing Order. This Interim Financing Order shall not be stayed and shall be valid and fully effective immediately upon entry, notwithstanding the possible application of Bankruptcy Rules 6004(h), 7062, and 9014, or otherwise, and the Clerk of the Court is hereby directed to enter this Interim Financing Order on the Court's docket in this Title III Case.

22. Retention of Jurisdiction. This Court shall retain exclusive jurisdiction over all matters pertaining to the implementation, interpretation, and enforcement of this Interim Financing Order.

23. Final Hearing. The Final Hearing shall be held before the Court on _____, 2018 at ____ in Courtroom __ at the United States Bankruptcy Court, _____.

24. Service. Service of this Interim Financing Order and notice of the Final Hearing shall be made on (a) the Office of the United States Trustee for the District of Puerto Rico; (b) the indenture trustees and/or agents, as applicable, for the Debtor's bonds; (c) any party that has requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure; (d) counsel to the statutory committee appointed in the Title III Case; (e) the Office of the United States Attorney for the District of Puerto Rico; (f) counsel to AAFAF; (g) the Puerto Rico

Department of Justice; the Puerto Rico Treasury Department; (h) the Other Interested Parties;⁵ and (i) all parties filing a notice of appearance in this Title III Case.

25. Objection. Any objections to entry of the Final Financing Order shall be filed on or before 5:00 p.m., prevailing Eastern Time, on February 1, 2018, and shall be served on: (a) the Office of the United States Trustee for the District of Puerto Rico; (b) the indenture trustees and/or agents, as applicable, for the Debtor's bonds; (c) any party that has requested notice pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure; (d) counsel to the statutory committee appointed in the Title III Case; (e) the Office of the United States Attorney for the District of Puerto Rico; (f) counsel to AAFAF; (g) the Puerto Rico Department of Justice; the Puerto Rico Treasury Department; (h) the Other Interested Parties;⁶ and (i) all parties filing a notice of appearance in this Title III Case. In the event no objections to entry of the Final Financing Order are timely received, the Court may enter such Final Financing Order without the need for the Final Hearing.

Dated: _____, 2018

HONORABLE LAURA TAYLOR SWAIN
UNITED STATES BANKRUPTCY JUDGE

⁵ The "Other Interested Parties" include the following: (i) counsel to certain of the insurers and trustees of the bonds issued or guaranteed by the Debtor and (ii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtor.

⁶ The "Other Interested Parties" include the following: (i) counsel to certain of the insurers and trustees of the bonds issued or guaranteed by the Debtor and (ii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtor.

Exhibit B

Wolfe Declaration

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

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

-----X
In re: PROMESA
THE FINANCIAL OVERSIGHT AND Title III
MANAGEMENT BOARD FOR PUERTO RICO, No. 17 BK 4780-LTS
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY
("PREPA"), Court Filing Relates Only to PREPA
and Shall Only be Filed in Case No.
Debtor. 17-BK-4780 (LTS)

-----X
**DECLARATION OF ANDREW WOLFE IN SUPPORT OF
URGENT MOTION OF DEBTOR PUERTO RICO ELECTRIC POWER
AUTHORITY FOR ENTRY OF INTERIM AND FINAL ORDERS (A)
AUTHORIZING POSTPETITION SECURED FINANCING, (B) GRANTING
PRIMING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE
EXPENSE CLAIMS, (C) MODIFYING THE AUTOMATIC STAY, (D) SCHEDULING
A FINAL HEARING, AND (E) GRANTING RELATED RELIEF**

Pursuant to 28 U.S.C. § 1746, I, Andrew Wolfe, hereby declare as follows under penalty
of perjury under the laws of the United States of America:

¹ 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).

1. I am an economic advisor to the Financial Oversight and Management Board for Puerto Rico (the “FOMB”), a Fiscal Consultant for the Inter-American Development Bank and an Adjunct Professorial Lecturer at both the School of International Service at American University in Washington, D.C. and the Baker Institute for Public Policy at Rice University in Houston, Texas. I make this declaration in support of the urgent motion of the Puerto Rico Electric Power Authority (“PREPA”) for authorization to obtain postpetition secured financing, granting the Government of Puerto Rico liens providing superpriority administrative expense claims, granting priming liens on certain collateral, and related relief. Except as otherwise stated, or where I present information from cited materials, I make this declaration based on my personal knowledge.

2. I have been asked by the FOMB, as the representative for the Commonwealth of Puerto Rico and PREPA pursuant to section 315 (b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), to provide my opinions regarding the current macroeconomic situation in Puerto Rico following the devastation wrought by Hurricanes Irma and Maria and to consider the effects on Puerto Rico’s economy under a scenario wherein PREPA is forced to cease operations due to its current liquidity crisis. My opinion also includes an assessment of the impact that a cessation of PREPA’s operations would have on the viability of creditors’ purported collateral.

I. QUALIFICATIONS

3. A copy of my curriculum vitae is attached as **Exhibit 1**. To avoid burdening the Court, I am not attaching copies of articles and other materials referenced in this declaration. However, I will provide copies of these materials upon request.

4. I have been retained as an advisor to the FOMB on a contract basis since November 17, 2016. As part of that engagement, I consulted (and continue to consult) with the FOMB on the certification of fiscal plans for the Government of Puerto Rico and its instrumentalities, including PREPA, and to evaluate the macroeconomic framework underlying such plans.

5. Two of my former colleagues at the International Monetary Fund (the “IMF”), Ranjit Teja and Anne Krueger, and I previously had been retained by the Government Development Bank of Puerto Rico (the “GDB”). Dr. Krueger is a distinguished economist and the former First Deputy Managing Director of the IMF. The GDB retained us in 2015 to complete an in-depth report on the macroeconomic condition of Puerto Rico. The resulting report that I co-authored with Drs. Krueger and Teja was entitled “Puerto Rico - A Way Forward” and is commonly referred to as the “Krueger Report.”² Our report addressed the economic and fiscal origins of Puerto Rico’s debt crisis and provided a roadmap for a potential path forward. In the Krueger Report, we concluded that the fiscal crisis in Puerto Rico had been building for decades, and we examined why prior efforts to head off that economic crisis were inadequate.

6. In addition to serving as the FOMB’s economic advisor, a fiscal consultant, and an educator, I worked at the IMF for 27 years. When I left the IMF in 2014, I was the Head of the IMF Human Resource Strategy Unit. Immediately before that, I was the Senior Personnel and Budget Manager of the Western Hemisphere Department. During my years at the IMF, I also acted as IMF Mission Chief to El Salvador, Colombia, the Dominican Republic, Uruguay

² The Krueger Report and a July 13, 2015 update are available at, respectively, <http://www.gdb-pur.com/documents/PuertoRicoAWayForward.pdf> and <http://www.gdb-pur.com/documents/PuertoRicoReport-Update.pdf>.

and Peru, and was the IMF Resident Representative in Uruguay, Argentina, and Peru. My responsibilities in those positions included leading negotiations with those countries on IMF-supported programs, monitoring their fiscal deficits, and examining whether IMF financial and economic projections were being met. While at the IMF, and relevant to the issues here, I set policy reform agendas for lending programs in coordination with senior advisors at the IMF and senior financial officials for the governments in question. I also oversaw the IMF teams that monitored performance of the countries pursuant to such lending programs and determined whether the countries adhered to agreed-upon structural reforms and fiscal and monetary programs.

7. Among other specialties, and of particular relevance here, I am a macroeconomist. As a macroeconomist, I study how an aggregate economy works and analyze the impact of various factors, including changes in population, unemployment, the rate of growth, inflation, income and price levels. I was awarded a Ph.D. in Economics from the University of Wisconsin in 1985. In 1978, I received a B.S.E. in Economics and a B.A.S. in Engineering from the University of Pennsylvania.

II. OVERVIEW OF OPINIONS

8. In an earlier declaration submitted to the Court in conjunction with the FOMB's opposition to lift the automatic stay to seek the appointment of a receiver at PREPA, I discussed and described the dire economic and financial condition of Puerto Rico and its instrumentalities.³ Puerto Rico's already dire situation has been significantly compounded by the devastation

³ See *Declaration of Andrew Wolfe in Support of Opposition of the Financial Oversight and Management Board for Puerto Rico to the Motion of the Ad Hoc Group of PREPA Bondholders, National Public Finance Guaranty Municipal Corp., Assured Guaranty Corp., Assured Guaranty Municipal Corp., and Syncora Guarantee Inc. for Relief from the Automatic Stay to Allow Movants to Enforce their Statutory Right to Have a Receiver Appointed* [Case No. 17-4780, Docket No. 149-2] (the "Wolfe Receiver Declaration") at ¶¶ 48–59.

wrought by Hurricanes Irma and Maria. A deterioration spiral that had already taken hold of Puerto Rico's economy pre-hurricanes has been accelerated as a result of the economic contraction, decreased tax collections, and outmigration Puerto Rico is experiencing following the hurricanes. The situation is fragile, with restoration efforts still needed for much of Puerto Rico's infrastructure.

9. Amidst this precarious situation, if PREPA were to cease operating the island's electrical grid for any material period of time, the consequences to Puerto Rico's economy would be catastrophic and potentially irreversible. Simply put, a modern economy cannot operate without access to electricity. Entire industries that rely on electricity as a major input, such as manufacturing and tourism, would grind to a halt. While short-term solutions, such as relying on diesel-fuel generators, might be available to some of Puerto Rico's residents, such solutions would not meet Puerto Rico's power needs on a longer-term basis and would not be available to most residents. Under the unique challenges of operating in an environment without an electrical grid, numerous businesses would shutter completely and residents with no access to power would flee. The outcome would be an unprecedented economic contraction, resulting in a sharp acceleration in the exodus of population that would fundamentally alter the nature of Puerto Rico's already fragile economy.

10. Given the severe consequences of such an economic contraction, I believe it is apparent that all stakeholders would fare better if PREPA remains operable and electric services are restored as quickly as possible. Holders of PREPA's Power Revenue Bonds (the "Power Revenue Bondholders"), who, I understand, assert a secured position regarding the revenues of PREPA, would see the value of their collateral evaporate if PREPA stops operating because PREPA would no longer generate any revenues. And, even if PREPA were eventually to come

back online, the shuttering of businesses and outmigration that would have taken place in the intervening period would cut significantly into PREPA's customer base and thus its revenues.

11. Even aside from the Power Revenue Bondholders, bondholders who hold debt of the Government of Puerto Rico or guaranteed by the Government of Puerto Rico (the "GO Bondholders") would also fare significantly better by ensuring that PREPA does not cease operations. This is because a substantial drop in economic activity and loss of population that would result from a cessation of PREPA's operations, would, among other devastating consequences, cause lasting and precipitous declines in tax revenue collection and decimate Puerto Rico's ability to provide basic services to its citizens or service its debt.

III. RELEVANT FACTUAL BACKGROUND TO OPINIONS

12. Based on my work, it is my belief that Puerto Rico and its instrumentalities were in a dire economic and fiscal condition prior to Hurricanes Irma and Maria. A structural economic decline that began in 2006 has continued essentially unabated ever since. Since 2007, Puerto Rico's real Gross National Product ("GNP") has declined by more than 14%. Real growth has been negative in each of the last ten years, except for 2012, when it reached only 0.5%.⁴

13. As the recession continued, Puerto Rico financed its fiscal deficits by issuing debt. According to the fiscal plan for Puerto Rico certified in March 2017, the total public-sector debt for Puerto Rico stood at \$73.810 billion, and unfunded pension obligations stood at

⁴ Statistical Appendix of the Economic Report for the Governor and Legislative Assembly, GDB, available at <http://www.gdb-pur.com/economy/statistical-appendix.html>. I use GNP instead of Gross Domestic Product ("GDP") because GNP is the measure of national income that best ties to the base for tax collections. Published data from the GDB provide measurements of real GNP in constant 1954 dollars.

approximately \$50 billion.⁵ Of the approximately \$74 billion in debt, Puerto Rico has issued or guaranteed approximately \$17.8 billion in general obligation bond debt (the “GO Debt”).⁶

While the Board is in the process of considering a revised fiscal plan for Puerto Rico that takes into account the effects of the hurricanes, the outstanding public-sector debt described in the certified plan has not diminished.

14. Even before the hurricanes, Puerto Rico was already on the verge of being unable to provide its citizens with the most basic services, such as police and fire protection, education, electricity, sewer and water services, and medical care. As is evident from the PROMESA Title III petitions filed by the Government of Puerto Rico and some of its instrumentalities, Puerto Rico and its instrumentalities cannot pay their current operating expenses out of current revenues, much less service the debt burden they have accumulated. Indeed, the Government of Puerto Rico has declared a state of fiscal emergency, stating, among other things, that it lacks sufficient resources to protect the health, safety, and welfare of the people of Puerto Rico.⁷ In addition, Puerto Rico is unable to refinance its debt because it no longer has access to the capital markets.

15. In my analysis, the issues that drove Puerto Rico into its preexisting economic and fiscal crisis include, among other factors, the loss of working-age population, the continued low level of Puerto Rico’s labor force participation rate, the trend decline in GNP, declining

⁵ The March 13, 2017 Commonwealth Fiscal Plan, with corrections, pp. 10, 16, *available at* <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/58f614473f619.pdf>. (The FOMB’s Resolution certifying the Commonwealth Fiscal Plan as modified by the amendments set out in the Resolution is available at <https://juntasupervision.pr.gov/wpcontent/uploads/wpfd/50/58f614484710d.pdf>.)

⁶ *Id.*

⁷ *See* Act No. 21-2016 and Act No. 3-2017; *see also* PROMESA § 405(m).

socioeconomic conditions, and infrastructure deterioration.⁸ Deterioration in these key economic trends will continue to spur out-migration, which in turn reduces demand for goods and services, weakens the incentive to invest on the island, and risks further economic contraction. So long as this “deterioration spiral” remains unabated, the prospects for Puerto Rico to regain access to capital markets are miniscule.

A. Current Conditions In Puerto Rico

16. The already fragile situation in Puerto Rico has been significantly compounded as a result of the damage wrought by Hurricanes Irma and Maria. Due to widespread home destruction, thousands of families have been displaced and are now living with other family members, have been indefinitely relocated to shelters, or have simply left the island altogether. In addition to wind damage, floodwaters have damaged dams,⁹ impaired sanitary services,¹⁰ endangered the potable water supply,¹¹ and increased the risks of tropical diseases (such as the dengue and Zika viruses),¹² mudslides,¹³ and environmental contamination.¹⁴

⁸ Factual support illustrating these deteriorating economic trends can be found in the Wolfe Receiver Declaration ¶¶ 24-38 [Case No. 17-4780, Docket No. 149-2].

⁹ *Thousands of Puerto Ricans Evacuated as Dam Threatens to Breach*, New Scientist, <https://www.newscientist.com/article/2148561-thousands-of-puerto-ricans-evacuated-as-dam-threatens-to-breach/> (last visited Jan 25, 2018).

¹⁰ Jennifer Sciubba & Jeremy Youde, *Analysis | Puerto Rico's Troubles are Far from Over. The Population's Health is at Risk*, Washington Post (2017), https://www.washingtonpost.com/news/monkey-cage/wp/2017/10/13/puerto-ricos-troubles-are-far-from-over-the-populations-health-is-at-risk/?utm_term=.015d22600717 (last visited Jan 25, 2018).

¹¹ Veronica Rocha, *Nearly Half of Puerto Rico Still without Drinking Water* CNN (2017), <http://www.cnn.com/2017/09/28/us/puerto-rico-water-supply/index.html> (last visited Jan 25, 2018).

¹² See Daniella Silva, *Puerto Ricans at risk of waterborne disease outbreaks in wake of Hurricane Maria*, NBCNews.com (2017), <https://www.nbcnews.com/storyline/puerto-rico-crisis/puerto-ricans-risk-waterborne-disease-outbreaks-wake-hurricane-maria-n814461> (last visited Nov 1, 2017).

¹³ *In One Puerto Rico Mountain Town, a Wall of Mud Came Crashing Down*, Los Angeles Times, <http://www.latimes.com/nation/la-na-puerto-rico-landslide-20170924-story.html> (last visited Jan 25, 2018).

17. Puerto Rico's key infrastructure systems have also suffered critical damage. According to PREPA officials, PREPA is currently unable to provide electric power to 45%¹⁵ of its customers and, for some time after Hurricane Maria first struck, the entire PREPA electric system was inoperable.¹⁶ The Puerto Rico Aqueduct and Sewer Authority ("PRASA"), which provides water and sewer service to the island, also suffered substantial damage, at one stage rendering 1 million residents without potable water.¹⁷ Economic activity suffered as roads and bridges collapsed or became unpassable due to debris and mudslides. The health, education, and social infrastructure were also severely impacted—for some time after the hurricanes hit, most hospitals were working on generator power¹⁸ and more than 1,000 schools were closed.¹⁹

IV. ANALYSIS AND OPINIONS

18. Puerto Rico's post-disaster economic situation is daunting. It is clear to me that, even as Puerto Rico continues its disaster recovery efforts, the effects of the hurricanes will reverberate throughout Puerto Rico's economy for some time. Key factors that drove the deterioration spiral pre-disaster (such as outmigration, loss of tax revenues due to economic contraction, infrastructure deterioration, and declining socioeconomic conditions) have been

¹⁴ Vann R. Newkirk II, *Puerto Rico's Environmental Catastrophe* The Atlantic (2017), <https://www.theatlantic.com/politics/archive/2017/10/an-unsustainable-island/543207/> (last visited Jan 25, 2018).

¹⁵ See Declaration of Todd W. Filsinger, filed concurrently herewith.

¹⁶ According to Department of Energy reports, for eight days after the storm, the estimate was that 100% of the island was without power.

¹⁷ *Puerto Rico: 1 million Americans without drinking water*, John Sutter, <http://www.cnn.com/2017/10/18/health/puerto-rico-one-month-without-water/index.html> (last visited October 18, 2017).

¹⁸ Puerto Rican hospitals are still desperate for fuel, generators, and cash, VICE News, https://news.vice.com/en_us/article/evamjj/puerto-rican-hospitals-are-still-desperate-for-fuel-generators-and-cash (last visited Jan 25, 2018).

¹⁹ Ralph Ellis, *Puerto Rico schools may not reopen for weeks* CNN (2017), <http://www.cnn.com/2017/10/01/us/puerto-rico-schools-closed-for-weeks/index.html> (last visited Jan 25, 2018).

significantly exacerbated by the hurricanes. The need to counteract these trends is more important than ever.

19. For example, even when *not* accounting for a prolonged shutdown in access to power, the Climate Impact Lab, based on an analysis and database of over 13,000 cyclone events since 1950,²⁰ projected through its model that Puerto Rico's population would decline by 10%, or approximately 350,000 people, through the end of FY2019.²¹ Post-hurricane demographic projections calculated by Lyman Stone, an expert in demography, presently predict a population decline of 7.7% in FY2018 when GNP declines by a projected 11-12%.²² In my economic model, which incorporates Mr. Stone's projections, I currently estimate that the combined circumstances of the destruction of homes, displacement of families, and devastation of key infrastructure, without accounting for a prolonged shutdown of PREPA, would contribute to emigration rates accelerating to some 255,000 persons in FY2018 (7.7% of the population) and another 62,000 in FY2019 (2.0% of the population). At this time, a cumulative decline of just under 20% in population is expected over five years.

20. The precipitous decline in real economic growth in FY 2018 is consistent with the Climate Impact Lab's analysis, whereby Hurricane Maria was a cyclone of such magnitude that it wiped out roughly a week's worth of economic developments for every sixty seconds that Puerto Rico suffered through the storm. This projection considers data of the worst impacts of

²⁰ The Climate Impact Lab is a collaboration of more than 20 climate scientists, economists, computational experts, and researchers from the University of California, Berkeley, the Energy Policy Institute at the University of Chicago (EPIC), Rhodium Group, and Rutgers University.

²¹ In another study conducted by Hunter College's Center for Puerto Rican Studies, Edwin Meléndez and Jennifer Hinojosa estimate that from 2017 to 2019, Puerto Rico may lose up to 470,335 residents or 14% of the population. *See Edwin Meléndez & Jennifer Hinojosa, Estimates Of Post-Hurricane Maria Exodus From Puerto Rico (2017).*

²² *Cresting the Wave: Puerto Rico's Once and Future Population Decline.* Lyman Stone presented his projected in the First FOMB listening session held on November 16, 2017.

the 1997 Asian Financial Crisis (on Thailand and Indonesia) and the hardest hit states during the Global Financial Crisis of 2008-09. Without aggressive recovery efforts, Climate Impact Lab projects that it would take Puerto Ricans 26 years just to return to pre-hurricane income levels.²³ If the situation is not dealt with quickly, the projected economic contraction would be amplified and prolonged such that it could cause irreparable harm—potentially pushing the economy past the point of return.

A. Effect of PREPA Ceasing Operations

21. Amidst Puerto Rico’s deteriorating economic situation, if PREPA were to cease operating the island’s electrical grid for any material period of time, the consequences to Puerto Rico’s economy would be catastrophic and potentially irreversible.

22. A modern economy cannot operate without access to electricity. In the absence of access to electricity, Puerto Rico’s industries would primarily have to rely on generators running on diesel fuel. Diesel-run generators are used by many businesses on the island to deal with the uncertain supply of power owing to the periodic but short outages that plague the island. These backup generators are not designed for longer-term energy supply, as witnessed by the fact that no firm uses generators as a primary source of power. Accordingly, the cost of running on diesel fuel will be prohibitively high for numerous businesses, particularly those in industries that are sensitive to energy costs.²⁴ For example, in the tourism sector, which accounts for approximately 6% of Puerto Rico’s GNP, energy is the second biggest financial factor in the

²³ See *The Mind-bending and Heart-breaking Economics of Hurricane Maria*, *Climate Impact Blog* (2017), <http://www.impactlab.org/insights/the-mind-bending-and-heart-breaking-economics-of-hurricane-maria/> (last visited Oct 23, 2017).

²⁴ At \$3 per gallon for diesel, even the smallest generator would cost \$1.8 per kilowatt-hour (“kWh”). As set out in PREPA’s fiscal plan, certified in May 2017, PREPA charges \$0.198 per kWh. See *Approximate Diesel Fuel Consumption Chart*, Diesel Service & Supply, http://www.dieselserviceandsupply.com/Diesel_Fuel_Consumption.aspx (last visited Jan 25, 2018).

operational budget behind the cost of labor.²⁵ Not only is diesel a far more expensive energy source under ordinary circumstances, if PREPA ceased its operation, the corresponding increase in demand for diesel fuel and the logistical difficulties associated with importing and transporting sufficient diesel fuel to satisfy the demand would be expected to cause the price of diesel to rise significantly. Under such circumstances, it is likely that numerous hotels would shutter operations entirely.

23. A similar analysis would apply to many of the island's manufacturers, including the power-intensive pharmaceutical factories that require 24-hour refrigeration of many of their products. In short, if PREPA were to experience prolonged downtime, Puerto Rico's manufacturing industry, which accounts for approximately 50% of Puerto Rico's GNP,²⁶ would be devastated. Should manufacturers leave the island or shut down operations, a substantial part of Puerto Rico's economy would be wiped out. The damage would not be isolated to the manufacturing industry, as the increased cost of doing business would be borne by businesses across the island and many will likely find it uneconomical to continue operating. The Government of Puerto Rico itself would face increased costs in operating utilities and providing basic services, even as people continued to leave the island and the tax base dwindled.

24. According to my analysis, if power were to go offline for three months, real activity for FY2018 would decline by a projected 15% and another 8% in FY2019. To give

²⁵ See, e.g., Robert Mandelbaum, An examination of hotel labor costs, *Hotel Management* (Nov. 21, 2016, 11:53 AM), <http://www.hotelmanagement.net/operate/examination-hotel-laborcosts> (2015 study results indicating that operating expenses are the second highest factor for hotel expenses); Robert Mandelbaum, Consumption and Pricing Influence Hotel Utility Costs, CBRE HOTELS, <http://www.cbrehotels.com/EN/Research/Pages/Consumption-and-PricingInfluence-Hotel-Utility-Costs.aspx> (last visited July 25, 2017) (electricity is the largest utility expense comprising 60 percent of total utility expenses for U.S. lodging industry).

²⁶ In 2012, manufacturing accounted for approximately \$43 billion of Puerto Rico's \$88 billion in GDP. See Net National Income by Major Industrial Sector, Government Development Bank for Puerto Rico, <http://www.gdb-pur.com/economy/statistical-appendix.html>

empirical backing for a projected loss of income, I follow an analysis done on the cost of lost economic activity owing to a loss of power per day during an Italian power outage. The authors found a daily cost of lost economic activity of 0.083% of GDP. On an annual basis, with a three-month outage, this would translate into a loss of GNP in Puerto Rico of 15% in FY2018.²⁷ In the event of a six-month outage, my analysis projects a 20% decline in real economic growth in FY2018 and another 9% decline in FY2019. Moreover, this is likely to be a low-end estimate as such a long-term outage is likely to be associated with non-measured, longer-term behaviors that would accelerate business closures and outmigration as the outage continues.

25. The consequences of a GNP contraction on this scale would be felt for decades to come and would fundamentally alter the economic makeup of the island, even if the electric grid were to be reactivated thereafter. In the scenario of a three-month outage, the 15% contraction in GNP in FY2018 and another 8% in FY2019, as projected by my model, would lead to the large exodus that greatly outpaces the already alarming rate of outmigration. Projecting out Mr. Stone's present demographic calculations and incorporating them into my model, I forecast that a three-month outage would result in a loss of 300,000 persons in FY2018 and an additional 220,000 in FY 2019. By FY2022, 25% of the population (880,000) would have left the island. In the case of a six-month outage, my analysis predicts a loss of 365,000 persons in FY2018 and an additional 250,000 in FY2019, with a cumulative loss of 30% (1,000,000) of the population by FY2022.

26. The consequences of this staggering loss of population are incalculable. Among other things, this exodus would lead to a substantially lower tax base, loss of customers for existing businesses, and an erosion of faith in Puerto Rico as a stable environment to conduct

²⁷ "Schmidthaler, M. and Reichl, J. "Assessing the Socio-Economic Effects of Power Outages Ad Hoc", Computer Science Research Development, (2016) 31: 157-161.

business. Turning the lights back on in three months or six months would not suddenly bring back the people or businesses that left the island.

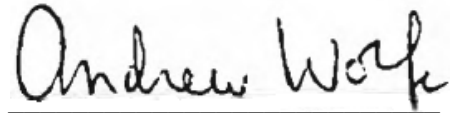
B. All Stakeholders Benefit from an Operational PREPA

27. Given the dire consequences of such an economic contraction, it is apparent that all stakeholders will fare better if PREPA remains operable, brings back power as soon as possible to all of the island, and is modernized going forward. The Power Revenue Bondholders, who assert a secured position regarding revenues of PREPA, will see the value of their collateral evaporate if PREPA stops operating and no longer generates revenues. Even if PREPA were eventually to come back online, the shuttering of businesses and outmigration that would have taken place in the intervening period would cut significantly into PREPA's customer base.

28. The Puerto Rico's bondholders will also fare significantly better by ensuring that PREPA does not cease operations. The substantial drop in economic activity and loss of population, among other devastating consequences, would cause lasting and precipitous declines in tax revenue collection. In the short term, the Government of Puerto Rico's ability to provide basic services will be substantially affected by the rising costs associated with using diesel fuel. The capacity, if any, of the Government of Puerto Rico to generate sufficient tax revenues to provide basic services and to service its debt would be further imperiled. Even though the funds for PREPA's postpetition financing would come from the Government of Puerto Rico, the amounts extended (before even considering repayment and interest) pale in comparison to the havoc PREPA's shutdown would wreak on Puerto Rico's economy and tax collections.

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on January, 27 2018

A handwritten signature in black ink that reads "Andrew Wolfe". The signature is written in a cursive style with a large initial 'A' and 'W'.

Andrew Wolfe

Exhibit 1

Curriculum Vitae of Andrew Wolfe

CURRICULUM VITAE

Andrew M. Wolfe
2634 Starboard Point Drive
Houston, TX 77054

NATIONAL OF: United States

CURRENT POSITIONS:

Adjunct Professorial Lecturer, American and Rice Universities
Fiscal Consultant for the Inter-American Development Bank
Economic Advisor to the Puerto Rico Financial Oversight and Management Board

EDUCATION:

1978 B.S.E., Economics, University of Pennsylvania
1978 B.A.S., Engineering, University of Pennsylvania
1985 Ph.D., Economics, University of Wisconsin

LANGUAGES:

English-Native
Spanish-Fluent

UNIVERSITY EXPERIENCE:

2017 –present Rice University, Adjunct Faculty in the James Baker School of Public Policy
2013- present American University, Adjunct Faculty in the School of International Studies
1983- 1986 Bowdoin College, Assistant Professor

IMF CAREER:

1987-1992 Economist, Western Hemisphere Department (WHD)
1992-1995 Resident Representative, Uruguay (1992-95) and Argentina (1994-95)
1995-1997 Senior Economist, Fiscal Affairs Department
1997-2000 Resident Representative, Peru
2001-2002 IMF Mission Chief, Peru
2002-2005 IMF Mission Chief, Uruguay
2005-2006 Senior Resident Representative, Argentina
2006-2009 IMF Mission Chief, Dominican Republic
2009-2011 IMF Mission Chief, El Salvador and Colombia
2011-2014 Senior Personnel and Budget Manager, WHD, Head of IMF Human Resource Strategy Unit

PUBLICATIONS:

"Fiscal Accounting of Bank Restructuring". With James Daniel and Jeffrey Davis. IMF Paper on Policy Analysis and Assessment (PPAA/97/5), 1997.

"Las Orígenes, las Políticas, la Recuperación, y las Lecciones Aprendidas". Uruguay: Qué Aprendimos de la Crisis Financiera de 2002?. World Bank (May 29, 2007).

"A Primer on Currency Unification and Exchange Rate Policy in Cuba: Lessons from Exchange Rate Unification in Transition Economies". Co-author with Gabriel DiBella (IMF), Presented at the 2009 American Economics Association Meetings.

"Recession and Policy Transmission to International Tourism: Does Expanded Travel to Cuba offset Crisis Spillovers? Co-author with Rafael Romeu (IMF), ASCE 2010.

"Cuba: An approximation of the Output Gap". Co-author with Gabriel DiBella and Rafael Romeu (IMF), Presented at the 2011 American Economics Association Meetings.

"Puerto Rico—A Way Forward". With Anne O. Krueger and Ranjit Teja. Report written for the Government Development Bank of Puerto Rico, June 2015.

Exhibit C

Filsinger Declaration

Hearing Date: February 7, 2018 at 9:30 a.m. (Eastern Standard Time)
Objection Deadline: February 1, 2018 at 5:00 p.m. (Eastern Standard Time)

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

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

-----X
In re: PROMESA
THE FINANCIAL OVERSIGHT AND Title III
MANAGEMENT BOARD FOR PUERTO RICO, No. 17 BK 4780-LTS
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY **Court Filing Relates Only to PREPA
("PREPA"), and Shall Only be Filed in Case No.
17-BK-4780 (LTS) and Main Case
17-BK-3283 (LTS)**
Debtor.

-----X
**DECLARATION OF TODD W. FILSINGER IN SUPPORT
OF URGENT JOINT MOTION OF THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO AND THE PUERTO RICO FISCAL
AGENCY AND FINANCIAL ADVISORY AUTHORITY FOR ENTRY OF INTERIM
AND FINAL ORDERS (A) AUTHORIZING POSTPETITION SECURED FINANCING,
(B) GRANTING PRIMING LIENS AND PROVIDING SUPERPRIORITY
ADMINISTRATIVE EXPENSE CLAIMS, (C) MODIFYING THE AUTOMATIC STAY,
(D) SCHEDULING A FINAL HEARING, AND (E) GRANTING RELATED RELIEF**

¹ 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).

Pursuant to 28 U.S.C. § 1746, I, Todd W. Filsinger, hereby declare as follows under penalty of perjury under the laws of the United States of America:

1. I am a Senior Managing Director of Filsinger Energy Partners (“FEP”). I currently serve as the Chief Financial Advisor (“CFA”) to the Puerto Rico Electric Power Authority (“PREPA” or the “Debtor”), and I report to its Governing Board. The scope of my responsibilities for PREPA includes: (i) responsibility for the financial oversight, financial management and reporting of PREPA, including the development of any budgets; (ii) responsibility for the cash management of PREPA, including reviewing and approving (or establishing processes for review and approval of) expenditures and transfers of funds; (iii) developing plans for, recommending and, together with the Executive Director, implementing operational reforms; (iv) working with the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) on restructuring, fiscal and transformation plans and related budgets; (v) responsibility for any issues related to the pending Title III process in which PREPA’s management team is involved; (vi) participating in the working group process regarding the transformation and fiscal plans and any related budgets; (vii) implementing any approved transformation plan and/or certified fiscal plan; (viii) working with the Procurement Compliance Officer and Puerto Rico’s Governor Authorized Representative (“GAR”) on federal funding and overseeing compliance with the GAR’s requirements or other requirements related to the federal funding; (ix) interfacing with federal entities, the Procurement Compliance Officer and the GAR regarding grants and other reimbursements; (x) recommending to the Governing Board personnel changes and changes to the organizational structure; (xi) communicating with constituents and other stakeholders, including the Government of Puerto Rico, the Financial Oversight and Management Board (the “Oversight Board”), and PREPA’s creditors; (xii) working with the

Executive Director on the emergency restoration and repair efforts to the extent requested by the Governing Board or the Executive Director; and (xiii) performing such other duties as are agreed to by myself and the Governing Board.

2. I submit this declaration (the “Declaration”) in support of the *Urgent Joint Motion of the Financial Oversight and Management Board for Puerto Rico and the Puerto Rico Fiscal Agency and Financial Advisory Authority for Entry of Interim and Final Orders (A) Authorizing Postpetition Secured Financing, (B) Granting Priming Liens and Providing Superpriority Administrative Expense Claims, (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing, and (E) Granting Related Relief* (the “Urgent Motion”)² filed by the Oversight Board, as the Debtor’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),³ and AAFAF, as the entity authorized to act on behalf of PREPA pursuant to the authority granted to it under the *Enabling Act of the Fiscal Agency and Financial Advisory Authority, Act 2-2017*. As discussed below, the requested financing is necessary to permit PREPA to continue to operate and thereby generate revenue.

3. Except as otherwise indicated, all facts and opinions set forth herein are based upon: (i) my personal knowledge; (ii) my review of relevant documents provided to me, including documents provided by AAFAF and the Debtor and their respective professionals and employees; (iii) information supplied to me by employees of FEP with whom I work in the ordinary course of business; and (iv) my views, based upon my experience and knowledge of the Debtor and its financial condition.

² Defined terms used but not defined herein shall have the same meanings given to them in the Urgent Motion.

³ PROMESA is codified at 48 U.S.C. §§ 2101-2241.

BACKGROUND

4. PREPA is a government-owned corporation that generates, transmits, and distributes substantially all of the electric power used in the Commonwealth of Puerto Rico (“Puerto Rico” or the “Government of Puerto Rico” and , in its capacity as lender, the “Lender”). PREPA provides electric power to approximately 1.5 million customers and has approximately 2,400 miles of high voltage transmission lines and approximately 31,000 miles of distribution lines across Puerto Rico.

5. Hurricane Irma, one of the strongest hurricanes ever recorded in the Atlantic Ocean, passed Puerto Rico’s north coast on September 6, 2017, substantially impairing PREPA’s ability to deliver power to approximately 70% of its customers. Hurricane Maria made her historic landfall in Puerto Rico on September 20, 2017, lashing the Island for over 30 hours with sustained winds of 155 miles-per-hour in certain areas and bringing torrential rain. Hurricane Maria crossed Puerto Rico diagonally, entering through the Southeast and exiting through the Northwestern region, and left virtually no portion of the Island untouched. The hurricanes caused severe damage to the electric power system and left the Island completely without power.

6. The hurricanes struck during a time of particular weakness in Puerto Rico. It is my understanding that, due to the Island’s ongoing financial crisis and inability to access the capital markets, PREPA had lacked the ability for years to upgrade and make the adequate investments to its generation, transmission and distribution infrastructure. As a result, the Debtor, one of the largest public power utilities in the United States, already faced significant operational challenges due to an old, inefficient, and unreliable transmission, delivery, and generation infrastructure. This resulted in vulnerability to outages even under normal conditions. For example, PREPA’s power plants experience outages that far exceed the average number of

outages in the United States and also last longer than the average outage experienced in the United States.

THE IMPACT OF HURRICANES IRMA AND MARIA

7. PREPA's already fragile infrastructure was devastated by the combined impacts of Hurricanes Irma and Maria. The hurricanes caused catastrophic damage to the transmission and distribution system, impacted certain of the generation assets, and took down critical communications and control infrastructure. While PREPA retained sufficient generating capacity after the hurricanes, the damage to the transmission and distribution system and related communication equipment led to a total failure of the electric power grid on the Island. The hurricanes left decimated transmission and distribution lines across the Island and caused widespread wind and flooding damage to substations and generation and distribution facilities. Damage from the hurricanes resulted in the longest power outage in U.S. history, and the power outage continues to this day for a material number of PREPA customers. The hurricanes also left the Island with a devastating humanitarian crisis, with long lines for fuel and residents struggling to secure access to critical medications and basic supplies like shelter, food and water. Although the longer-term impacts of the hurricanes are difficult to measure, early data suggests that a material number of residents have left the Island and that small businesses and the agricultural sector face uncertain futures.

8. Repairs to Puerto Rico's electric system and infrastructure are ongoing. At this time, approximately 60–70% of PREPA's customers have access to lines that have been energized. PREPA's employees, outside contractors, the U.S. Army Corps of Engineers and brigades from across the United States have contributed (and continue to contribute) to the restoration efforts.

PREPA'S LIQUIDITY AND IMMEDIATE NEED FOR CASH

9. PREPA's revenues were materially and negatively impacted by the hurricanes. As a result of the devastation to Puerto Rico's power grid, PREPA has been unable to bill or collect revenues at pre-storm levels. In the immediate aftermath of the hurricanes, PREPA's collections ground to a trickle, and they have remained low because PREPA is still transmitting electricity at levels that are materially less than full capacity and critical equipment has not yet been repaired. Moreover, beyond the physical damage to transmission and distribution lines, customers' metering equipment and the accompanying communication pathways that utilize fiber optic cable or repeating stations were also damaged. The process of converting customer power usage into billings relies on these communication pathways, and the repairs to the communications systems continue to this day. Numerous customers also suffered damaged "weatherheads," which prevent customers from drawing from the grid even if power has been restored to the distribution lines servicing their homes.

10. Currently, PREPA has restored the capability of billing approximately 35–40% of its customers. Based on its regular collection cycle, PREPA expects to resume collections before March 31, 2018, but does not expect to achieve a pre-hurricanes level of collections until power is fully restored to customers in mid-2018. Moreover, PREPA also expects its collections to be adversely impacted by the significant distress of the hurricanes on the financial circumstances and wherewithal of PREPA's customers in addition to the negative demographic changes caused by outmigration resulting from the storms.

11. PREPA has prepared a weekly cash flow projection that covers the period from the week ending on January 19, 2018, through the week ending on May 4, 2018 (the "Weekly Cash Flow Projection"). The Weekly Cash Flow Projection is updated by PREPA in the

ordinary course. The most recent Weekly Cash Flow Projection, which reflects actual results through January 19, 2018, is attached to this Declaration as Exhibit A. PREPA's General Fund cash balance was approximately \$187 million on January 19, 2018, and is projected to be negative by the week ending February 16, 2018. Indeed, without having implemented cash conservation measures, the General Fund cash balance would already be negative. By May 4, 2018, the cash balance is projected to be negative by approximately \$481 million.

12. During the period covered by the Weekly Cash Flow Projection, PREPA is projecting receipts of approximately \$330 million, representing customer collections from billing activities.

13. During the period covered by the Weekly Cash Flow Projection, PREPA projects non-hurricane restoration expenditures of approximately \$925 million. The projected expenditures include approximate amounts for: (i) energy and fuel purchases (\$595 million); (ii) employee disbursements (\$230 million); and (iii) other disbursements: insurance, ordinary course maintenance, and certain ordinary course payables for goods and services (\$100 million).

14. PREPA estimates that the total loss of revenues collected (measured as budgeted revenue collections less actual and projected cash collections) for the first six months after the hurricanes will be approximately \$1.2 billion. In addition to the loss of collected revenues, PREPA has made substantial emergency expenditures necessitated by the storms. While some of the emergency expenditures already made by the Debtor will be reimbursed by the Federal Emergency Management Agency ("FEMA"), the timing and amount of certain of such reimbursements remain uncertain. PREPA's financial position for fiscal year 2018 is materially different from a revenue perspective than what was originally estimated pre-hurricanes. (*See*

Lavin Decl. [17-bk-04780; Dkt. No. 149-1] (projecting revenues of approximately \$3.32 billion for Fiscal Year 2018).)

15. Without an immediate infusion of liquidity, PREPA may be forced to cease operations within the coming month.

16. On October 26, 2017, Congress enacted the *Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2017*, which authorized \$36.5 billion of disaster relief funds to support recovery efforts in the aftermath of Hurricanes Harvey, Irma, and Maria. The disaster relief package included approximately \$4.9 billion in loans under the community disaster loan (“CDL”) program for Puerto Rico, the US Virgin Islands, and local governments of Florida and Texas, subject to loan documentation. AAFAF and PREPA have been, and continue to be, actively engaged in discussions with the United States Department of the Treasury (the “Treasury Department”) and FEMA about the need for a CDL. The Treasury Department and FEMA have informed the Government of Puerto Rico, however, that the federal government does not currently intend to issue CDLs directly to PREPA. Rather, any CDLs will be funded to the Government of Puerto Rico, which may then, in turn, lend certain of those funds to PREPA. In addition, the federal government announced a cash balance policy in connection with disbursement of any CDL funding, requiring the balance of Puerto Rico’s Treasury Single Account to drop below a certain threshold before Puerto Rico may access the CDL. Under the current circumstances, no CDL is guaranteed and, even if one were made available to Puerto Rico for PREPA, the proceeds would not arrive in time to provide meaningful assistance to resolve PREPA’s current financial crisis.

17. As a result of PREPA's liquidity crisis and the lack of immediate availability of a CDL, PREPA and AAFAF have negotiated the terms of the Facility (as defined in the Urgent Motion), with the approval of the Oversight Board.

EFFECT ON CREDITORS

18. PREPA has periodically issued bonds under the Trust Agreement to raise capital. Under the terms of the Trust Agreement, the bondholders received a pledge of Revenues as security for the bonds, subject to the payment of Current Expenses as explained below. This type of pledge is known in the municipal bond marketplace as a "net revenue pledge."

19. As a result, the interest of PREPA's secured creditors in PREPA is in PREPA's Revenues to the extent they exceed Current Expenses, including appropriate and defined operating reserves. (*See* Trust Agreement at 20.) Therefore, PREPA's secured creditors bear the risk that Revenues may be less than Current Expenses.

20. Even prior to the hurricanes, PREPA's Revenues for its fiscal year 2018 (July 1, 2017 through June 30, 2018) were not projected to exceed Current Expenses including reserves as provided for under the Trust Agreement. (*See* Lavin Decl. [17-bk-04780; Dkt. No. 149-1].) After taking into account the impact of the hurricanes, the likelihood that PREPA's Current Expenses including reserves will exceed Revenues is a virtual certainty. Without a desperately needed injection of liquidity in February 2018 from the proceeds of the proposed Facility, any future PREPA creditor recoveries will be further diminished. PREPA must generate revenue in order to pay creditor claims. The use of the Facility funds as requested will allow PREPA to continue operations so that it can generate revenue.


21. The impact of a PREPA shut down would be devastating to Puerto Rico. The Island would be left without electric service for the second time in less than six months. A significant portion of PREPA's roughly 6,000 employees would be left without employment. Essential services would be jeopardized without public electric power. If it were to occur, the damage to the people of Puerto Rico, and to Puerto Rico's future, would be incalculable.

22. When taking into consideration the financial realities of PREPA and the terms of the Facility as described in the Urgent Motion, I believe that the Facility is necessary for the continued operations of PREPA and is the best option available to PREPA under the circumstances.

[Space is intentionally left blank.]

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 27 day of January, 2018 at San Juan, Puerto Rico.



Todd W. Filsinger

Exhibit D

Mondell Declaration

Hearing Date: February 7, 2018 at 9:30 a.m. (Atlantic Standard Time)
Objection Deadline: February 1, 2018 at 5:00 p.m. (Eastern Standard Time)

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

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

-----X
In re: PROMESA
THE FINANCIAL OVERSIGHT AND Title III
MANAGEMENT BOARD FOR PUERTO RICO, No. 17 BK 4780-LTS
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY
("PREPA"), Court Filing Relates Only to PREPA
and Shall Only be Filed in Case No.
Debtor. 17-BK-4780 (LTS) and Main Case
17-BK-3283 (LTS)
-----X

**DECLARATION OF DUSTIN MONDELL IN SUPPORT OF
URGENT JOINT MOTION OF THE FINANCIAL OVERSIGHT
AND MANAGEMENT BOARD FOR PUERTO RICO AND THE PUERTO
RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY FOR ENTRY
OF INTERIM AND FINAL ORDERS (A) AUTHORIZING POSTPETITION SECURED
FINANCING, (B) GRANTING PRIMING LIENS AND PROVIDING SUPERPRIORITY
ADMINISTRATIVE EXPENSE CLAIMS, (C) MODIFYING THE AUTOMATIC STAY,
(D) SCHEDULING A FINAL HEARING, AND (E) GRANTING RELATED RELIEF**

¹ 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).

Pursuant to 28 U.S.C. § 1746, I, Dustin Mondell, hereby declare as follows under penalty of perjury under the laws of the United States of America:

1. I am a Director at Rothschild Inc. (“Rothschild”), the financial advisor to the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) as fiscal agent for the Puerto Rico Electric Power Authority (“PREPA” or the “Debtor”). Rothschild is a leading international investment banking and financial advisory firm engaged in, among other things, reorganizations, restructurings, financings, spinoffs, workouts, exchange offers, mergers, divestitures and management-led buyouts. I have approximately 18 years of experience advising large government entities, companies, creditors, and other stakeholders regarding complex financial challenges in a variety of industries. I also earned an A.B. with High Honors in Economics from the University of Chicago.

2. I submit this declaration (the “Declaration”) in support of the *Urgent Joint Motion of the Financial Oversight and Management Board for Puerto Rico and the Puerto Rico Fiscal Agency and Financial Advisory Authority for Entry of Interim and Final Orders (A) Authorizing Postpetition Secured Financing, (B) Granting Priming Liens and Providing Superpriority Administrative Expense Claims, (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing, and (E) Granting Related Relief* (the “Urgent Motion”)² filed jointly by the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Debtor’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),³ and AAFAF, as the entity authorized to act on behalf of PREPA under the *Enabling Act of the Fiscal Agency and Financial Advisory Authority, Act 2-*

² Defined terms used but not defined in this Declaration shall have the meanings given to them in the Urgent Motion.

³ PROMESA is codified at 48 U.S.C. §§ 2101-2241.

2017. I have reviewed and am familiar with the facts and circumstances as set forth in the Urgent Motion and the relief sought therein.

3. Except as otherwise indicated, all facts and opinions set forth in this Declaration are based upon: (i) my personal knowledge; (ii) my review of relevant documents provided to me, including documents provided by AAFAF and the Debtor and their respective professionals and employees; and (iii) my views, based upon my experience and knowledge of the Debtor and its financial condition.

PREPA'S NEED FOR FINANCING

4. As described in greater detail in the Declaration of Todd W. Filsinger in support of the Urgent Motion (the "Filsinger Declaration"), PREPA is facing an imminent liquidity crisis.

5. To address this liquidity crisis and avoid disrupting electric services to the people of Puerto Rico, PREPA is seeking approval for financing in the form of a revolving credit facility (the "Facility") to be provided by the Commonwealth of Puerto Rico ("Puerto Rico" or the "Government of Puerto Rico" and, in its capacity as lender, the "Lender") to PREPA. As set forth in the Urgent Motion, if approved, the Facility would provide PREPA with immediate access to revolving loans in the aggregate of up to \$550 million at any one time outstanding after entry of an interim order approving the Facility (which commitment can be increased by increments of \$250 million at the discretion of the Lender and the Oversight Board, and may be increased to up to \$1.3 billion after entry of a final order approving the Facility, subject to the Lender's discretion, with necessary governmental action, and with the consent of the Oversight Board for each incremental increase).⁴

⁴ The specific terms of the Facility are provided in the Urgent Motion.

6. PREPA needs the Facility to continue to operate without interruption so as to generate the maximum amount of revenue. Without an additional source of liquidity, it is my understanding that PREPA will likely shut down its operations in whole or in part in the near-term. It is my belief that the impact of any shutdown would be devastating to Puerto Rico, which would once again see its residents living without power, businesses shuttering, and restoration and recovery efforts slowing. PREPA's creditors would also be damaged by a shutdown as the negative economic impact of such an event would jeopardize PREPA's continued operations, hamper the progress of restoration, and boost out-migration which would further reduce demand.

OTHER FINANCING OPTIONS AND THE MARKETING PROCESS

7. Despite PREPA's publicly-disclosed liquidity crisis, no financing of the magnitude required is readily available and committed other than the attractive financing offered by Puerto Rico. Shortly after Hurricanes Irma and Maria, PREPA received an unsolicited, publicly announced offer for financing from a group of holders of its Power Revenue Bonds. That offer was for \$1 billion of financing, but was tied to a roll-up of \$1 billion in existing bonds into an additional \$850 million of post-petition financing (which would have resulted in a senior credit facility of \$1.85 billion, out of which \$1 billion of cash would have been available for advancement to the Debtor). The offer carried a stated per annum interest rate of LIBOR plus 4.5% and a two-year maturity date. In addition, the interest rate would have increased to LIBOR plus 6.5% upon the one year anniversary of initial borrowing. The roll-up feature also provided investors in the loan facility with enhanced security provisions on a portion of their pre-petition claims. The proposal also required the appointment of a receiver and had the potential to limit the future transformation of the electric grid. For reasons that were publicly-disclosed at the time, the proposal therefore was turned down.

8. Following Hurricane Maria, PREPA and AAFAF have engaged the United States Department of the Treasury (the “Treasury Department”) and the Federal Emergency Management Agency (“FEMA”) in discussions to secure for PREPA loans from the federal government. On October 26, 2017, the *Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2017* (the “Act”) was signed into law, authorizing \$36.5 billion of disaster relief funds for recovery efforts in the aftermath of Hurricanes Harvey, Irma, and Maria, including approximately \$4.9 billion in loans under the community disaster loan (“CDL”) program for Puerto Rico, the US Virgin Islands, and local governments of Florida and Texas. Included in the Act are provisions that permit borrowings under the CDL to be forgiven in the future.

9. For several months, AAFAF and PREPA have actively engaged in discussions with the Treasury Department and FEMA about PREPA’s need for a CDL and the potential terms and structure of such a loan. Those discussions are ongoing, and no definitive terms have been reached. Moreover, the Treasury Department and FEMA have informed Puerto Rico that the federal government does not currently intend to issue a CDL directly to PREPA. Rather, any CDL would be advanced to Puerto Rico, and Puerto Rico in turn could lend certain of those funds to PREPA. Relatedly, the federal government announced its intention to establish a cash balance policy in connection with disbursement of any CDL funding that would require the balance of Puerto Rico’s Treasury Single Account to drop below a certain threshold before Puerto Rico may access a CDL. Under the current circumstances, no CDL is guaranteed. Even if a CDL becomes available to Puerto Rico for it to make a subsequent loan to PREPA, the proceeds would not arrive quickly enough to provide PREPA the funding it urgently needs to address its current funding crisis.

10. In light of the delay and uncertainty surrounding the CDL process and the lack of other current viable proposals, PREPA negotiated the terms of the Facility with Puerto Rico as the Lender, with the consent of the Oversight Board. The Facility is the only source of funds currently available on the favorable terms and flexibility described below to provide PREPA with critical liquidity in the short term. The Facility carries zero percent interest for the first six months, may be prepaid by PREPA at any time and allows for, and in fact requires, PREPA to solicit alternative financing proposals and evaluate any such alternatives in good faith in consultation with the Oversight Board.

11. Beginning on January 21, 2018, professionals from Rothschild initiated a marketing effort to obtain alternative financing. As part of that process, Rothschild, with the assistance of advisors for PREPA and AAFAF, prepared marketing materials and assembled a data room populated with relevant diligence information. In consultation with the advisors to the Oversight Board, professionals from Rothschild have been in contact with ten potential funding providers, which consisted of four existing PREPA, Commonwealth, and COFINA bondholders and bondholder groups, and six third parties capable of providing financing of this magnitude.

12. To my knowledge, the contacted parties include all parties that had previously expressed to either Rothschild or the Oversight Board's financial advisor an interest in providing such financing to PREPA. To date, seven of these prospective lenders have signed non-disclosure agreements ("NDAs") (or are operating under existing NDAs) and have been provided access to the data room maintained by Rothschild containing relevant information on the current financial conditions of PREPA. Rothschild has requested interested parties to submit initial indications of interest by February 2, 2018.

13. Given the complexity and urgency of the situation, Rothschild does not expect to obtain a commitment for financing competitive to the Facility prior to the interim hearing on the Urgent Motion. However, the Debtor, through Rothschild, will continue the solicitation process until the final hearing in order to determine whether a superior financing proposal can be identified. Importantly, because the terms of the financing contemplated in the Urgent Motion include a zero percent interest rate for the first six months, no closing fees, and no prepayment penalty, the Debtor can refinance the Facility if desired (to the extent of available financing in the future), without PREPA having incurred costs on the Facility even following approval of the Urgent Motion.

THE TERMS OF THE FACILITY ARE REASONABLE AND SHOULD BE APPROVED

14. In my view, the terms of the Facility are reasonable. As noted above, the Facility includes a zero percent interest rate for six months, has no commitment or other closing fees, and is prepayable at any time without penalty. The Facility avoids any cost to refinance in the future whether with proceeds of CDL borrowings or from another source. The Facility is currently the only financing available to PREPA to provide desperately needed funds and avert a catastrophic interruption or discontinuation of electric services to Puerto Rico. In light of PREPA's urgent liquidity needs as described in the Filsinger Declaration and the lack of immediately available alternatives (including CDLs, which are not currently available and, if available at some point, likely will require a loan to PREPA from Puerto Rico), PREPA has determined, after consulting with its advisors, that in its judgment and discretion the Facility represents the best interim financing presently available. Moreover, Puerto Rico has agreed that there will be no provisions in the loan documents that restrict the transformation of Puerto Rico's energy sector or the transfer of PREPA's assets.

15. Without access to the Facility, I believe PREPA would suffer immediate and irreparable harm. Based on the market response to date, PREPA has not been able to obtain committed financing on an unsecured basis pursuant to section 503(b)(1) of the Bankruptcy Code, applicable in the Title III Case pursuant to section 301(a) of PROMESA, or even on a superpriority basis under section 364(c)(1) of the Bankruptcy Code, on terms more favorable than those of the Facility.

16. In my view, the terms of the Facility are fair, reasonable, and appropriate under the circumstances of this case. Moreover, the interim financing will allow PREPA to continue its operations without interruption and prevent immediate damage to potential recoveries that may be available to its bondholders and other stakeholders.

[Space is intentionally left blank.]

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 26 day of January, 2018 at New York, NY.



Dustin Mondell

Exhibit E

Initial 13-Week Budget

Puerto Rico Electric Power Authority ("PREPA")

13 Week Cash Flow Model

| (\$ in millions) | | Actual | Actual | Actual | Actual | Actual | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 15 Weeks | |
|--|--|------------------|------------------|-----------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--|
| Week ending | | 12/22 | 12/29 | 01/05 | 01/12 | 01/19 | 01/26 | 02/02 | 02/09 | 02/16 | 02/23 | 03/02 | 03/09 | 03/16 | 03/23 | 03/30 | 04/06 | 04/13 | 04/20 | 04/27 | 05/04 | | |
| Receipts | | | | | | | | | | | | | | | | | | | | | | | |
| | Customer collections | \$ 35.9 | \$ 14.3 | \$ 16.5 | \$ 24.6 | \$ 23.5 | \$ 24.9 | \$ 14.8 | \$ 15.0 | \$ 19.8 | \$ 21.7 | \$ 22.3 | \$ 14.1 | \$ 15.2 | \$ 20.6 | \$ 20.8 | \$ 22.8 | \$ 22.8 | \$ 29.9 | \$ 30.0 | \$ 33.2 | \$ 327.8 | |
| | Transfers from Emergency Account | - | - | 47.8 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| | Insurance Proceeds | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| | Other | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Total Receipts | | \$ 35.9 | \$ 14.3 | \$ 64.2 | \$ 24.6 | \$ 23.5 | \$ 24.9 | \$ 14.8 | \$ 15.0 | \$ 19.8 | \$ 21.7 | \$ 22.3 | \$ 14.1 | \$ 15.2 | \$ 20.6 | \$ 20.8 | \$ 22.8 | \$ 22.8 | \$ 29.9 | \$ 30.0 | \$ 33.2 | \$ 327.8 | |
| Disbursements | | | | | | | | | | | | | | | | | | | | | | | |
| Energy Purchases | | | | | | | | | | | | | | | | | | | | | | | |
| Eligible | Power purchase - AES | \$ - | \$ 13.7 | \$ - | \$ - | \$ 13.7 | \$ - | \$ 12.3 | \$ - | \$ 24.1 | \$ 12.4 | \$ 12.1 | \$ - | \$ 20.9 | \$ - | \$ - | \$ 9.4 | \$ 7.0 | \$ 7.0 | \$ - | \$ 10.2 | \$ 115.4 | |
| Eligible | Power purchase - EcoElectrica | 31.0 | - | - | - | - | - | 24.1 | - | 26.5 | - | 27.1 | - | - | 29.0 | - | 7.8 | 7.8 | 7.8 | 7.8 | 4.8 | 142.6 | |
| Eligible | Power purchase - Renewable sources | - | - | - | - | - | - | - | - | 10.4 | - | - | - | - | - | - | - | - | - | - | - | 10.4 | |
| Eligible | Fuel purchase - Fleet and storage | 0.5 | - | - | 0.4 | 0.1 | - | 6.0 | - | 1.5 | - | - | - | 1.5 | - | - | - | 1.5 | - | - | - | 10.5 | |
| Eligible | Fuel purchase - Freepoint | - | - | 4.6 | 9.2 | 4.4 | 9.0 | 4.4 | 9.0 | 4.4 | 9.2 | 4.6 | 28.8 | - | 12.8 | 14.4 | 9.4 | 5.1 | 9.4 | 5.1 | 16.4 | 142.0 | |
| Eligible | Fuel purchase - Puma | 15.9 | 9.6 | 5.6 | 12.0 | 9.8 | 11.0 | 9.5 | 7.0 | 6.7 | 7.9 | 8.2 | 9.3 | 7.4 | 8.4 | 8.5 | 7.1 | - | - | - | - | 6.1 | |
| Eligible | LNG purchase - Fenosa | 11.1 | - | - | 13.9 | - | - | - | 16.0 | - | - | 11.1 | - | 15.1 | 3.8 | 3.8 | 3.8 | 3.8 | 6.3 | 6.3 | 6.3 | 76.0 | |
| Subtotal Energy Purchases | | \$ 58.4 | \$ 23.3 | \$ 10.2 | \$ 35.5 | \$ 28.0 | \$ 20.0 | \$ 56.3 | \$ 31.9 | \$ 73.6 | \$ 29.4 | \$ 63.0 | \$ 38.1 | \$ 44.9 | \$ 54.0 | \$ 26.7 | \$ 37.4 | \$ 25.2 | \$ 30.5 | \$ 19.2 | \$ 43.7 | \$ 594.0 | |
| Other Disbursements | | | | | | | | | | | | | | | | | | | | | | | |
| Eligible | Estimated Payroll | - | 7.8 | - | 7.8 | - | 7.8 | - | 7.8 | - | 7.8 | - | 7.8 | - | 7.8 | - | 7.8 | - | 7.8 | - | 7.8 | 62.4 | |
| Eligible | Social security | - | 2.8 | - | 2.5 | - | 2.0 | - | 2.0 | - | 2.0 | - | 2.0 | - | 2.0 | - | 2.0 | - | 2.0 | - | 2.0 | 16.2 | |
| Eligible | Payroll taxes | - | 0.6 | - | 0.6 | - | 1.1 | - | 1.1 | - | 1.1 | - | 1.1 | - | 1.1 | - | 1.1 | - | 1.1 | - | 1.1 | 8.8 | |
| Eligible | Contributions to employee benefit programs | - | 5.0 | - | 5.3 | - | 5.5 | - | 5.5 | - | 5.5 | - | 5.5 | - | 5.5 | - | 5.5 | - | 5.5 | - | 5.5 | 44.0 | |
| Eligible | Medical benefit costs | - | 1.0 | 3.8 | 9.0 | - | 3.5 | 5.4 | 1.8 | 5.8 | - | - | - | - | - | - | 5.8 | - | - | - | 5.8 | 34.0 | |
| Eligible | Workers compensation / disability funding | - | - | - | 3.4 | - | - | - | - | - | 6.0 | - | - | - | - | - | - | - | - | - | - | 6.0 | |
| Ineligible | Estimated Gross Overtime | - | 5.6 | - | 4.8 | - | 3.5 | - | 3.5 | - | 3.5 | - | 3.5 | - | 3.5 | - | 3.5 | - | 3.5 | - | 3.5 | 28.0 | |
| Ineligible | Contract Labor - Title III | - | - | - | 2.0 | - | 4.9 | 1.4 | 1.4 | 1.4 | 1.4 | 1.7 | 1.7 | 1.7 | 1.7 | 1.7 | 1.7 | 1.7 | 1.7 | 1.7 | 1.7 | 26.8 | |
| Eligible | Contract Labor - Other | - | - | - | 0.0 | - | 1.6 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 7.1 | |
| Employee Disbursements & Contract Labor | | \$ - | \$ 22.8 | \$ 3.8 | \$ 35.4 | \$ - | \$ 29.9 | \$ 7.1 | \$ 23.4 | \$ 7.5 | \$ 27.6 | \$ 1.7 | \$ 27.8 | \$ 2.1 | \$ 22.0 | \$ 2.1 | \$ 27.8 | \$ 2.1 | \$ 22.0 | \$ 2.1 | \$ 27.8 | \$ 233.2 | |
| Other Disbursements | | | | | | | | | | | | | | | | | | | | | | | |
| Eligible | Insurance premiums | - | - | - | 0.9 | - | - | - | - | 0.1 | - | - | - | 1.5 | - | - | - | 0.3 | - | - | - | 2.0 | |
| Eligible | Maintenance Disbursements | - | - | - | 0.6 | 1.0 | - | - | 3.2 | 3.2 | 3.2 | 4.5 | 4.5 | 4.5 | 4.5 | 4.5 | 3.9 | 3.9 | 3.9 | 3.9 | 4.3 | 52.0 | |
| Eligible | Employee expense reimbursements | - | - | - | - | - | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 12.0 | |
| Eligible | Additional accounts payable | 2.4 | - | - | 2.6 | 5.1 | 2.0 | 2.0 | 4.8 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 32.8 | |
| Eligible | Other | 8.1 | 2.3 | (1.5) | (10.3) | (1.1) | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | |
| Subtotal Other Disbursements | | \$ 10.5 | \$ 2.3 | \$ (1.5) | \$ (6.3) | \$ 5.1 | \$ 2.8 | \$ 2.8 | \$ 8.8 | \$ 6.2 | \$ 6.0 | \$ 7.3 | \$ 7.3 | \$ 8.8 | \$ 7.3 | \$ 7.3 | \$ 6.7 | \$ 7.0 | \$ 6.7 | \$ 6.7 | \$ 7.1 | \$ 98.8 | |
| Total Disbursements | | \$ 68.9 | \$ 48.4 | \$ 12.4 | \$ 64.6 | \$ 33.1 | \$ 52.7 | \$ 66.2 | \$ 64.2 | \$ 87.3 | \$ 63.0 | \$ 72.0 | \$ 73.2 | \$ 55.8 | \$ 83.3 | \$ 36.1 | \$ 71.9 | \$ 34.3 | \$ 59.2 | \$ 28.0 | \$ 78.6 | \$ 926.0 | |
| Net Cash Flow | | \$ (32.9) | \$ (34.0) | \$ 51.8 | \$ (40.0) | \$ (9.6) | \$ (27.8) | \$ (51.4) | \$ (49.2) | \$ (67.4) | \$ (41.4) | \$ (49.8) | \$ (59.1) | \$ (40.6) | \$ (62.8) | \$ (15.3) | \$ (49.2) | \$ (11.5) | \$ (29.3) | \$ 2.0 | \$ (45.5) | \$ (598.3) | |
| Opening Balance | | | | | | | | | | | | | | | | | | | | | | | |
| Net Operating Cash Flows | | \$ 275.1 | \$ 242.2 | \$ 208.1 | \$ 259.9 | \$ 219.9 | \$ 187.0 | \$ 182.5 | \$ 131.1 | \$ 81.9 | \$ 14.5 | \$ (26.9) | \$ (76.7) | \$ (135.8) | \$ (176.5) | \$ (239.3) | \$ (254.6) | \$ (303.7) | \$ (315.2) | \$ (344.5) | \$ (342.5) | \$ 187.0 | |
| Emergency Spend, net from General Fund | | (32.9) | (34.0) | 51.8 | (40.0) | (9.6) | (27.8) | (51.4) | (49.2) | (67.4) | (41.4) | (49.8) | (59.1) | (40.6) | (62.8) | (15.3) | (49.2) | (11.5) | (29.3) | 2.0 | (45.5) | (598.3) | |
| Ending Balance, before Emergency Related | | \$ 242.2 | \$ 208.1 | \$ 259.9 | \$ 219.9 | \$ 210.3 | \$ 159.2 | \$ 131.1 | \$ 81.9 | \$ 14.5 | \$ (26.9) | \$ (76.7) | \$ (135.8) | \$ (176.5) | \$ (239.3) | \$ (254.6) | \$ (303.7) | \$ (315.2) | \$ (344.5) | \$ (342.5) | \$ (387.9) | \$ (411.3) | |
| Emergency Related | | | | | | | | | | | | | | | | | | | | | | | |
| Ineligible | Emergency Spend | \$ - | \$ - | \$ (15.4) | \$ (9.7) | \$ (50.3) | \$ - | \$ (51.8) | \$ (25.0) | \$ (12.5) | \$ (44.5) | \$ (44.5) | \$ (44.5) | \$ (44.5) | \$ (12.5) | \$ (12.5) | \$ (137.5) | \$ (32.0) | \$ (32.0) | \$ - | \$ (21.0) | \$ (514.8) | |
| | FEMA Reimbursements | - | - | 15.4 | 9.7 | 27.0 | 23.3 | 51.8 | 25.0 | 12.5 | 44.5 | 44.5 | 44.5 | 44.5 | 12.5 | 12.5 | 44.5 | 32.0 | 32.0 | - | 21.0 | 445.1 | |
| Subtotal Other Disbursements | | \$ - | \$ - | \$ - | \$ - | \$ (23.3) | \$ 23.3 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ (93.0) | \$ - | \$ - | \$ - | \$ - | \$ (69.7) | |
| Ending Balance | | \$ 242.2 | \$ 208.1 | \$ 259.9 | \$ 219.9 | \$ 187.0 | \$ 182.5 | \$ 131.1 | \$ 81.9 | \$ 14.5 | \$ (26.9) | \$ (76.7) | \$ (135.8) | \$ (176.5) | \$ (239.3) | \$ (254.6) | \$ (396.7) | \$ (408.2) | \$ (437.5) | \$ (435.5) | \$ (480.9) | \$ (480.9) | |

Exhibit F

**FEMA letter to AAFAF
Dated January 9, 2018**



FEMA

JAN 09 2018

Mr. Gerardo J. Portela Franco
Executive Director and Chairman of the Board
Fiscal Agency and Financial Advisory Authority
Government of Puerto Rico
Roberto Sánchez Vilella Government Center
De Diego Avenue, Stop 22
San Juan, Puerto Rico, 00907

Dear Mr. Portela Franco:

This letter summarizes the Federal Government's policy for providing Community Disaster Loan (CDL) Program assistance to the Commonwealth of Puerto Rico, its instrumentalities, and municipalities as a result of Hurricanes Irma (DR-4336-PR) and Maria (DR-4339-PR).

The purpose of the CDL Program is to provide loans to eligible recipients that have suffered a substantial loss of tax and other revenues as a result of a major disaster and that demonstrate a need for Federal financial assistance to perform essential governmental functions. The *Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2017*, signed into law by the President on October 26, 2017, included \$4.9 billion for CDLs to assist the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and local governments in Florida and Texas in maintaining essential services as a result of Hurricanes Harvey, Irma, and Maria.

Implementing the CDL Program in the Commonwealth must be undertaken in a manner that is compatible with the ongoing financial restructuring of the Commonwealth's financial obligations, including pursuant to the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA). For example, pursuant to PROMESA the Financial Oversight and Management Board (FOMB) must approve any new debt incurred by the Commonwealth or by any of its instrumentalities that the FOMB has designated as covered territorial instrumentalities under PROMESA, including the Puerto Rico Electric Power Authority (PREPA) and the Puerto Rico Aqueduct and Sewer Authority (PRASA). Title III of PROMESA also established a bankruptcy-like restructuring process for Puerto Rico and its covered territorial instrumentalities. As you are aware, the Commonwealth and PREPA have filed for Title III restructuring; PRASA has not.

As a result of Hurricanes Irma and Maria, the Commonwealth, PREPA, and PRASA projected in late September 2017 that they would exhaust their operating funds on or about October 31, 2017. However, as of December 29, 2017, the Commonwealth's central cash balance was approximately \$1.7 billion. It is our understanding that the higher-than-expected central cash balance three months after the hurricanes resulted from greater-than-expected receipts, strategic management of payables, and the structure of relief funds from FEMA and other federal agencies, among other factors, although a review of the underlying detail is still underway. In addition to its central cash balance, on December 18, 2017, the Commonwealth released a report indicating that \$6.875 billion in unrestricted and restricted cash was on deposit in over 800 accounts across all Commonwealth governmental entities. Despite these Commonwealth cash balances, the Commonwealth now indicates that PREPA

and PRASA have an imminent need for liquidity in January 2018, and, as a result, each entity has applied for a CDL to cover operating expenditures.

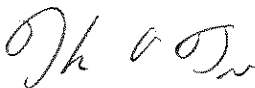
Because the Commonwealth's central cash balance, as publicly reported, has consistently exceeded \$1.5 billion in the months following the hurricanes, and considering the implications of the reported \$6.875 billion of total cash across the Commonwealth, the Federal Government will institute, as a matter of policy, a Cash Balance Policy that will determine the timing of CDLs to the Commonwealth and its instrumentalities, including PREPA and PRASA. Under this Cash Balance Policy, funds will be provided through the CDL Program when the Commonwealth's central cash balance decreases to a certain level. This Cash Balance Policy level will be determined by the Federal Government in consultation with the Commonwealth and the FOMB.

The current posture of the Federal Government is to disburse CDL program financing directly to the Commonwealth, which could then sub-lend to its various entities (including PREPA and PRASA), although this approach may be revised over time. Subsidiary borrowers will be expected to comply with reporting, repayment, and collateral requirements that apply to the primary borrower. Unless the Cash Balance Policy level is reached, however, the Commonwealth will need to support its own liquidity needs and those of PREPA and PRASA.

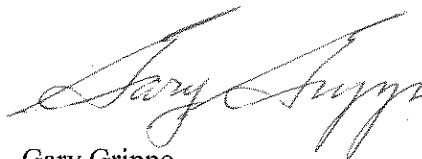
Notwithstanding the above policy, local governments (as such term is defined in 42 U.S.C. § 5122(8)) in Puerto Rico, including the 78 municipalities, will be eligible to apply directly for CDLs independent of the Commonwealth under the traditional terms and conditions of Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §5184 (irrespective of the cash balance of the Commonwealth). Under these terms, a local government demonstrating a substantial loss of revenues may receive a streamlined CDL up to 25 percent of its annual budget, subject to a \$5 million cap. FEMA will make arrangements to meet directly with the local governments and their management associations the week of January 15, 2018, in Puerto Rico to facilitate applications to the CDL Program on the most timely basis possible consistent with program terms and requirements. If it is determined that a local government should require assistance beyond the \$5 million cap, the Federal Government will consider providing additional financing under different terms and conditions, as appropriate.

FEMA and the Department of Treasury look forward to continuing to work with the Commonwealth of Puerto Rico and its instrumentalities and local governments to ensure funding is available for operating expenses to perform governmental functions while respecting the PROMESA Title III proceedings, the statutory authorities granted to the FOMB under PROMESA, and the overall fiscal condition of the Commonwealth and its instrumentalities and local governments.

Respectfully,



Alex Amparo *for*
Assistant Administrator Recovery Directorate
Federal Emergency Management Agency



Gary Grippo
Deputy Assistant Secretary for Public Finance
U. S. Department of Treasury

cc: Governor Ricardo Rosselló Nevares, Commonwealth of Puerto Rico
Financial Oversight and Management Board, Commonwealth of Puerto Rico
Puerto Rico State Agency for Emergency and Disaster Management
U.S. Office of Management and Budget