IN THE
UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 26-1330, 26-1331, 26-1332, 26-1333, 26-1334

IN RE: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Commonwealth of Puerto Rico; THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Puerto Rico Sales Tax Financing Corporation, a/k/a COFINA; THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Employees Retirement System of the Government of the Commonwealth of Puerto Rico; THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Puerto Rico Highways and Transportation Authority; THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Puerto Rico Electric Power Authority (PREPA); THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for the Puerto Rico Public Buildings Authority,
Debtors,

NATIONAL PUBLIC FINANCE GUARANTEE CORPORATION; U.S. BANK NATIONAL ASSOCIATION, in the capacity as PREPA Bond Trustee; ALLIANCEBERNSTEIN L.P.; ARISTEIA CAPITAL, L.L.C.; BNY MELLON FUNDS TRUST; CAPITAL RESEARCH AND MANAGEMENT COMPANY; COLUMBIA MANAGEMENT INVESTMENT ADVISERS, LLC; DELAWARE MANAGEMENT COMPANY, a series of Nomura Asset Management Co., Ltd.; ELLINGTON MANAGEMENT GROUP, L.L.C.; GOLDMAN SACHS ASSET MANAGEMENT L.P.; INVESCO ADVISERS, INC.; LUXOR CAPITAL GROUP, LP; MACKAY SHIELDS LLC; MASSACHUSETTS FINANCIAL SERVICES COMPANY; OLD ORCHARD CAPITAL MANAGEMENT LP; ONE WILLIAM STREET CAPITAL MANAGEMENT, L.P.; RUSSELL INVESTMENT COMPANY, on behalf of Russell Investment Company Tax-Exempt High Yield Bond Fund; SIG STRUCTURED PRODUCTS, LLC; T. ROWE PRICE; TOWER BAY ASSET MANAGEMENT LP; VERITION FUND MANAGEMENT LLC; GOLDENTREE ASSET MANAGEMENT LP; SYNCORA GUARANTEE INC.; ASSURED GUARANTY INC,
Movants-Appellants,

v.

THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative for PREPA
Debtor-Appellee,

INSTITUTO DE COMPETITIVIDAD Y SOSTENIBILIDAD ECONÓMICA DE PUERTO RICO (ICSE); EL PUENTE DE WILLIAMSBURG, INC., ENLACE DE ACCIÓN CLIMÁTICA; COLEGIO DE ABOGADOS Y ABOGADAS DE PUERTO RICO (CAAPR); ASSOCIATION OF PRIVATE COLLEGES AND UNIVERSITIES OF PUERTO RICO (ACUP); LA LIGA DE CIUDADES DE PUERTO RICO; CENTRO UNIDO DE DETALLISTAS (CUD); RAQUEL MARIA GONZÁLEZ SPARKS; COALICIÓN NUEVA VISIÓN DE SALUD; SISTEMA DE RETIRO DE LOS EMPLEADOS DE LA AUTORIDAD DE ENERGÍA ELECTRICA (SREAEE); JUNTE DE ASOCIACIONES CON PENSIONADOS Y JUBILADOS DE PUERTO RICO (JAP); COLEGIO DE PROFESIONALES DEL TRABAJO SOCIAL DE PUERTO RICO; OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF PREPA; PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY (AAFAF); ELAM, LLC, as Successor-In-Interest to Blue Beetle III, LLC,
Respondents-Appellees.

On Appeal from the United States District Court
For The District of Puerto Rico (Case No. 17-3283-LTS)

MOTION FOR LEAVE TO FILE AMICUS BRIEF SUPPORTING AFFIRMANCE

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Counsel for Local Progress and 203 Present and Former Elected Officials

TO THE HONORABLE COURT OF APPEALS:

COME NOW, Local Progress, joined by 203 present and former elected officials from Puerto Rico and the United States (collectively "*Amici*") [1], represented by the undersigned attorneys, and respectfully move this Court for leave to participate as *amici curiae* and to file a brief in support of Appellees position of affirmance. As such *Amici*, respectfully alleges, states, and prays as follows:

Pursuant to the Federal Rules of Appellate Procedure, any party may file appear and file an amicus curiae brief with leave of the Court. Fed. R. App. P 29(a). The motion seeking leave must be accompanied by the proposed brief, and state "(A) the movant's interest; and (B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case." Fed. R. App. P 29(a)(3). The same rule requires an amicus brief to be filed no later than seven days after the supported party's principal brief is filed. Fed. R. App. P 29(a)(6).

Because Appellees' principal briefs were due and deemed filed on July 10, 2026, this motion and the accompanying brief are therefore timely under Rule 29(a)(6). Moreover, this brief is desirable, and the matters it raises are relevant to the disposition of this appeal.

Local Progress is a movement of local elected officials advancing a racial and economic justice agenda through all levels of local government. Its members include

[1] A list of all *amici* is available at App. A of the *Amicus Brief*.

local elected officials from jurisdictions across the country, including Puerto Rico, sharing a common interest in ensuring that the costs of public financial distress do not fall on the residents least able to bear them.

Joining Local Progress in this case are 203 present and former elected officials from Puerto Rico and the United States whose constituents include Puerto Ricans on the Island, Puerto Ricans in the States, and communities with civic, familial, economic, and democratic ties to Puerto Rico. Puerto Rico's present and former local elected officials deal with the Puerto Rico Electric Power Authority ("PREPA") the way their constituents do, as the island's only electric company. Those constituents are ratepayers, workers, retirees, hospitals, schools, small businesses, and families whose daily lives depend on an electric system that must keep operating even while it remains fragile, costly, and unreliable. Thus, *Amici* offer the Court a perspective the existing briefing does not supply. *Amici* can describe the reality on the ground. The United States elected officials joining this brief share their concern. They represent communities that include the Puerto Rican diaspora, and they have a governmental interest in making sure that public debt restructuring does not shift creditor risk onto the people essential utilities serve. That perspective differs materially from the parties' and from that of the thirteen States appearing in support of Appellants, who write as bond issuers concerned with their own borrowing costs.

Amici's brief also responds directly to the States' central claim that affirmance will destabilize municipal credit markets with the market's own recorded history. That analysis bears directly on whether the rule Appellants urge would, in fact, produce the market consequences the States predict, and it is therefore relevant to the Court's disposition of this appeal.

As congresspersons, mayors, state and local legislators and even former comptrollers from more than twenty-nince States, the *Amici*'s perspective differs from that of the thirteen States appearing as *amici* for the Appellants. The States write as issuers of bonds, attentive to borrowing costs and creditor expectations. *Amici* speak for the public on the paying end of the rates: the households and institutions that would fund any recovery the Bondholders obtain beyond their collateral, because no one else can. Amici support affirmance of the order denying administrative expense priority.

WHEREFORE, the Amici respectfully pray from this Honorable Court to grant leave to file the proposed *amicus* brief.

Date: July 17, 2026

Respectfully submitted,

/s/ Zoé C. Negrón Comas

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CERTIFICATE OF COMPLIANCE

I hereby certify that this document complies with the word limit of Fed. R. App. P. 29(a)(5) and 27(d) because it contains 647 words, excluding the parts of the document exempted by Fed. R. App. P. 32(f).

I further certify that this document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced 14-point Times New Roman typeface using Microsoft Word.

Date: July 17, 2026

Respectfully submitted,

/s/ Zoé C. Negrón Comas

Zoé C. Negrón Comas esq.

Counsel for Local Progress and 203 Present and Former Elected Officials

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the Court's appellate CM/ECF system, and that service will be accomplished by the appellate CM/ECF system.

Date: July 17, 2026

Respectfully submitted,

/s/ Zoé C. Negrón Comas

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On Appeal from the United States District Court
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AMICUS BRIEF OF LOCAL PROGRESS AND JOINING PRESENT AND FORMER ELECTED OFFICIALS IN SUPPORT OF APPELLEES AND AFFIRMANCE

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, Local Progress states that it is not a publicly held corporation, has no parent corporation, and no publicly held corporation owns 10% or more of any stock in Local Progress. Joining *amici* are not required to make a disclosure as they are not non-governmental corporate entities.

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IDENTITY AND INTEREST OF AMICI

Amici are Local Progress, joined by 203 present and former elected officials from Puerto Rico and the United States whose constituents include Puerto Ricans on the Island, Puerto Ricans in the States, and communities with civic, familial, economic, and democratic ties to Puerto Rico.[1]

Local Progress is a movement of local elected officials advancing a racial and economic justice agenda through all levels of local government. Its members include local elected officials from jurisdictions across the country, including Puerto Rico, sharing a common interest in ensuring that the costs of public financial distress do not fall on the residents least able to bear them.

Joining Local Progress in this case are 203 present and former elected officials from Puerto Rico and the United States whose constituents include Puerto Ricans on the Island, Puerto Ricans in the States, and communities with civic, familial, economic, and democratic ties to Puerto Rico. Puerto Rico's present and former local elected officials deal with the Puerto Rico Electric Power Authority ("PREPA") the way their constituents do, as the island's only electric company. Those constituents are ratepayers, workers, retirees, hospitals, schools, small businesses, and families

[1] Pursuant to the First Circuit's Fed. R. App. P. 29(a)(4)(E), the Amici state that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund its preparation or submission. No person other than Amici or their counsel made a monetary contribution to the preparation or submission of this brief. A list of all *amici* is available at App. A.

whose daily lives depend on an electric system that must keep operating even while it remains fragile, costly, and unreliable.

The United States elected officials joining this brief share that concern. They represent communities that include the Puerto Rican diaspora, and they have a governmental interest in making sure that public debt restructuring does not shift creditor risk onto the people essential utilities serve. As congresspersons, mayors, state and local legislators and even former comptrollers from more than twenty-eight States, the *Amici*'s perspective differs from that of the thirteen States appearing as *amici* for the Appellants. The States write as issuers of bonds, attentive to borrowing costs and creditor expectations. Amici speak for the public on the paying end of the rates: the households and institutions that would fund any recovery the Bondholders obtain beyond their collateral, because no one else can. Amici support affirmance of the order denying administrative expense priority.

The *Amici* will undoubtedly bring a new and necessary perspective to this case of public interest and offer the Court an essential voice of the affected interest groups. The *Amici* affirm that the brief of *amici curiae* will provide the Court with a unique perspective. This perspective is particularly important in view of the States' filing.

SUMMARY OF ARGUMENT

This appeal asks whether Bondholders may convert a lien confined to Net

Revenues into a full-payment claim reaching PREPA's general assets and, through PREPA, the pockets of Puerto Rico's ratepayers. The answer is no, for reasons that run through the facts, the statute, and the market. In support of Appellees', the Amici present two arguments.

First, Appellants' unjust-enrichment theories fail on their own terms. Puerto Rico law forecloses an independent unjust enrichment claim where a contract governs the dispute, as it does here. And even treating unjust enrichment as an equitable principle informing Section 503(b), Appellants cannot show: an actual, demonstrable benefit to the estate, as the statute requires. PREPA's post-petition history is not one of quiet enrichment. It is a decade of island-wide blackouts, federal emergency orders, and a grid still operating without the improvements Appellants claim PREPA diverted revenues to fund. Nor have Appellants suffered a loss because their lien on Net Revenues survives this judgment, and the value of that collateral will be paid in full once the reinstated equitable accounting determines it.

Second, the thirteen States' warning that affirmance will destabilize municipal credit markets does not survive contact with the record. History and doctrine support that orderly restructuring allows issuers to return to the capital markets on favorable terms. Puerto Rico's ratepayers are among the poorest in the nation and already paying the country's highest electricity rates. They should not be made to bear a cost better allocated to bondholders. Converting a non-recourse revenue bond into a full-payment priority would work the transformation the 1988 municipal bankruptcy amendments were written to prevent, turning a claim against a revenue stream into a recourse claim against the public. That rule would not stay confined to PREPA. That is the real risk to the market here. Thus, the Court should affirm.

ARGUMENT

Reversal of the District Court is potentially devastating for PREPA, its restructuring and its consumers, Puerto Rico's constituents. Conversely, affirming does not leave the Bondholders empty-handed. Any Plan below will necessarily provide for payment of the value of their secured claim, in full, once that value is determined. What the Bondholders stand to lose on this appeal is the improvement on their bargain that the priority would have conferred. While attempting to avoid duplicative arguments, Amici provide two points to support Appellees: (1) as a matter of law, the Bondholders cannot invoke unjust enrichment as an independent basis for liability nor as an equitable principle to justify priority; and (2) history and doctrine contradict the market risk arguments presented by the States as amici in support of the Appellants.

I. For the past ten years, PREPA has been barely operable making an unjust enrichment claim implausible.

Appellants use the term "unjust enrichment" to describe the outcome of the contested matter below. Assured's brief uses "misappropriation" or "unjust enrichment" roughly twenty-five times, including in its section headings. *See*

Assured Br. **at 35-36, 43-47, 56-57.**[2] This vocabulary is doing work a legal standard should do, by asking this Court to credit their account of theft in place of the demonstrable benefit required by Section 503. If credited, such a ruling would let Appellants reach beyond their collateral into the revenues that keep electric service running for the ratepayers whose interests Amici represent. The District Court did not address this rhetoric directly, but it is worth confronting.

Section 503 of the Bankruptcy Code "operationalized the equitable principle of preventing unjust enrichment of the debtor's estate." Fin. of Am. LLC v. Mortg. Winddown LLC (In re Ditech Holding Corp.), 630 F. Supp. 3d 554, 566 (S.D.N.Y. 2022)(citation and quotation marks omitted). It "is premised on a benefit to the estate being conferred. **[A]n actual, concrete benefit** to the estate . . . ." In re Moody & Sons, Inc., 473 B.R. 828, 836 (M.D. Fla. 2012)(citations omitted)(emphasis added). The purpose is to prevent "unjust enrichment of the debtor's estate, **rather than compensation of the creditor for the loss of it**." Id. (citation and brackets omitted)(emphasis added).

This analysis requires a narrow construction of the priority, "in order to maximize the value of an estate for the benefit of all unsecured creditors." Id. (citation omitted). See, also, Varsity Carpet Servs. v. Richardson (In re Colortex

[2] References to page numbers in briefs refer to Docket Header pages, unless otherwise specified.

Indus.), 19 F.3d 1371, 1383 (11th Cir. 1994). "[T]he **consideration** supporting the claim must have benefitted the estate in some **demonstrable way**. The fact that the debtor has deprived the non-debtor of its property does not automatically trigger an administrative claim. **The pertinent inquiry is the actual benefit to the estate, not the loss sustained by the creditor**." In re Jeans.com, 491 B.R. 16, 23-24 (D.P.R. 2013)(emphasis added)(citations and quotations marks omitted). Moreover, "[a] person who, incidentally to the performance of his own duty or to the protection or the improvement of his own things, has conferred a benefit upon another, is not thereby entitled to contribution." Restat. 1st of Restitution, § 106.

Under Puerto Rico law, unjust enrichment is an equitable remedy. See Rivera v. Marriott Int'l, Inc., 456 F. Supp. 3d 330, 339-340 (D.P.R. 2020). To establish the claim under this doctrine, the party invoking it must show "(1) existence of enrichment; (2) a correlative loss; (3) nexus between loss and enrichment; (4) lack of cause for enrichment; and (5) absence of a legal precept excluding application of enrichment without cause." Id. at 339 (citation omitted). "[I]t does not apply where there is a contract that governs the dispute at issue." Id. (citation omitted). See, also, In re Fin. Oversight & Mgmt. Bd., 578 F. Supp. 3d 267, 296 (2021).

Appellants catalogue PREPA's use of its revenues as unjust enrichment. However, even as an underlying equitable principle, unjust enrichment fails. This failure holds on two independent grounds. First, under Puerto Rico law, the existence of enrichment and a correlative loss are both absent, so Appellants cannot satisfy its elements even setting the contract bar aside. Second, and separately, Section 503(b)'s federal standard asks only whether PREPA received an actual, demonstrable benefit and that benefit is likewise absent.

The request for administrative expense treatment is premised on use of revenues post-petition. Thus, though the bonds were issued and purchased prepetition, the alleged enrichment must have occurred post-petition, while PREPA has been in Title III. In the nearly ten years since the petition, PREPA has dedicated its revenues to generate and deliver electricity to all of Puerto Rico's residents and business, through hurricanes, earthquakes, and a global pandemic. The Appellants categorize this as a misappropriation. In truth, this is PREPA attempting to comply with its statutory purpose.

As noted above, the only reason this conduct is an issue before the Court is *because* Bondholders have prepetition contractual rights over Net Revenues. However, another key factor that precludes the requested administrative expense priority is that the elements of unjust enrichment are not met. First, there is no enrichment, unjust or otherwise. Second, because Appellants cannot lose what they never had, their claim to loss is as tenuous as the claim of benefit.

A. PREPA's precarious condition shows that it has not been enriched by its post-petition use of revenues.

Appellants focus heavily on their frustrated efforts to collect their claim in full. But administrative expense priority under this argument is not about them. It's about PREPA. It's about whether PREPA received **"actual benefit to the estate, not the loss sustained by the creditor**." In re Jeans.com, 491 B.R. at 23-24 (emphasis added). The Appellants' factual theory is that PREPA routed Net Revenues into capital expenditures that the Trust Agreement ranks behind debt service, generating an unjust enrichment. To the extent that this argument relies on contractual rights, unjust enrichment is inapplicable as an independent basis. However, any and all post-petition PREPA revenues were necessary for the utility to operate. The state of the grid speaks for itself. There has been no improvement, just many incidents of keeping or getting the essential system running.

Since the Petition Date, the electric system has failed island-wide five times. In 2017, Hurricane María gave way to the biggest blackout in United States history, taking nearly a year for power to be restored.[3] In April 2022, a circuit breaker caught fire causing a massive black-out that affected even the availability of water to customers.[4] In September 2022, Hurricane Fiona, a Category 1 storm, shut down the

[3] Trevor Houser& Peter Masters, *The World's Second Largest Blackout*, RHODIUM GROUP, (Apr. 12, 2018), https://rhg.com/research/puerto-rico-hurricane-maria-worlds-second-largest-blackout/. It was also named a contender for the second biggest global blackout unrelated to acts of war.

[4] Dánica Coto, *Puerto Rico Struggles to Emerge from Outage as Anger Builds*, ASSOCIATED PRESS (Apr. 8, 2022), https://apnews.com/article/business-caribbean-san-juan-puerto-rico-fires-fade8a02da091a9dbc43573d627515d7.

entire island.[5] On December 31, 2024, more than half of Puerto Rico welcomed the new year powerless, because an underground cable failed.[6] On April 16, 2025, a protection-system failure left 1.4 million customers without power and 400,000 without water, prompting a declared state of emergency.[7] Additionally, a 2020 earthquake idled the plant then supplying more than a quarter of the island's generation.[8] A system that had quietly absorbed billions of dollars of enhancement, enriching itself, would not fail this way.

But these are the big events. The flashy, newsworthy, massive blackouts. Federal statistics tell the story of the day to day. Even excluding hurricanes and other major events, the average Puerto Rico customer loses roughly twenty-seven hours of electricity per year; the average mainland customer loses about two. [9] In 2024, the

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[5] U.S. DEP'T OF ENERGY, HURRICANE FIONA UPDATE #1 (Sep. 19, 2022)(*available at* https://www.energy.gov/sites/default/files/2022-09/TLP-CLEAR_Fiona_DOE%20Situation%20Update_1.pdf.)

[6] José Olivares, *Half of Puerto Rico Without Power After Sweeping New Year's Eve Blackout,* THE GUARDIAN (Dec. 31, 2024), https://www.theguardian.com/us-news/2024/dec/31/puerto-rico-blackout-power-grid.

[7] *Resolution and Order*, In re April 16, 2025 Bluesky Total Blackout Event, Case No. NEPR-IN-2025-0003, at 1-2 (Apr. 22, 2025)(*available at* https://energia.pr.gov/wp-content/uploads/sites/7/2025/04/20250422-IN20250003-Resolution-and-Order.pdf).

[8] Nicole Acevedo, et al, *Restoring an Earthquake-Hit Power Plant in Puerto Rico Could Take a Year*, NBC NEWS, (Jan. 9, 2020), https://www.nbcnews.com/news/latino/restoring-earthquake-hit-power-plant-puerto-rico-could-take-year-n1113186.

[9] *Even Without Hurricanes, Customers in Puerto Rico Lose About 27 Hours of Power Per Year, Today in Energy,* EIA, (Aug. 13, 2025) https://www.eia.gov/todayinenergy/detail.php?id=65925.

average Puerto Rico customer went dark for more than seventy-three hours across nineteen separate interruptions, against 1.3 interruptions on the mainland.[10] The United States Department of Energy has kept PREPA's fleet running under emergency orders, warning of up to 135 days of forced load shedding and has renewed those orders into August 2026.[11] A grid on federal life support in the tenth year of the case did not secretly bank a capital program.

So, the question is how did PREPA benefit? What actual, concrete, demonstrable benefit did PREPA receive from the Bondholders? See In re Moody & Sons, Inc., 473 B.R. at 836; In re Jeans.com, 491 B.R. at 23-24. Is the bar for enrichment so low that keeping the system running against all odds is enough to materialize it? *Amici* posit that it is not. There is no enrichment. And, if keeping the lights on is considered enrichment, it can hardly be considered unjust. In addition to the statutory mandates PREPA has always had to power Puerto Rico, the bankruptcy framework supports PREPA's usage of revenues to operate.

B. Nothing in the record suggests a loss has occurred, as affirmance leaves the Bondholders every dollar their lien reaches.

Puerto Rico law separately requires a "correlative loss." Rivera, 456 F. Supp.

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[10] Id.

[11] U.S. DEP'T OF ENERGY, ORDER NO. 202-25-1, at 1-3 (May 16, 2025); U.S. DEP'T OF ENERGY, ORDER NO. 202-25-1D, at 1-4 (May 7, 2026); U.S. Dep't of Energy, Order No. 202-25-2D, at 1-7 (May 7, 2026). *All available at Federal Power Act Section 202(c) Puerto Rico Electric Power Authority (PREPA)*, USDOE, https://www.energy.gov/ceser/federal-power-act-section-202c-puerto-rico-electric-power-authority-prepa (last visit Jul. 16, 2025).

3d at 339. Appellants cannot show one here either. As stated above, any contribution of value the Bondholders made occurred prepetition. The argument on appeal is that post-petition use of revenues that could have been subject to lien constitutes a loss. Nevertheless, as the UCC argues in detail, *see* ***UCC Br. at 44-49***, Bondholders never acquired or owned these revenues, having only a property interest based on the lien. Meanwhile, the lien survives this judgment. The equitable accounting this Court reinstated remains the forum in which the amount of Net Revenues, and with it the value of the Bondholders' collateral, will be determined. See Fin. Oversight & Mgmt. Bd. for P.R. v. U.S. Bank N.A. (In re Fin. Oversight & Mgmt. Bd. for P.R.), 121 F.4th 280 (1st Cir. 2024). The operative plan provides for payment of that value in full. The Bondholders may recover every dollar of Net Revenue shown to be their collateral. What they may not obtain is a full-payment priority from resources beyond that collateral. Because Appellants can establish neither enrichment nor loss under Puerto Rico law, and no benefit to the estate under Section 503, the priority fails under every framework Appellants might invoke.

II. The States fundamentally misread the market risk of an orderly restructuring.

In their amicus brief, the thirteen States warn that affirmance will destabilize municipal bond markets. Investors, they predict, will "demand punishing interest rates to cover their risk or simply not invest at all." ***Iowa Br.* at 8.** That prediction rests on a single pincite to a single law review article. The fuller literature and the market's own recorded behavior all point the other way. And the States' genuine interest–namely, stable credit for public projects–is threatened by the Appellants' proposed ruling rather than by the judgment below. The States come to this Court as issuers of bonds, guarding their cost of borrowing. Amici speak for the other side of a public utility's ledger, the captive public that pays the rates. The difference matters because the States ask this Court to protect issuers' borrowing costs by rewriting risk onto ratepayers.

Puerto Rico's ratepayers pay among the highest electricity rates in the United States out of a median household income roughly one-third of the mainland's, with more than a third of residents below the federal poverty line.[12] Moreover, they have no alternative utility. When this grid fails, time stops and people die. The George Washington University study commissioned by Puerto Rico's government attributed 2,975 excess deaths to Hurricane María and its aftermath, concentrated in the poorest municipalities and driven largely by the blackout's cascade through hospitals,

[12] Compare Puerto Rico's 2024 all-sectors average retail price of 24.10 cents per kilowatt-hour, against a 12.94-cent U.S. average. See Table 2.10: Average price of electricity to ultimate customers by end-user sector, by state, and Table 12.4: Puerto Rico- Average price of electricity to ultimate customers, by sector, at *Electric Power Annual*, EIA (Oct. 16, 2025) https://www.eia.gov/electricity/annual/. Puerto Rico's 2024 price ranked fifth-highest, when compared with U.S. states. See *Puerto Rico: State Profile and Energy Estimates*, EIA (last updated May 21, 2026), https://www.eia.gov/states/RQ/analysis. See U.S. CENSUS BUREAU, Am. Cmty. Survey, 2024 1-Year Estimates (Table B19013 shows median household income of $27,213 in Puerto Rico against $81,604 nationally; Table S1701 shows 37.3% of Puerto Rico residents below the poverty line, against 12.1% nationally).

dialysis clinics, and oxygen-dependent patients.[13] Press reporting put the economic losses from the April 2025 island-wide blackout at roughly $215 million per day.[14] Captive ratepayers need to be considered and prioritized over bondholders in this instance.

Empirical evidence and municipal history show that markets absorb orderly debt adjustments.

The States' sole scholarly authority in support of prioritizing bondholders is a citation to Professor Gillette's 2008 lecture, cited for the premise that public debtors generally cannot pledge physical assets, so lenders take revenue pledges instead. ***Iowa Br. at 16*** (*citing* Clayton P. Gillette, *Can Public Debt Enhance Democracy?*, 50 Wm. & Mary L. Rev. 937, 967-68 (2008)). However, nothing in the essay predicts market catastrophe from a restructuring. In fact, Professor Gillette's broader work addresses this very dispute. He reports that the evidence of contagion from local

[13] GEORGE WASHINGTON UNIV. MILKEN INST. SCH. OF PUB. HEALTH, ASCERTAINMENT OF THE ESTIMATED EXCESS MORTALITY FROM HURRICANE MARIA IN PUERTO RICO 9, 15–16 (Aug. 28, 2018), https://publichealth.gwu.edu/sites/g/files/zaxdzs4586/files/2023-06/acertainment-of-the-estimated-excess-mortality-from-hurricane-maria-in-puerto-rico.pdf.

[14] Jean-Michel Hauteville, *In Puerto Rico, Tensions Rise over the Private Electricity Operator*, LE MONDE (June 5, 2025), https://www.lemonde.fr/en/international/article/2025/06/05/in-puerto-rico-tensions-rise-over-the-private-electricity-operator_6742022_4.html; Sergio M. Marxuach, *PREPA Title III: Threading the Needle*, CNE (Mar. 24, 2026), https://grupocne.org/2026/03/24/prepa-title-iii-threading-the-needle/; *Puerto Rico,* U.S. CENSUS BUREAU, QUICKFACTS, https://www.census.gov/quickfacts/fact/table/PR/INC110223 (last visit Jul. 16, 2026); *Puerto Rico*, DATA USA, https://datausa.io/profile/geo/puerto-rico (last visit Jul. 16, 2026).

defaults is mixed and asks whether contagion fears are a rational risk or a pretext for favoring bondholders over residents. See Clayton P. Gillette, *Bondholders and Financially Stressed Municipalities*, 39 Fordham Urb. L.J. 639, 653-54 (2012). His conclusion could have been written in response to this appeal:

> In most cases, **information to which underwriters have low-cost access and that they are likely to obtain for reasons having nothing to do with the assignment of priorities in the event of default is likely to be used appropriately to assess risks and price them**. The consequence is that bondholders receive the benefit of information that both they and residents might otherwise eschew. . . . . **Bondholders who have been compensated *ex ante* to take risks have little basis for complaint when those risks materialize.** The intervention of the state to elevate bondholders over residents may make political sense, but it misses this important element of allocating the risk of municipal fiscal distress in a manner that reduces the likelihood that it will materialize. Id. at 676-77 (emphasis added).

Reacting to Prof. Gillette, Prof. Richard C. Schragger wrote: "Debt crises throughout the country (and the world) are not merely economic crises, they are political ones." Richard C. Schragger, *Citizens vs. Bondholders*, 39 Fordham Urb. L.J. 787, 802 (2012). He concludes, "it seems exactly right to charge bondholders with the cost of a municipal default. Bondholders are not better monitors than citizens, but **they are more appropriate risk-bearers.**" Id. at 803 (emphasis added).

A study of roughly six hundred municipal bond disclosures, joined with interviews of thirty-four senior market participants, found that offering documents do not analyze, and investors do not price, a municipality's access to bankruptcy; the authors observe that "many doomsday scenarios have not come to pass." Mitu

Gulati & Richard C. Schragger, *Do Investors Care About Municipal Debtors' Access to Bankruptcy? Evidence from Bond Disclosures*, 50 Fordham Urb. L.J. 657, 691 (2023). The leading pricing study finds that (1) state restructuring regimes move local borrowing costs by single-digit basis points; (2) default contagion, where it appears, stays confined to the defaulting entity's own state, and (3) it dissipates within about a year. See Pengjie Gao, et al, *Municipal Borrowing Costs and State Policies for Distressed Municipalities*, 132 J. Fin. Econ. 404, 420-22 (2019). Single-digit basis points, localized and temporary, is what market pricing a familiar risk looks like.

The market's recorded behavior confirms it. Jefferson County, Alabama restructured special-revenue sewer debt–the nearest analogue to PREPA's revenue bonds–writing down roughly forty percent of it in Chapter 9. A decade later, in January 2024, the county refinanced $2.24 billion of sewer warrants at investment grade, with orders reported near twelve times the bonds offered.[15] Detroit, whose 2013 filing prompted predictions that the municipal market's foundations would crack, returned to the market on its own credit in 2018 and reached a single-A rating

[15] See *Jefferson County Completes Refinance of $2.24 Billion of Sewer Revenue Warrants,* JEFFERSON COUNTY, ALABAMA (PRESS RELEASE), (Jan. 10, 2024), https://www.jccal.org/m/newsflash/Home/Detail/48(confirming the $2.24 billion refunding, closed January 10, 2024, at a gross savings of $1.17 billion without extending maturities).

from Moody's in May 2026, the same month the bankruptcy court closed its case.[16] The municipal market as a whole set successive issuance records in 2020, 2024, and again in 2025.[17] Scholars whose fears about Chapter 9 the States echo have themselves recorded that those fears "have dissipated" as courts managed the major municipal cases. See Clayton P. Gillette & David A. Skeel, Jr., *Governance Reform and the Judicial Role in Municipal Bankruptcy*, 125 Yale L.J. 1150, 1152 (2016). "Short of a panic, the bond market seems to be able to accommodate and domesticate municipal defaults". Schragger, *supra*, at 799.

The States' alarm is an abstraction. The real peril in public-utility finance is unpayable debt with no orderly way out, the exact outcome reversal would cause here.

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[16] See Jennifer Shea, *Moody's, S&P Upgrade Detroit After Court Ends Oversight*, BOND BUYER (May 26, 2026), https://www.bondbuyer.com/news/moodys-s-p-upgrade-detroit-after-court-ends-oversight; Office of the Chief Financial Officer, *City of Detroit's Historic Bankruptcy Case Is Closed, ending 13.5 years of court supervision,* CITY OF DETROIT (PRESS RELEASE), (May 20, 2026), https://detroitmi.gov/news/city-detroits-historic-bankruptcy-case-closed-ending-135-years-court-supervision.

[17] See Jessica Lerner, *2024 Issuance Surpasses $500B, Setting New Record*, BOND BUYER (Dec. 31, 2024), https://www.bondbuyer.com/news/2024-municipal-bond-issuance-sets-new-record (then-record $507.585 billion in 2024, surpassing the prior record of $484.601 billion set in 2020); Jessica Lerner, *Issuance Again Sets Record in 2025*, BOND BUYER (Feb. 17, 2026), https://www.bondbuyer.com/news/issuance-again-sets-record-in-2025 ($586.195 billion in 2025, up 14.1% from the revised $513.652 billion 2024 record, per LSEG data). See, also, *US Municipal Bonds Statistics,* SIFMA (last updated Jun. 15, 2026), https://www.sifma.org/research/statistics/us-municipal-bonds-statistics.

Converting non-recourse revenue bonds into full-payment priorities destabilizes the municipal market.

The 1988 special revenue amendments the States invoke were championed by issuers. The associations of state and local governments and finance officers supported them as a means of preserving market access at reasonable rates for financially troubled municipalities, by making municipal restructuring predictable rather than impossible. Robert S. Amdursky, *The 1988 Municipal Bankruptcy Amendments: History, Purposes, and Effects*, 22 Urb. Law. 1, 4 (1990). The same history records what actually locks public issuers out of credit markets: unresolved distress, as when Cleveland's default and the WPPSS collapse left issuers frozen out amid legal uncertainty. Id. at 1, 3-4. Municipal bankruptcy exists to cure debt overhang so that a distressed public enterprise can attract capital again, an outcome its future lenders need as much as its residents do. See Vincent S.J. Buccola, *The Logic and Limits of Municipal Bankruptcy Law*, 86 U. Chi. L. Rev. 817, 844-46 (2019).

Measured against that design, the Bondholders' proposed rule accomplishes what Congress legislated to prevent. Section 927 exists so that non-recourse revenue bonds do not become recourse claims against the public. A full-payment administrative priority payable beyond Net Revenues is that recourse claim under a different label. The judgment below enforces the lien on Congress's terms; the rule the States support would work the forbidden conversion, turning every contested special-revenue case into a potential recourse claim against the public debtor itself. Because an administrative priority must be paid in full for confirmation, that rule would foreclose feasible restructurings.

The utilities most likely to need Title III or Chapter 9 next are the ones a hurricane or wildfire finds first. A doctrine under which no such utility can confirm a plan without its bondholders' consent makes disorderly default the national norm, and disorderly default, not orderly adjustment, is what should alarm an issuer of public debt. Affirmance leaves PREPA exactly where Chapter 9 leaves a State's own subdivision. Unless the States are directly advocating discrimination based on the cited insular cases, ***Iowa Br. at 13-14*** (*citing* U.S. Const. art. IV, § 3, cl. 2; Puerto Rico v. Sánchez Valle, 579 U.S. 59 (2016); Harris v. Rosario, 446 U.S. 651 (1980)), their parity concern argues for affirmance.

CONCLUSION

For the foregoing reasons, the Court should affirm the ruling below and give the people of Puerto Rico a fighting chance.

Date: July 17, 2026 Respectfully submitted,

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New York

Chuy Garcia
U.S. Representative (IL-04)
Illinois

Delia C. Ramirez
U.S. Representative (IL-03)
Illinois

Greg Casar
U.S. Representative (TX-35)
Texas

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Trujillo Alto, Puerto Rico

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Municipal Legislator
Vega Baja, Puerto Rico

Dr. Norma Devarie
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Melanie Ramos
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Date: July 17, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the Court's appellate CM/ECF system, and that service will be accomplished by the appellate CM/ECF system.

Date: July 17, 2026

Respectfully submitted,

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