

GOVERNMENT OF PUERTO RICO
PUERTO RICO PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU



IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY'S
COMPREHENSIVE VEGETATION
MANAGEMENT PLAN

CASE NO.: NEPR-MI-2019-0005

SUBJECT: Commencement of Proceeding for
Evaluation of the Comprehensive Vegetation
Management Plan under Section 4(h) of the
Operation and Maintenance Agreement.

RESOLUTION AND ORDER

Pursuant to the provisions of Act 57-2014,¹ the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") has jurisdiction over the Puerto Rico Electric Power Authority ("PREPA") and other electric service companies. Act 57-2014, clearly states it is public policy that all consumers have the right to a reliable and stable electric service.² In the aftermath of the destruction caused by Hurricanes Irma and Maria, it is of the utmost importance that PREPA transforms the power grid and its operations to provide a more reliable and stable service to its clients.

Act 17-2019³ broadened the Energy Bureau's authority and reinforced the foregoing public policy by declaring that, "(t)he electric power system should be reliable and accessible, promote industrial, commercial, and community development, improve the quality of life at just and reasonable cost, and promote the economic development of the Island."⁴

Regarding the establishment of a comprehensive vegetation management, Section 1.16 of Act 17 provides as follows:

The Authority or the transmission and distribution network Contractor shall submit to the Energy Bureau a comprehensive vegetation management program consistent with the best practices of the industry within one hundred twenty (120) days to protect the integrity of network assets. The vegetation management program shall direct, among other things, the following:

¹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

² *Id.*, Article 1.2(l).

³ Known as the *Puerto Rico Energy Public Policy Act*.

⁴ *Id.*, Statement of Motives, p.2.

- (a) Maintaining a distance of at least ten (10) feet between trees and the easements for the transmission lines under the National Electrical Safety Code Standard (NESC);
- (b) Regularly patrolling and trimming any vegetation or materials next to the power lines;
- (c) Adopting the tree pruning recommendations established by accepted industry standards, such as the American National Standard Institute (ANSI);
- (d) Drafting of periodic and detailed reports on the compliance with the vegetation program; and
- (e) Establishing an appropriate and independent fund for the vegetation management program.

The Bureau shall oversee that the comprehensive vegetation management program meets the standards of the industry and the enforcement thereof.

On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnerships Authority, LUMA ENERGY, LLC⁵ as ManagementCo, and LUMA ENERGY SERVCO, LLC⁶ as ServCo (collectively, "LUMA") entered into a Operation and Maintenance Agreement ("OMA") under which LUMA will manage PREPA's transmission and distribution system ("T&D System").⁷

As a certified electric service company and the operator of the T&D, LUMA is subject to compliance with applicable statutory and regulatory requirements Regarding the preparation of a comprehensive vegetation management plan, Section 4.2(h) of the OMA, provides:

(h) Physical Security Plan, Data Security Plan and Vegetation Management Plan. ManagementCo shall develop and provide Administrator and PREB, for their information, with plans of action meeting Contract Standards that outline the procedures and actions necessary for maintaining (i) the physical security of the T&D System after the Service Commencement Date (the "Physical Security Plan"); (ii) data security, cyber security and information security relating to the T&D System (the "Data Security Plan"); and (iii) a comprehensive vegetation management program (the "Vegetation Management Plan"), each of which shall become effective on the Service Commencement Date; provided that if each of the Physical Security Plan, Data Security Plan, and Vegetation Management Plan are substantially complete on the Service Commencement Date, their finalization shall not delay the Service

⁵ See In re: Request for Certification LUMA ENERGY, LLC, Case No. NEPR-CT-2020-0008.

⁶ See In re: Request for Certification LUMA ENERGY SERVCO, LLC, Case No. NEPR-CT-2020-0007.

⁷ The execution copy of the OMA is available at <https://aafaf.prgov/p3/wp-content/uploads/2020/06/executed-consolidated-om-agreement-td.pdf>



Commencement Date from occurring if all other Service Commencement Date Conditions have been satisfied or waived. To avoid doubt, the Data Security Plan shall be subject to the System Remediation Plan, including the approach for implementation outlined in Section 4.1(d) (*Front-End Transition Period Generally – Transition to Standard of Performance*).⁸

It is important to clarify that as expressed in the Energy Bureau's Resolution and Order of June 17, 2020, any language depriving or restricting Energy Bureau's jurisdiction is not binding to the Energy Bureau.⁹

The draft Comprehensive Vegetation Management Plan to be filed shall be aligned with principles beneficial to the public interest, including but not limited to, the following:

1. **Advance the Earlier Compliance with Public Policy** - The proposed plan shall discuss and show how it helps achieve the accelerated implementation of public policy such as reliability, resiliency, safety and other similar mandates.
2. **Further Efficiencies and Savings** - The proposed plan shall discuss and show how it pursues the achievement of the highest level of efficiencies and savings.
3. **Impact to areas with significant issues** - The proposed plan shall discuss and show how it will address areas where vegetation management has of historic unsatisfactory record to achieve a positive impact to the electric service user.
4. **Synergies** - The proposed plan shall discuss and show how it will take advantage of effective timelines and sequencing of field work to achieve the best manpower management and the most cost-effective results.
5. **Benefits for the Public Interest** - The proposed plan shall discuss and show how its implementation will result in a clear benefit for the public interest and the ratepayers.

The Energy Bureau **ORDERS** PREPA and LUMA to ensure that any filing to be executed before the Energy Bureau under Section 4.2(h) of the OMA is aligned with: (i) Section 1.16 of Act 17; (ii) the foregoing principles. The filing shall also show and discuss how it will take advantage of any vegetation undertaken by PREPA after Act 17 entered into effect.¹⁰ Furthermore, while undertaking the preparation of this filing, PREPA and LUMA

⁸ See Section 4.2(h) of the OMA.

⁹ See In re: Certificate of Energy Compliance, Case No. NEPR-AP-2020-0002, Resolution and Order, June 17, 2020.

¹⁰ To that effect, LUMA shall review the information previously submitted by PREPA under the instant case.




SHALL ensure that duplicity of efforts, which result imprudent costs, is avoided.¹¹ Once the filing takes place, the Energy Bureau will issue the corresponding procedural calendar.

Notwithstanding the foregoing, and to ensure that the filing is aligned with the foregoing, the Energy Bureau **ORDERS** PREPA and LUMA representatives to attend a Pre-Filing Technical Conference to be held remotely on **January 15, 2020 at 10:00 am**. During the mentioned Technical Conference, which will be streamed via the Energy Bureau's YouTube Channel, PREPA and LUMA may clarify their questions regarding the filing (*i.e.*, content that should be included in the filing).

The Energy Bureau **WARNS** PREPA and LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition fines under Act 57-2014 and the applicable Energy Bureau's regulations and/or any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it notified and published.




Edison Avilés Deliz
Chairman



Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner

¹¹ See In re: Coordination of System Planning Efforts – Front End Transition of T&D System Operation and Maintenance, Case No. NEPR-MI-2020-0008, Resolution and Order, December 8, 2020. The warnings and orders included in the foregoing Resolution and Order are extensive and applicable to this process and filing. *Id.* at page 2.



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 31, 2020. I also certify that on December 31, 2020 a copy of this Resolution and Order was notified by electronic mail to the following: astrid.rodriguez@prepa.com, fabiola.rosa@prepa.com, marisol.pomales@prepa.com, vilmarie.fontanet@prepa.com, jorge.ruiz@prepa.com, Legal@lumamc.com, wayne.stensby@lumamc.com and mario.hurtado@lumamc.com. I also certify that today, December 31, 2020, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today December 31, 2020.



Wanda I. Cordero Morales
Clerk

