

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 SYSTEM
REMEDIATION PLAN

CASE NO.: NEPR-MI-2020-0019

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

RESOLUTION AND ORDER

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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.

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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

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

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.

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.pr.gov/p3/wp-content/uploads/2020/06/executed-consolidated-om-agreement-td.pdf>

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 System Remediation Plan, Section 4.1(d) of the OMA, provides:

(d) Transition to Standard of Performance.

(i) The Parties acknowledge and agree that (A) certain components of the T&D System and the manner in which the T&D System is operated do not currently meet the standards of performance required under this Agreement, including that certain matters related to the T&D System or T&D System Sites and certain general operating and administrative practices may not comply with Contract Standards, and (B) a period of review, planning, remediation, repair and replacement will have to enable Operator to achieve the Contract Standards.

(ii) In light of such circumstances, promptly (and in any event within thirty (30) days) following the Effective Date, the Parties shall establish a planning team composed of representatives of each of the Parties, and ManagementCo, with input from such team, shall (A) review the current state of the T&D System, including the control, monitoring and information equipment, systems, practices, services (including related hardware, Information Systems and Software) and general operating and administrative practices used in connection therewith, (B) develop a plan (considering the Capital Budgets and any Federally Funded Capital Improvements) to remediate, repair, replace and stabilize such equipment, systems, practices and services, as needed, to enable Operator to perform the O&M Services in compliance with the Contract Standards when reasonably possible and at a reasonable cost to Owner (such plan, the "System Remediation Plan") and (C) submit such System Remediation Plan to Administrator for its review and approval, acting reasonably. The System Remediation Plan shall detail the scope, resources, timelines, milestones, costs estimates and achievement criteria for each activity or project required to enable Operator to perform the O&M Services in compliance with Contract Standards, including the deadlines by which each such activity or project shall be fully implemented. The Parties acknowledge and agree that any prior studies or reports of Owner relating to the remediation, repair, replacement and stabilization of the T&D System may be considered to prepare the System Remediation Plan, but the findings of such studies or reports shall not limit the Parties' discretion to develop the System Remediation Plan.

(iii) Within thirty (30) days following its receipt of such proposed System Remediation Plan, Administrator, acting reasonably, shall provide ManagementCo comments on the appropriateness of the proposed System Remediation Plan and recommend any changes or



modifications it believes are necessary or appropriate. If Administrator does not respond within such thirty (30) day period, Administrator shall be deemed to have no objection to such proposed System Remediation Plan being submitted by ManagementCo to PREB. The Parties agree that, within thirty (30) days following receipt of Administrator's comments, if any, or the end of Administrator's review period described in the immediately preceding sentence, if Administrator has no comments, Operator shall submit for PREB's review the proposed System Remediation Plan, incorporating or rejecting any of the modifications or changes suggested by Administrator, together with an explanation of any of Administrator's comments, as ManagementCo shall reasonably deem appropriate in its sole discretion. PREB shall review and approve, deny or propose modifications to the proposed System Remediation Plan. Operator shall have to respond promptly to any changes or modifications from PREB to the System Remediation Plan and submit any updates to the proposed System Remediation Plan to PREB for its approval. If PREB does not respond within ninety (90) days after receipt of the proposed System Remediation Plan or any update thereto, ManagementCo may proceed for this Agreement as if PREB had approved such System Remediation Plan.

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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 System Remediation Plan to be filed shall be fully aligned with (i) the Integrated Resources Plan recently approved by the PREPA the Energy Bureau¹⁰; (ii) the Distribution Planning principles established by the Energy Bureau under Case No. NEPR-MI-2019-011; (iii) the outcome of Case No. NEPR-MI-2020-0016; and (iv) applicable energy public policy. The mentioned draft plan shall be consistent and 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.

⁸ See Section 4.1(d) of the OMA.

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

¹⁰ See In re: Review of the Puerto Rico Electric Power Authority's Integrated Resource Plan, Case No. CEPR-AP-2018-0001, Final Resolution and Order, August 24, 2020.



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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 for the remediation of the system.
 3. **Avoidance of Duplicity or Loss Opportunities** - The proposed plan shall discuss and show how it will avoid in the short, medium and long term the duplicity of work and potential waste of monies due to misalignment of the PREPA Ten-Year Plan and other work necessary but not covered by federal funds.
 4. **Synergies** - The proposed plan shall discuss and show how it will maximize the use of federal funds and its alignment with other plans required under the OMA, to optimize the reconstruction of the system and ensure the most effective results and lowest costs.
 5. **Benefits for the Public Interest** - The proposed plan shall discuss and show how its implementation will cause a clear benefit for the public interest and the ratepayers.

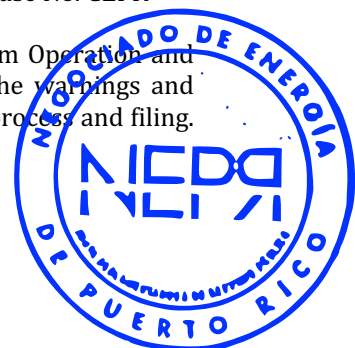
The Energy Bureau **ORDERS** PREPA and LUMA to ensure that any filing to be executed before the Energy Bureau under Section 4.2(h) of the OMA is aligned with: (i) the Integrated Resources Plan recently approved by the PREPA the Energy Bureau¹¹; (ii) the Distribution Planning principles established by the Energy Bureau under Case No. NEPR-MI-2019-011; (iii) the outcome of Case No. NEPR-MI-2020-0016; and (iv) applicable energy public policy; and the principles hereby established. The filing shall also show and discuss how it will take advantage of any vegetation undertaken by PREPA after Act 17 entered into effect. While undertaking the preparation of this filing, PREPA and LUMA **SHALL** ensure that duplicity of efforts, which result imprudent costs, is avoided.¹²

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 12, 2020 at 3:00 pm**. During the mentioned Technical Conference, PREPA and LUMA may clarify their questions regarding the filing (*i.e.*, content that should be included in the filing). Once the filing takes place, the Energy Bureau will issue the corresponding procedural calendar.

Given the nature of the information to be handled under the instant case, all proceedings and filing are deemed confidential unless the Energy Bureau determines otherwise.

¹¹ See In re: Review of the Puerto Rico Electric Power Authority's Integrated Resource Plan, Case No. CEPR-AP-2018-0001, Final Resolution and Order, August 24, 2020.

¹² 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.



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.



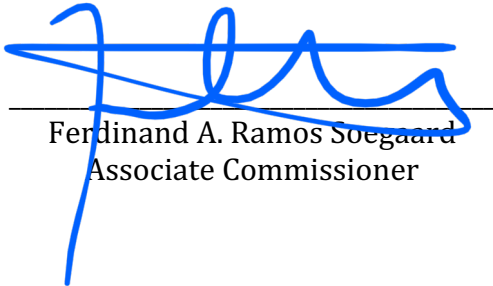
Edison Avilés Deliz
Chairman



Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Arzujo
Associate Commissioner

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 January 1, 2021 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, January 1, 2021, 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 January 1, 2021



Wanda I. Cordero Morales
Clerk

