

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



IN RE: THE PERFORMANCE OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY

CASE NO.: NEPR-MI-2019-0007

SUBJECT: Response to PREPA and LUMA
request for removal of comments
presented January 29, 2021.

RESOLUTION AND ORDER

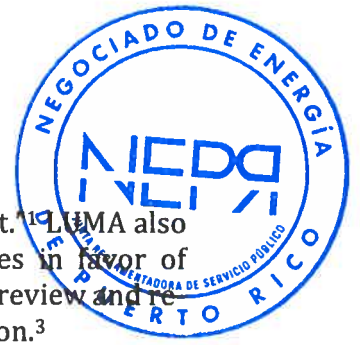
On December 23, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") notified a Resolution and Order establishing a procedural calendar in the instant case ("December 23 Resolution"). As part of the proceedings, the Energy Bureau established that all interested parties could file, on or before January 29, 2021, comments regarding the information the Energy Bureau presented on the January 19, 2021, Technical Conference.

On January 29, 2021, LUMA ENERGY, LLC and LUMA ENERGY SERVCO, LLC (collectively, "LUMA") filed a document titled *Motion Submitting LUMA'S Comments on Performance Metrics Data presented on January 19th, 2020, by the Energy Bureau and Submitting Proposed Performance Metrics and Baselines* ("January 29 LUMA Comments"). On the same day, the Puerto Rico Electric Power Authority ("PREPA") filed a document titled *Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies* ("January 29 PREPA Original Comments"). On January 30, 2021, PREPA filed a document titled *Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for the Electric Service Companies* ("January 30 PREPA Revised Comments").

On February 1, 2021 the Energy Bureau notified a Resolution and Order amending the procedural calendar ("February 1 Resolution"). Due to technical issues with some of the email accounts that normally receive written comments, the Energy Bureau determined it was prudent to extend the deadline for interested parties to file comments until February 5, 2021. The Energy Bureau also extended the deadline to **file replies to comments** until February 12, 2021.

On February 2, 2021, LUMA filed a document titled *Urgent Request to Remove from the Public Docket LUMA's Comments and Submissions Filed on January 29, 2021 In Light of Amended Procedural Calendar* ("February 2 LUMA Request"). LUMA argues that "to honor the Energy Bureau's intent in the initial and amended calendars to set a uniform deadline for all stakeholders to file initial comments, simultaneously, LUMA respectfully requests that the Energy Bureau remove from the public docket LUMA's submission of January 29, 2021

[Handwritten signatures in blue ink]



and/or that the Energy Bureau does not publish the same in the public docket.¹ LUMA also argues that, removing LUMA's submission from the public docket operates in favor of fairness to all of the stakeholders who will file comments.² LUMA states it will review and re-file its comments and submission in compliance with the February 1 Resolution.³

On the same day, PREPA filed a document titled *The Puerto Rico Electric Power Authority's Joinder to LUMA's Urgent Request to Remove from the Public Docket LUMA's Comments and Submissions Filed on January 29, 2021 In Light of Amended Procedural Calendar* ("February 2 PREPA Joinder"). PREPA states it has reviewed LUMA's motion and agrees with the statements and request for relief made therein.⁴ PREPA also request it be granted the same relief requested by LUMA.⁵

The December 23 Resolution does not state that the Energy Bureau's intent is for PREPA, LUMA, the general public and stakeholders to file comments **simultaneously**. The intent is to provide a reasonable term for parties to file their comments.

The December 23 Resolution and the February 1 Resolution clearly established the deadline for the submission of comments. However, this does not prevent interested parties, including LUMA and PREPA, to file its comments before the established deadlines. As with all the Energy Bureau's proceedings, all comments submitted as part of this case will be made public and be part of the administrative record. LUMA's allegation, joined by PREPA, that the removal of the comments from the public docket operates in favor of fairness to all the stakeholders is contrary of the legislative purpose of Act 57-2014⁶ which requires transparency in every proceeding before the Energy Bureau, especially those proceedings that contain information that is of high public interest. Moreover, the Energy Bureau has the duty to promote ample public participation in its proceedings, as stated in Article 1.2(o) and Article 6.3(ff) of Act 57-2014.

Removing the comments filed by LUMA and PREPA from the docket will hinder public participation instead of promoting it. Moreover, contrary to LUMA's assertion, removing such comments from the public docket doesn't operate in favor of fairness to all of the stakeholders who will file comments. On the contrary, it presents an opportunity to file more complete comments that might result in a more robust administrative record. After all, the main purpose of receiving written comments from stakeholders and interested parties is for

¹ February 2 LUMA Request, ¶ 5.

² *Id.*, ¶ 6.

³ *Id.*, ¶ 7.

⁴ February 2 PREPA Joinder, ¶ 3.

⁵ *Id.*, ¶ 4.

⁶ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

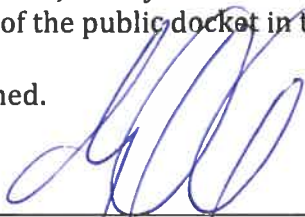


the Energy Bureau to have as much information as possible when it issues its determination in the instant case.


As stated by LUMA in the February 2 LUMA Request, joined by PREPA through the February 2 PREPA Joinder, both parties may amend and/or modify its submitted comments by the deadline established in the February 1 Resolution. The Energy Bureau invites them to do so. Moreover, as established in the February 1 Resolution, all parties, including LUMA and PREPA may file, on or before February 12, 2021, reply comments to the initial written comments submitted by February 5, 2021. Therefore both, LUMA and PREPA, will have ample time to modify and clarify their original comments and positions.

For all of the above, the Energy Bureau **DENIES** the February 2 LUMA Request and the February 2 PREPA Joinder. The January 29 LUMA Comments and the January 30 PREPA Revised Comments will be part of the public docket in the instant proceeding.

Be it notified and published.



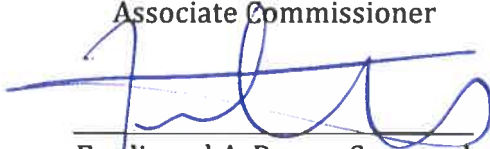
Edison Avilés Deliz
Chairman



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

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 3, 2021. I also certify that on this date a copy of this Resolution and Order was notified by electronic mail to: jmarrero@diazvaz.law, kbolanos@diazvaz.law, astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, mmercado@mercado-echagaray-law.com, margarita.mercado@us.dlapiper.com, carlos.reyes@ecoelectrica.com, Legal@lumamc.com, wayne.stensby@lumamc.com, mario.hurtado@lumamc.com, Ashley.engbloom@lumamc.com, mgrpcorp@gmail.com, victorluisgonzalez@yahoo.com, yan.oquendo@ddec.pr.gov; aconer.pr@gmail.com, cpares@maximosolar.com, agraitfe@agraitlawpr.com, rstgo2@gmail.com, ingridmvila@gmail.com, gonzalo.rodriguez@gestampren.com, dortiz@elpuente.us, lga@elpuente.us, presidente@ciapr.org, sergio.gonsales@patternenergy.com, h.bobea@fonrochepr.com, lionel.orama@upr.edu, energiaverdepr@gmail.com, manuel.mata@aes.com,

obed.santos@aes.com, hriviera@oipc.pr.gov, jeff.lewis@terraform.com, cfl@mcvpr.com, fortiz@reichardescalera.com, javier.adiego@x-elio.com, hjcruz@urielrenewables.com, Alejandra.Mittlestead@sunnova.com, tara.dhimitri@longroadenergy.com, rafael.quintana@aes.com, abigail.reyes@aes.com, accounting@everstreamcapital.com, Arocheleau@terraform.com, leslie@sonnedix.com, ramonluisnieves@rlnlegal.com, jczayas@landfillpr.com, auriarte@newenergypr.com, pjcleanenergy@gmail.com, javrua@gmail.com, jeanna.steele@sunrun.com, cpsmith@unidosporutuado.org, mildred@liga.coop, rodrigomasses@gmail.com, presidente@camarapr.net, agc@agcpr.com, jmarvel@marvelarchitects.com and presidencia-secretarias@seguros multiples.com. I also certify that today, February 3, 2021, I have proceeded with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today February 3, 2021.





Sonia Seda Gaztambide
Clerk