

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

IN RE: COORDINATION OF SYSTEM
PLANNING EFFORTS-FRONT END
TRANSITION OF T&D SYSTEM OPERATION
AND MAINTENANCE

CASE NO.: NEPR-MI-2020-0008

SUBJECT: Front-End Transition Service
Compensation.

RESOLUTION AND ORDER

On June 22, 2020 the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3 Authority"), LUMA ENERGY, LLC and LUMA ENERGY SERVCO, LLC (collectively "LUMA"), entered into the *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* ("OMA"). Based on the information provided by LUMA to the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau"), pursuant to the provisions of the OMA, all parties commenced to execute the responsibilities contained in the OMA for the established Front-End Transition ("FET") Period.

On December 8, 2020 the Energy Bureau, acting on LUMA's concern for potential duplication of efforts and possible rework regarding system planning efforts, ordered PREPA and LUMA to prevent and avoid any and all duplication of efforts and resources as such duplicity can lead to imprudent costs which shall not be borne by customers.

Under Section 4.6 of the OMA (*i.e.*, Front-End Transition Period Compensation) PREPA shall pay LUMA the FET Service Fee ("Service Fee") in monthly installments commencing on the effective date of the OMA. Said Service Fee includes: (i) the hourly cost rate for each LUMA employee or LUMA affiliate personnel providing FET Services; multiplied by (ii) the number of hours worked by each employee or affiliate personnel in such category; plus (iii) a fixed fee in the amount of five million dollars (\$5,000,000); plus (iv) all other **reasonable and documented costs and expenses** incurred by LUMA (**without markup for profit**) that are **necessary and reasonable** while providing FET Services and satisfying the service commencement date conditions, including the cost of any subcontractors providing FET Services.

As part of its responsibilities during the FET Period, LUMA provides the P3 Authority and the Energy Bureau, Monthly Reports on its performance regarding the FET Services ("FET Monthly Reports"). In the FET Monthly Reports LUMA includes a Service Fee Invoice Summary which specifies: (i) the FET fixed fee, (ii) the FET Services hourly costs per department, and (iii) the additional costs and expenses, for the invoiced month.



[Handwritten signatures and initials in blue ink, including 'A', 'Luma', '7/11', 'SMA', and 'M']

A
Jm
JAS
S
The total FET Services hourly cost included in the Service Fee for the invoiced month is broken down by department into fourteen (14) lump sum quantities (e.g., Capital Programs, Communications, Corporate Services, Customer Service, Human Resources, Integration Mgmt. Office, Operations, Regulatory, Utility Transformation, etc.). LUMA has not provided detailed information regarding the number of hours and/or rates included in the lump sum quantities of the FET Services fee.

The total additional costs and expenses in the Service Fee for the invoiced month, which should include all other **reasonable and documented costs and expenses** incurred by LUMA that are **necessary and reasonable** in the course of providing the FET Services are informed only as a single lump sum quantity. LUMA has not provided additional or specific information regarding these costs.

Once a public utility incurs on an expense such expense becomes part of its operational costs and must be recovered through the ratepayers. As such, in order to protect ratepayers against imprudent or unreasonable costs, it is the responsibility of the regulator to ensure all costs are prudent and reasonable. In order to fulfill this responsibility, the regulator must, at a minimum, closely monitor the utility's spending and act swiftly when wasteful spending is detected. The regulator must, when possible, ensure all costs are prudent and reasonable **before** they are incurred by the public utility.

According to the OMA, PREPA will assume all costs associated with the Front-End Transition Service Fee, invoiced by LUMA. Since PREPA is a public utility, such costs will ultimately be borne by PREPA ratepayers. Therefore, to protect PREPA ratepayers, it is the Energy Bureau's responsibility that the Front-End Transition Service Fee is prudent and reasonable. In the event the Energy Bureau finds such additional costs and expenses to be unreasonable, it will be obligated to prevent such costs and expenses to be reimbursed to LUMA.

According with the provisions of Act 57-2014¹ the Energy Bureau has the duty and obligation to establish and implement the necessary regulatory actions to **guarantee reasonability of the rates**.² Act 57-2014 also empowers the Energy Bureau to require any certified electric power service company to produce copies of any records, documents, information, or data deemed necessary by the Energy Bureau to fulfill its responsibilities.³ Therefore, the Energy Bureau has the duty to ensure that all costs borne by ratepayers are prudent and reasonable, and has the power to request all information it deems necessary to discharge its duty.

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

² *Id.*, Section 6.3 (c) (Emphasis added).

³ *Id.*, Section 6.4 (b).



Based on the above, the Energy Bureau **ORDERS** LUMA to:

1. Within **ten (10) days from the notification date of this Resolution and Order**, submit, for the Energy Bureau's evaluation, all the information related to the additional costs and expenses incurred by LUMA in the course of providing the FET Services, from the date FET Services commenced until the most recent Monthly Report. Such information shall include, but not be limited to: (i) a breakdown, by type, of the costs identified as "Additional Costs & Expenses" included in the FET Monthly Reports, (ii) any supporting documentation to justify and/or explain said costs (*e.g.*, receipts, invoices etc.) and (iii) all workpapers, in native form with formulae intact, used to calculate all Additional Costs & Expenses, as reported.
2. Prospectively, submit the aforementioned information as an attachment to all future FET Monthly Reports.

The Energy Bureau **WARNS** LUMA that noncompliance with the Energy Bureau orders is sufficient cause for imposing fines and other administrative penalties, under the provisions of Act 57-2014 and any applicable regulations.

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 hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 17, 2021. I also certify that on February 17, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: mvazquez@diazvaz.law, kbolanos@diazvaz.law, Legal@lumamc.com, wayne.stensby@lumamc.com, and mario.hurtado@lumamc.com. I also certify that today, February 17, 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 February 17, 2021.



Sonia Seda Gaztambide
Clerk

