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

IN RE: REVIEW OF LUMA'S INITIAL BUDGETS	**CASE NO.:** NEPR-MI-2021-0004 **SUBJECT:** Completeness of LUMA's Initial Budgets Filing.

RESOLUTION AND ORDER

I. Introduction

On June 22, 2020, the Puerto Rico Electric Power of Puerto Rico ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3A"), LUMA ENERGY, LLC[1] as ManagementCo, and LUMA ENERGY SERVCO, LLC[2] as ServCo (collectively, "LUMA") entered into an Operation and Maintenance Agreement ("OMA") under which LUMA will manage PREPA's transmission and distribution system ("T&D System"). As a certified electric service company and the operator of the T&D System, LUMA is subject to compliance with applicable statutory and regulatory requirements.

During the Front-End Transition Period[3], LUMA is required to prepare and submit to the P3A proposed Initial Budgets[4] for its review. After such review is conducted, LUMA is required to submit the Initial Budgets to the Energy Bureau for this body to "approve, deny or propose modifications to such proposed Initial Budgets in accordance with Applicable Law."[5]

On February 24, 2021, LUMA filed a document titled *Petition for Approval of Initial Budgets and Related Terms of Service* ("February 24 Petition"). As part of the February 24 Petition, LUMA filed, for the Energy Bureau's review and approval, (i) a document titled *Initial Budgets: First 3 Year of Recovery & Transformation, February 23, 2021* and identified as Exhibit 1 ("Initial Budgets"), and (ii) a document titled *Request for Approval of Terms of Service and Memorandum of Law in Support Thereof*, identified as Exhibit 2 ("Liability

[1] *See* In re: Request for Certification LUMA ENERGY, LLC, Case No. NEPR-CT-2020-0008.

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

[3] As defined in Section 1.1 of the OMA.

[4] *Id.*

[5] Section 4.2(e) of OMA.

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Waiver")[6]. In the February 24 Petition, LUMA asks the Energy Bureau to approve the Initial Budgets in its entirety and the Terms of Service.[7]

Regarding the preparation of the Initial Budgets, Section 4.2(e) of the OMA, provides:

"(e) Initial Budgets. As soon as practicable following the Effective Date, ManagementCo shall prepare and submit to Administrator the proposed Initial Budgets; provided that for purposes of the Generation Budget, ManagementCo shall only be required to submit (if received by ManagementCo) the Generation Budget as prepared by Owner and delivered to ManagementCo by Owner. ManagementCo shall have a reasonable time to review such Generation Budget prior to completing and submitting the balance of the Initial Budgets to Administrator hereunder. Within thirty (30) days following its receipt of such proposed Initial Budgets, Administrator, acting reasonably, shall provide ManagementCo comments on the appropriateness of the proposed Initial Budgets 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 Initial Budgets 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 revised Initial Budgets, 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, such proposed Initial Budgets in accordance with Applicable Law. ManagementCo shall be required to respond promptly to any changes or modifications from PREB to the proposed Initial Budgets and submit any updates to the proposed Initial Budgets to PREB for its approval. If PREB does not respond within ninety (90) days after receipt of the proposed Initial Budgets or any update thereto, ManagementCo may proceed for purposes of this Agreement as if PREB had approved such proposed Initial Budgets."[8]

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[6] The Energy Bureau has determined it is more appropriate to evaluate the *Liability Waiver* request in a separate proceeding. Consequently, the Energy Bureau shall issue a Resolution and Order to that effect.

[7] *See* February 24 Petition, p. 18.

[8] It is important to clarify that, as expressed in the Energy Bureau's Resolution and Order of June 17, 2020 under Case No. NEPR-AP-2020-0002, and as further provided in Section 21.17 of the OMA, Section 4.2 (e) of the OMA does not impose a binding time limitation regarding the Energy Bureau's review and approval of the Initial Budgets. *See* Resolution and Order, Case No. NEPR-AP-2020-0002, In re: Certificate of Energy Compliance, June 17, 2020. In any case, this Resolution and Order must be considered as the initial response expected from the Energy Bureau regarding the Initial Budgets within a period of ninety (90) days of submission.

On the February 24 Petition LUMA expressed its inability to secure from PREPA the Generation Budget which is a key input to its Initial Budgets.[9] Therefore, to date, the Initial Budgets are formulated, by projecting an allocation for the Generation Budget.

II. Determination on Completeness

As with any other proceeding, the Energy Bureau conducted a preliminary review of the February 24 Petition in order to make a completeness determination. Upon such review, the Energy Bureau found that the February 24 Petition lacked an in-depth discussion of key matters, supporting data, analysis, and assessments necessary for the Energy Bureau to make an adequate evaluation. Therefore, the Energy Bureau **DETERMINES** that the February 24 Petition is **incomplete**.

III. Conclusion

For the reasons discussed above, the Energy Bureau **ORDERS** LUMA, on or before **April 12, 2021** to (i) provide the information identified in Attachment A of this Resolution and Order[10]; (ii) modify the February 24 Petition accordingly; and (iii) submit an updated Generation Budget and any related information and all documentation.[11]

The Energy Bureau will establish the procedural calendar for the instant case once LUMA complies with the foregoing orders and the Energy Bureau determines that the petition is complete.[12]

The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014[13] and applicable Energy Bureau's regulations and/or any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

[9] As defined in Section 1.1 of the OMA.

[10] The Energy Bureau clarifies that the information required in this Resolution and Order is without prejudice to any additional information that the Energy Bureau may require in the future for its proper evaluation of the Initial Budgets.

[11] Such updated Generation Budget shall be accompanied by a certification under oath of its accuracy and completeness.

[12] Aligned with the transparency and public participation afforded to stakeholder and the general public in the Energy Bureau proceedings, the procedural calendar in the instant case will include public and technical hearings, as well as a public comment period.

[13] Known as *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

Be it notified and published.

Edison Avilés Deliz
Chairman

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 April 5, 2021. President Edison Avilés Deliz concurred with a written opinion, and Associate Commissioner Ángel R. Rivera de la Cruz dissented with a written opinion. I also certify that on April 5, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com; kbolanos@diazvaz.law. I also certify that today, April 5, 2021, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today April 5, 2021.

Sonia Seda Gaztambide
Clerk

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Attachment A

1. Provide all supporting workpapers used to determine that Initial Budgets are consistent with PREPA's current rate order, issued by the Energy Bureau through the January 10, 2017 Final Resolution and Order and the March 8, 2018 Final Resolution and Order in Case No.: CEPR-AP-2015-0001 (collectively, "2017 Final Rate Order").

2. Provide for the three (3) previous calendar years a copy of the consolidated summary of PREPA historical financial results, developed by LUMA, showing accordance to Federal Energy Regulatory Commission ("FERC") Uniform System of Accounts (FERC Form 1), and including PREPA's O&M Expense Benchmark Profile.

3. Provide an account map and a Pro Forma LUMA and PREPA workpapers and supporting materials, that shows PREPA's remap to the new organization structure that includes LUMA and Generation (Current PREPA -> Pro Forma LUMA and PREPA).

4. To the extent it is not fully addressed in items #2 and #3 above, provide a comparison and reconciliation of PREPA's capital, O&M and administrative and other cost expenditures, over the most recent five-year period, that is sufficiently detailed to allow a comparison with LUMA's proposed spending accounts and categories in the Initial Budgets.

5. Provide workpapers[14] and supporting documentation underlying the following:

    a. Organizational Health Assessment identified on the Initial Budgets, page 22, and summarized in Appendix C of the Initial Budgets;[15]
    b. the Asset Condition Assessment identified on the Initial Budgets, page 22, and summarized in Appendix C of the Initial Budgets;
    c. the System Operations Assessment identified on the Initial Budgets, page 23, and summarized in Appendix C of the Initial Budgets;
    d. the Generation Resource Adequacy assessment and System Reliability Performance assessment summarized in Appendix C.3 and C.4 of the Initial Budgets;
    e. the Program Sequencing and Prioritization Process illustrated in the Initial Budgets, Figure 1-6 of the Initial Budgets; and
    f. the Program Brief developed by LUMA to detail the scope of work for each Initial Budgets program including cost estimates, benefits, timeframe, and

[14] These workpapers shall be sufficiently detailed to allow the Energy Bureau to assess how programs and expenditures were sequenced and prioritized into the comprehensive investment plan developed by LUMA for the Initial Budgets.

[15] All documents in Excel format must be provided in native formulas intact.

resource requirements, as discussed in the Initial Budgets, page 62, and as summarized in Schedule 5.4 and Appendix D.

6. Provide, in connection with Schedule 5.6 titled *2017 Rate Order Base Rate Revenue Requirement Limit Comparison*, the following: (i) the basis, methodology and rationale for the prioritization of the spending initiatives, programs and/or capital expenditures proposed by LUMA; (ii) a detailed list of any spending initiatives, programs and/or capital expenditures that due to LUMA's prioritization approach differ in current order or ranking from the budget allocation approved in the 2017 Final Rate Order; and (iii) the anticipated impact of the spending initiatives, programs and/or capital expenditures proposed by LUMA on the electric system's operation, restoration and transformation, due to such prioritization.

7. Submit copies of the following documents: (i) the Federal Funding Procurement Manual; and (ii) the Non-Federal Procurement Manual required under the OMA.[16]

8. Submit an updated Generation Budget based on the information provided by PREPA and include supporting documentation.

9. Provide all supporting workpapers used to develop the Initial Budgets estimates, including re-organization and re-map budgets, budget templates, and Initial Budgets consolidation, showing the interdependencies with the System Remediation Plan and Performance Metrics proposals. Budget templates should be populated with estimated cost data, both pre- and post-consolidation to spending categories. These workpapers should include underlying Excel workbooks, with formulae intact, including workbooks and workpapers used to derive data presented in Schedules 5.1 through 5.6 of Exhibit 1.

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[16] *See* Handover Checklist IDs 7.08 and 9.03 respectively, *LUMA Monthly Report for the period ending February 2021*.

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IN RE: REVIEW OF LUMA'S INITIAL BUDGETS	**CASE NO.:** NEPR-MI-2021-0004 **SUBJECT:** Completeness of LUMA's Initial Budgets Filing

Associate Commissioner Ángel R. Rivera de la Cruz, dissenting

Today, the majority of the Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution Order through which, among other things, initiated a miscellaneous proceeding ("MI") to evaluate the *Petition for Approval of Initial Budgets and Related Terms of Service*, filed by LUMA ENERGY, LLC[1] as ManagementCo, and LUMA ENERGY SERVCO, LLC[2] as ServCo (collectively, "LUMA") on February 24, 2021 ("LUMA Filing"). The Energy Bureau also determined that the February 25 Petition is incomplete and ordered LUMA to provide the information identified therein. For the reasons expressed herein, I dissent.

* * *

I. Introduction – Revenue Requirement Determination

Electric power utilities recover the cost of providing service to their clients through rates. Although there are several methods to establish a rate structure, typically, public-owned companies, such as the Puerto Rico Electric Power Authority ("PREPA"), use a cost-based rate setting methodology. Cost-based rates are designed to generate sufficient revenues to provide electric service in a safe and reliable manner. For this reason, utilities must review and modify their rates periodically to ensure they are neither over collecting revenues (in which case, customers will be paying more than necessary for the service they receive) nor under collecting revenues (in which case, the company will not be able to recover all its costs a situation that could lead to the degradation of the service they provide). Utilities that use a cost-based method normally review their rates every three to five years.

Although the review process to determine and establish cost-based rates is complex, it follows a simple methodology that includes three basic steps: (1) determining the annual revenue requirement, (2) cost allocation and (3) rate design. Annual revenue requirement is the annual amount of dollars necessary to operate the utility. The cost allocation step distributes the annual revenue requirement among major customer groups based on the impact each group has, relative to costs. In the rate design step, rates are developed for each

[1] *See* In re: Request for Certification LUMA ENERGY, LLC, Case No. NEPR-CT-2020-0008.

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

customer group such that the revenue allocation is recovered based on each customer class' expected consumption or expected sales.

In its simplest form, annual revenue requirement is the sum of **expenses** (including operation and maintenance costs (*e.g.* labor, fuel, purchased power, etc.), taxes and depreciation, among others) and **cost of capital** (*e.g.* interest payment to lenders and, in the case of investor-owned utilities, return on equity to shareholders). There are two general methods to determine annual revenue requirement: (1) Rate Base/Rate of Return (normally used for investor-owned utilities) and (2) cost flow (typical of public-owned companies), normally consisting of Operating Expenses plus Interest plus Interest Coverage. Since PREPA is a public-owned company, the Energy Bureau used the cost flow method to establish PREPA's revenue requirement during the last rate case.[3]

In cost-based ratemaking, the regulator sets rates for a future period called the "rate year". The rate year is the first 12-month period in which the new rates will be in effect. To determine the revenue requirement for the rate year, the utility first identifies the most current 12-month period for which accounting data is known and verified. This referenced 12-month period is called the "test year". The test year is modified to account for known and measurable changes related to the rate year. Therefore, the test year is modified based on specific projections for changes anticipated to occur during the rate year. The result of such modifications based on projections is considered the revenue requirement for the rate year.

The rate year revenue requirement is based on the test year information, accounting for known and measurable changes. Therefore, it is of the upmost importance that the data provided for the test year is accurate and current. It is of equal importance that the projected changes are calculated in a reasonable manner, using industry standards and documented information. Stale data or improper projections could yield inaccurate revenue requirements for the rate year and, as a consequence, unreasonable or inadequate rates.

II. Current PREPA Rates and the Need for a New Revenue Requirement Determination

The rate year for the current PREPA rates is FY-2017 (*i.e.* the period of time from July 1, 2016 to June 30, 2017).[4] Moreover, FY-2014 (i.e. the period of time from July 1, 2013 to June 30, 2014) is the test year upon which the proposed revenue requirement for the

[3] *See* Final Resolution and Order, In re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, January 10, 2017, pp. 31 – 36, ¶¶ 70 – 82. Due to PREPA's financial state at the time the Energy Bureau determined the new rates, the Energy Bureau used a modified revenue requirement equation consisting of Expenses + (Debt Service x DSCR) + Additional CapEx. This methodology was designed to (1) recover debt service funds, including debt service coverage ratio, associated with the then legacy debt, which was debt that was not going to be securitized through the first Restructuring Service Agreement; and (2) fund PREPA's capital improvement plan without the need to go to the bond market. This resulted in the current ratepayers funding the capital improvements that future ratepayers will enjoy, rather than recovering the funds through debt service, as it is normally done. *Id.*, pp. 31 – 36, ¶¶ 75 – 82.

[4] *Id.*, p. 30, ¶ 65.

referenced rate year was based.[5] FY-2014 was, at the time PREPA filed its petition as part of the last rate case, the most recent 12-month period for which audited information was available.[6]

We must note that PREPA's consultants adjusted the FY-2014 data to take into account several factors, including the then approved Restructuring Support Agreement ("RSA"), the then PREPA restructuring efforts, PREPA's budgets for FY-2015 and FY-2016, the actual spending during those two years and actual spending for the beginning of FY-2017.[7] Due to the numerous changes from the FY-2014 data, the Energy Bureau determined that it was unrepresentative of the costs underlying the FY-2017 revenue requirement.[8] To that effect, the Energy Bureau stated that it was not clear what role the FY-2014 data played in establishing PREPA's proposed revenue requirement for FY-2017.[9]

Based on this, for its assessment of PREPA's revenue requirement for FY-2017, the Energy Bureau used (i) PREPA's operating results, unaudited, for the period of July 1, 2015 to June 30, 2016 (*i.e.* FY-2016 unaudited data); (ii) PREPA's approved budget for FY-2017; and (iii) PREPA's May 2016 Business Plan and related materials addressing PREPA's efforts to create cost savings.[10] Therefore, the referenced documents served the function of the test year during the last rate case.

The Energy Bureau approved the current PREPA rates on January 10, 2017 ("January 10, 2017 Final Order").[11] Through the January 10, 2017 Final Order, the Energy Bureau established the new PREPA revenue requirement, representing an increase of $177 million.[12] However, based on several flaws contained in PREPA's Cost of Service Study, the Energy Bureau determined it was not appropriate for allocating costs across customer classes.[13] With a single exception, the Energy Bureau allocated the revenue requirement

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[5] *Id.*

[6] *Id.*, ¶ 66.

[7] *Id.*

[8] *Id.*, pp. 30 – 31, ¶ 67.

[9] *Id.*

[10] *Id.*, p. 31, ¶ 68. The Business Plan and related materials were, at that time, an RSA requirement.

[11] *See* Final Resolution and Order, In re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, January 10, 2017.

[12] *Id.*, pp. 97 – 98, ¶¶ 280 – 284. After reviewing the approved revenue requirement as part of the evaluation process of PREPA's request for reconsideration, the Energy Bureau established a revenue requirement increase in the amount of $171,786,000. *See* Final Resolution, In re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, March 8, 2017, p. 1.

[13] January 10, 2017 Final Order, p. 114, ¶ 325.

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increase across all tariffs on an equal cents-per-kWh basis.[14] Due to statutory time constraints, the Energy Bureau determined to maintain the then current PREPA rate structure with few modifications.[15]

Due to some updates required on PREPA's billing system, and the effects of the hurricanes Irma and Maria, such rates were implemented on May 1, 2019.[16] **However, the effect of the rate was retroactive to August 1, 2016, by virtue of the reconciliation of the current rate and the provisional rate.**[17] The Energy Bureau approved the latter on June 24, 2016.[18] Therefore, the current PREPA rates have been in effect since August 1, 2016 (*i.e.* for more than four and a half years).

It is important to note that, as part of the January 10, 2017 Final Order, the Energy Bureau established a process to review PREPA's rates every three (3) years, with yearly reviews of PREPA's budget.[19] These proceedings were designed to impose discipline on PREPA's spending.[20]

In the three-year rate case, the Energy Bureau was to review PREPA's cost-reduction efforts, the physical condition of its system and its prior and prospective budgets for each major department.[21] Using this information, the Energy Bureau was to establish a new revenue requirement, a new cost of service, a new revenue allocation and a new rate design.[22] With those components, the Energy Bureau was to establish new rates that "reflect all feasible costs reduction efforts, and thus recover, but not exceed, the reasonable costs PREPA must incur to serve its customers reliably."[23]

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[14] *Id.*, p. 116, ¶ 332. Before calculating the general allocation on a cents-per-kWh basis, PREPA needed to increase the PPBB tariff revenue requirement by the average increase in the system revenue requirement, excluding the fuel, purchased power and Transition Charge. *See id.*, ¶ 333. The reminder of the allowed revenue increase (*i.e.* the portion not recovered through PPBB), were to be divided by the projected non-PPBB FY2017 sales to yield the general cents-per-kWh revenue increase rate. *Id.*, ¶ 334.

[15] January 10, 2017 Final Order, pp. 117 – 128, ¶¶ 336 – 369.

[16] *See* Resolution and Order, In re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, April 25, 2019.

[17] *See* Resolution and Order, In re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, June 27, 2019, pp. 3 – 7.

[18] *See* Order Establishing Provisional Rates, In re: Puerto Rico Electric Power Authority Rate Review, June 24, 2016, p. 7.

[19] *See* January 10, 2017 Final Order, pp. 149 – 150, ¶¶ 439 – 444.

[20] *Id.*, p. 149, ¶ 438.

[21] *Id.*, ¶ 440.

[22] *Id.*

[23] *Id.*

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In the one-year budget examination proceedings, the Energy Bureau was to update the previous year revenue requirement to reflect (i) all feasible cost reductions that were implemented in the prior year, along with the cost reductions to be implemented in the following year; and (ii) any known and measurable changes expected to occur in the following year.[24] Normally, during the interim yearly budget reviews the Energy Bureau would not change the cost allocation methodology or the rate design. However, the Energy Bureau retained its powers to do so.[25] In each of these proceedings (*i.e.* three-year rate cases and the one-year budget review), the Energy Bureau was to establish prospective rates to match the calculated revenue requirement, may it be from the three-year determination or the yearly revenue requirement adjustment.[26]

With these proceedings **the Energy Bureau intended to maintain PREPA rates aligned with its actual costs**, while forcing fiscal discipline with respect to spending upon PREPA. However, based on the delay in the implementation of the current rates, the Energy Bureau has not been able to conduct these proceedings.

Notwithstanding the above, the main purpose of these proceedings remains unaltered: adjust PREPA's rates on a three-year cycle, with interim yearly revenue requirement adjustment, in order to align rates with actual costs and force fiscal discipline upon PREPA. It has been over four years since PREPA rates were determined following an adjudicative rate case proceeding; and over four and a half years since the effective date of the current rates.

A lot of changes have occurred since the Energy Bureau approved the current PREPA rates. The effect of Hurricanes Irma and María, a significant reduction in projected sales,[27] the cancelation of the first RSA, the filing of the PREPA Title III Bankruptcy case under the Federal Law PROMESA,[28] and the award of the Operating and Maintenance Agreement for the operation of the Transmission and Distribution ("T & D") system, are some of such significant changes that have had, and will have, a direct effect on PREPA's finances and

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[24] *Id.*, ¶ 441.

[25] *Id.*

[26] *Id.*, ¶ 442.

[27] The current rates were based on the projected FY-2107 sales of 17,268.325 GWh. *See* Resolution and Order, In re: Puerto Rico Electric Power Authority Rate Review, Case No. CEPR-AP-2015-0001, June 23, 2017, p. 7, at note 25. The estimated sales for the current fiscal year (*i.e.* period of July 1, 2020 to June 30, 2021) is 16,371.904 GWh. *See* "2021 Load Estimation (Update Dec).xlxs", Cell S10, Exhibit C, *Solicitud de Aprobación de (i) Reconciliación del Periodo de Septiembre a Noviembre de 2020, (ii) Factores para las Cláusulas FCA, PPCA y FOS para el Periodo de Enero a Marzo de 2021 y (iii) Determinación de Confidencialidad*, In re: Tarifa Permanente de la Autoridad de Energía Eléctrica de Puerto Rico, Case No. NEPR-MI-2020-0001, Dec 14, 2020.

[28] *The Puerto Rico Oversight, Management and Economic Stability Act*, Pub. L. 114-187.

projections. These changes accentuate the need for at least reviewing PREPA's revenue requirement, if not the development and design of a new rate structure, according to the current state, conditions and legal construct of the electric system.

As described before, such revenue requirement revision must be done using a bottom-up approach, where expected costs of providing all services are calculated based on a verified baseline, adjusted for known and measurable changes. These costs should then be added together to determine the revenue requirement for the operation of the electric system. This new revenue requirement should then be allocated to the different classes of customers and distributed throughout the current rate structure, as done by the Energy Bureau in the last case. As an alternative, the revenue requirement may be allocated using a new rate structure designed as part of the described proceeding.

III. Shortcomings in the LUMA Filing

The LUMA Filing, among other things, requested the Energy Bureau to approve LUMA's Initial Budgets, including the Operating Budget, the Capital Budget and LUMA's allocation to the Generation Budget, as such terms were defined therein.[29] Exhibit 1 to the LUMA Filing is a document titled *Initial Budgets, First 3 Years of Recovery & Transformation* ("Initial Budgets"). The Initial Budgets contained a detailed description of LUMA's proposal, including several appendices that describe LUMA's proposed expenditures in all its operative areas.[30]

LUMA also submitted a single Excel file that contained high-level summary of its budget proposal. LUMA did not provide any other supporting document.

Even though Appendix D of the LUMA Filing contained a detail description of what LUMA called "Improvement Portfolios"[31], as well as other pertinent budget information, LUMA did not include the workpapers related to the calculations presented in the Initial Budgets, particularly those in Appendix D. LUMA also did not provide supporting documents for the estimates included as part of its filing. The Energy Bureau's review of the LUMA Filing and Initial Budgets is not a simple arithmetic exercise in which it corroborates LUMA's calculation. The purpose of the review is to determine that LUMA's proposal will yield just and reasonable rates, and whether the revenue requirement upon which such rates are based is sufficient to sustain LUMA's operation. As such, the Energy Bureau must issue a determination on the reasonableness of LUMA's proposed spending.

Although the lack of supporting documentation is a major concern, more worrisome is LUMA's approach to its budget process.

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[29] LUMA Filing, p. 18.

[30] *See* for example, Initial Budgets, Appendix D.

[31] According to LUMA, its programs were organized into "portfolios of similar, independent programs that together cover all function areas of the utility." *See* Initial Budgets, Appendix D, p. 88.

As stated before, when using a true bottom-up approach, utilities calculate the expected costs of providing service and then add them together to compute the actual revenue requirement. LUMA instead fixed its expected revenue and used it as a constraint throughout its budget development process.[32]

Moreover, to compute its expected revenue, LUMA employed a back-of-the-envelope calculation where it first determined a $/kWh "Base Rate" using the FY-2017 revenue requirement (*i.e.* $1,287,998,000) and dividing it by the FY-2017 expected sales (*i.e.* 17,268,325,180 kWh).[33] LUMA then used the result (*i.e.* $0.0746/kWh) to calculate an "Expenditures Limit" (*i.e.* $1,183,310,000) based on the overall expected FY-22 sales. LUMA used this "Expenditures Limit" as the basis and constraint to its budget process.[34]

LUMA expressed that, as with all other Front End Transition Deliverables, its budget development process consisted of three steps: (1) assessing, (2) analyzing, and (3) planning.[35] In the assessment phase, LUMA conducted a preliminary assessment of the condition of PREPA's physical assets and managerial practices.[36] In the analysis phase, LUMA compared the collected information to industry standards in order to understand root causes and to develop potential solutions and initiatives to meet several stated objectives.[37]

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[32] According to LUMA's statements, it determined a total operating budget target based on the current rates set by the Energy Bureau and PREPA's FY-2021 budget, as presented in the 2020 PREPA Fiscal Plan. *See LUMA's Comments of Performance Metrics Baselines*, Exhibit 2, Motion Resubmitting LUMA's Comments on Performance Baselines and Metrics Based on Data Presented on January 19th, 2020 by the Energy Burau, and Resubmitting Proposed Performance Metrics and Baselines, In Re: The Performance of the Puerto Rico Electric Power Authority, Case No. NEPR-MI-2019-0007, February 5, 2021, p. 21. Moreover, all LUMA departments were provided with FY-2021 PREPA Budget General Ledger detail; a budget template was used to allocate expenses, where appropriate, to the capital budget and other expenses taking annual expectation and remediation efforts into consideration. *Id.*

[33] "Section 5_Initial Budgets Schedules_FINAL.xlxs", Tab "5.6- Reconciliation to RR", Cells E31 – E39.

[34] *Id.*, Cell E9. It is important to note that, when calculating their expected revenue, utilities normally apply the current rate structure to the expected sales on a per-tariff basis. The expected revenue from each tariff is calculated by applying said tariff to the corresponding expected sales (e.g. revenue from the GRS Tariff is calculated by applying the GRS Tariff to the expected sales to GRS customers). The total expected revenue is the sum of all the expected revenues from each individual tariffs. PREPA already has several tools to perform this calculation. *See* Motion to Submit CILT, SUBA-HH and SUBA-NHH Reconciliations and Proposed Factors, In re: Puerto Rico Electric Power Authority Permanent Rate, Case No. NEPR-MI-2020-0001, Files "Subsidios 2021.xlxs" and "Ingresos Mensuales 2021.xlxs", June 5, 2020. Therefore, it was very surprising that LUMA presented a back-of-the-envelope revenue calculation, especially since it became an important constraint in its budget development process.

[35] LUMA Filing, p. 6.

[36] *Id.*

[37] *Id.*

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According to LUMA, these initiatives were consolidated into programs of similar, interdependent initiatives.[38]

During the planning phase, LUMA used a comprehensive strategic framework **to prioritize** and sequence programs to "enhance value to customers" **within annual budgets constraints.**[39] With respect to capital expenditures, LUMA expressed that "some of the basic system remediation projects and transformational grid modernization investments required to meet IRP milestones or other policy objectives **must be funded from non-federal capital**."[40] The non-federal revenue source is PREPA/LUMA's ratepayers. As such, the dollars needed to fund non-federal capital expenditures will come from rates.

In its proposed budget, LUMA allocated $124 million to non-federal capital expenditures.[41] However, to that effect, LUMA stated that **"[t]hese funding constraints created the need to prioritize and sequence remaining investment programs** to ensure the right investments are completed at the right time to deliver value to our customers in accordance with regulatory and contract requirements."[42]

LUMA's focus seems to be to "deliver value" to the customers (which is another way of saying "to maximize investment benefits") **within the self-imposed revenue constraint**. However, "delivering value" or even "maximize investment benefits" **is not equivalent to making the necessary investments or determining the necessary funds to operate the system in an optimal, reliable and safely manner**. To that effect, an utility could "maximize investment benefits" or "deliver value" to its customers through certain capital investments, while still underinvesting the necessary resources to operate the system.

In Appendix D to the Initial Budgets, LUMA presented what I construe are the prioritized or selected programs to be included in the proposed budget. However, the programs or initiatives that were not selected or prioritized are missing from the LUMA Filing. Under these circumstances, in which LUMA prioritized the identified program to develop its proposed budgets based on the self-imposed revenue constraint, being able to analyze the programs that were excluded from the proposed budgets is as important as analyzing the ones that made it.

Understanding which programs were excluded from the budget, and the reasons thereof, is necessary for the evaluation of LUMA's petition. Only after analyzing this information can the Energy Bureau determine such programs are not necessary for the safe

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[38] *Id.* According to LUMA, over 600 initiatives were developed.

[39] *Id.*, pp. 6 – 7.

[40] Initial Budgets, p. 27. Emphasis supplied.

[41] "Section 5_Initial Budgets Schedules_FINAL.xlxs", Tab "5.6- Reconciliation to RR", Cell E15.

[42] Initial Budgets, p. 27. Emphasis supplied.

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and reliable operation of the electric system. As stated before, normally the utility will calculate the costs of operating the system and then request the approval of the revenue requirement resulting from such costs. Here LUMA excluded certain programs due to the self-imposed revenue constraint. Therefore, the Energy Bureau must evaluate what was excluded in order to issue a determination of "reasonableness" with respect to the proposed budgets.

Although LUMA's three-step approach is sound and in line with best utility practices, the actions taken in the planning phase are disconcerting since it seems that LUMA will adjust its operations to the self-imposed revenue constraint, instead of adjusting the revenue requirement based on actual expected costs of providing service (or on the necessary funds to implement the identified "programs") and actual capital investment needs. It seems that LUMA is prioritizing services and capital investments based on its definition of "available funding", instead of doing a complete analysis on the actual costs and needed revenue. Moreover, having the "need to prioritize" these functions and investments could be a signal that current rates may not be adequate to sustain a safe and reliable system operation, specifically with regards to non-federal capital expenditures.

In setting rates, regulators calculate the revenue requirement based on actual projected costs, then allocate such revenues among the customer classes and design a rate structure to recover such revenues based on projected sales. LUMA did it backwards.

LUMA started from the projected revenues, collected through the existing rate structure (acting as a constraint), and then allocated such projected revenues to each departmental function in order to provide most of the services needed and to only fund the prioritized capital investments. This is not a sound way to manage and operate an electric system.

Another shortcoming of the LUMA Filing is the fact that LUMA did not provide a generation budget, which is an essential part of the revenue requirement (or of the budget analysis). Instead, LUMA "allocated" a generation budget based on its self-imposed revenue constraint. To calculate the amount to be "allocated" to generation, LUMA subtracted from the back-of-the-envelope calculated revenue ($1,183,310,000) the amounts corresponding to T & D Operating Expenditures ($514,502,000), T & D Other expenses ($110,976,000), Capital Budget – Non-Federally Funded ($124,101,000), and Other expenses ($145,639,000).[43] The remainder amount ($288,092,000) was completely allocated to generation.[44]

LUMA did not provide any documentation to support the generation budget allocation. This action by itself will prevent the Energy Bureau to issue a determination that

[43] "Section 5_Initial Budgets Schedules_FINAL.xlxs", Tab "5.6- Reconciliation to RR", Cells E11 – E19.

[44] *Id.*

the proposed budgets are just and reasonable since there is no way to evaluate the proposed generation budget allocation.

Notwithstanding, LUMA argues that this approach is consistent with the approach taken for the T & D budget to ensure a fair and equitable allocation of funds between T & D and generation.[45] Moreover, LUMA stated that if PREPA proposes a generation budget amount higher than the limit proposed within LUMA's Initial Budgets, **the Energy Bureau should adjust the proposed generation budget to meet the generation budget limit proposed by LUMA**.[46] To that effect, LUMA argued that if PREPA requests expenditures in excess of the generation budget limit proposed by LUMA, "those funds would fall outside the limits imposed by the 2017 Rate Order approved by PREB."[47]

Once again LUMA asks the Energy Bureau to take an action that is contrary to the process to establish a just and reasonable revenue requirement. LUMA asks the Energy Bureau to adjust any proposed PREPA generation budget if said budget is higher than the allocated amount in the LUMA proposal. LUMA makes this petition before even reviewing it, with no other argument that such proposed PREPA budget will fall outside the limits imposed by the January 10, 2017 Final Order.

LUMA doesn't take into considerations which generation functions will be affected if the Energy Bureau takes such action. This is yet another indication that LUMA's approach to its proposed budgets is flawed. This uncertainty regarding the generation budget makes it impossible to issue a determination of reasonableness with respect to the Initial Budgets and may also be indicative that the current rates may not be adequate to sustain a safe and reliable system operation of the electric system.

The current public policy on energy requires that all approved rates must be just and reasonable.[48] To that effect, Article 6.25(a) of Act 57-2014 establishes that the Energy Bureau must ensure that all rates are just and reasonable, and consistent with sound fiscal and operational practices in order to provide reliable service at the lowest reasonable cost. To meet the just and reasonable standard, **regulators must strive to strike a fair balance between the financial interest of the regulated utility and the relevant public interests, both existing and foreseeable.**[49]

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[45] Initial Budgets, Appendix F, p. 469.

[46] *Id.*

[47] *Id.*

[48] *See* Section 1.5(1)(a), Act 17-2019, known as *The Puerto Rico Energy Public Policy Act*; Section 6B, Act 83 of May 2, 1941, known as *The Puerto Rico Electric Power Authority Act*, as amended; and Article 6.25(a), Act 57-2014, known as *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

[49] *Farmers Union Central Exchange v. F.E.R.C.*, 734 F. 2d 1486, 1502 (D.C. Cir. 1984) (citing *F.E.R.C. v. Pennzoil Producing Co.*, 439 U.S. 508, 517 (1979); quoting *Permian Basin Area Rate Cases*, 390 U.S. 747,797 (1968)).

It is a well-established principle regarding "just and reasonable" rates, that an agency may issue, and courts are without the authority to invalidate, rate orders that fall within a "zone of reasonableness", **where rates are neither less than compensatory nor excessive.**[50] Therefore, rather than being a fixed point, the just and reasonable standard occupies a "zone of reasonableness", which is delineated by the aforementioned balance.[51] Since establishing the "zone of reasonableness" is a complex process that require the analysis of multiple factors and because the relevant costs often offer the main point of reference whether the resulting rate is less than compensatory or excessive, "the most useful and reliable starting point for rate regulation is an inquiry into costs."[52]

The true bottom-up approach used in the cost-based revenue requirement determination process is a sound method to inquire about actual costs. It is a proven process that yield just and reasonable rates. As established before, the Energy Bureau used such methodology and approach to approve the current rates.

Through its January 10, 2017 Final Order, the Energy Bureau established the current PREPA rates and determined such rates were just and reasonable, and sufficient to recover PREPA's revenue requirement.[53] Such determination was based upon the circumstances and conditions of the electric system at the time the Energy Bureau issued the January 10, 2017 Final Order. As stated before, a lot has changed since then.

LUMA argues that, since it is not requesting a rate change nor an increase in revenue requirement the "approval of the Initial Budgets need not trigger a new proceeding for a Rate Review or Rate Modification process under Section 6.25 of Act 57-2014."[54] As such, LUMA argues that "this budget examination process can be thorough but need not be overly complex."[55] I disagree.

First of all, Section 6.25 of Act 57-2014 clearly establishes that the Energy Bureau can initiate, *motu proprio*, a rate review process when it is in the best interest of the customers. It has been over four years since the Energy Bureau established the current rates. The data used to determine the revenue requirement is stale, especially in the aftermath of all the aforementioned changes the electric system has undergone. Therefore, it is in the interest of the customers to initiate a new rate proceeding in order to, at least, establish a new revenue requirement in light of the referenced changes.

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[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] January 10, 2017 Final Order, Conclusions of Law #3, 4, 9 and 10, pp. 168 – 169.

[54] LUMA Filing, p. 12. Citation omitted.

[55] *Id.*

Even if I accepted LUMA's proposition that this budget review process need not to trigger a rate review process, which I do not, the Initial Budgets evaluation process would be a complex one. At the end of such process, the Energy Bureau must determine whether or not the proposed budgets are reasonable and sufficient to cover the costs associated with providing service. To issue such determination, the Energy Bureau must perform an in-depth analysis of the information already submitted in this case and the additional information LUMA must submit in order for the LUMA Filing to be complete. Such analysis is very similar to the one performed to determine a revenue requirement. Therefore, it must not be taken lightly nor should it be based on back-of-the-envelope calculations and methodologies.

As currently presented, LUMA's approach to its budget development process does not meet this standard. LUMA's approach seems to be "we will do as much as we can, with the revenue we understand is available to us." This cannot be considered just and reasonable.

By fixing revenues to current rates, and then allocating such revenues to each of LUMA's functional departments and calling it a budget, LUMA has made it very difficult, not to say impossible, to issue a "just and reasonable" determination. With all the changes that has happen since 2016, it is very unlikely that the actual cost to operate the system equal revenues from current rates, especially in view of LUMA's insertion as operator of the T & D system and the impact its contract is going to have on operational costs. This is exacerbated by the fact that there is no visibility with respect of the actual generation costs and the "programs" that were excluded from LUMA's proposed budgets.

Under these circumstances two outcomes are more likely to occur: (i) revenue from current rates is greater than actual costs, in which case the customers will pay a premium over what they should be paying for the service they receive, rendering the rates "excessive"; or (ii) revenue from current rates is lower than actual costs, in which case LUMA/PREPA will not have sufficient funds to operate the system in a safe and reliable manner, rendering the rates "less than compensatory". In either one of these scenarios the resulting rate or budget will not meet the just and reasonable standard.

The only way to guarantee that the rates to be charge to PREPA/LUMA customers once LUMA takes over the operation of the T & D system are just and reasonable, **is through an adjudicative process** to determine a new revenue requirement and to determine new rates based on the calculated revenue requirement, may it be through a new rate structure or by allocating it in a similar way the Energy Bureau did through the January 10, 2017 Final Order. **Such adjudicative process should be done in a rate case setting with ample public and stakeholder/intervenor participation**. The process must also include, at a minimum, sufficient time to conduct discovery, pre-filed testimony and a full adjudicative hearing.

IV. The Path Forward

LUMA's filing is not only incomplete but also inadequate to perform the evaluation needed to establish a new revenue requirement.[56] For this reason, I would have rejected LUMA's filing and initiated an adjudicative proceeding (*i.e.* "AP") similar to the one the Energy Bureau conducted in 2016 to establish the current rates, instead of assigning a "miscellaneous" designation (*i.e.* "MI"). Such adjudicative proceeding would have a rate case setting with the purpose of at least determining a new revenue requirement. To that effect, I would have issue an Order instructing LUMA to file a revenue requirement determination request, in accordance with the schedules described in Regulation 8720[57], modified as follows:

(a) Section 2.03: A-1, A-2, A-4, A-5;

(b) Section 2.05: C-1, C-2;

(c) Section 2.06: D-4 capital lease information (only if applicable);

(d) Section 2.07: E-1 thru E-9, inclusive;

(e) Section 2.08: F-1, F-2 as applicable to financial position, F-3 and F-4. (F-3 projected construction and capital expenditure should also indicate the funding source: e.g., FEMA or other source that is other than PREPA issuing notes or bonds);

(f) Section 2.09: G-3 and G-4. Only to the extent that a change in the current rate structure is requested: G-1, G-2, G-5 and G-6;

(g) Section 2.10: H-1 through H-6, inclusive;

(h) Section 2.11: I-2 – audited financial statements (if they exist);

(i) Section 2.12: J-1, J-2 and J-3 only to the extent that Tariff changes are being proposed. To the extent that a modification to the EE Rider is requested, J-4;

(j) Section 2.14: L-2 (rate subsidies – only if changes are being proposed);

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[56] Even if I agreed (although I don't) that the Energy Bureau's evaluation on this proceeding should be limited to verify if the proposed LUMA budget does not exceeds the projected revenues, as calculated by LUMA, the filing will also be inadequate to perform such evaluation due to the lack of supporting documents and data, as expressed herein.

[57] *New Regulation on Rate Filing Requirements for the Puerto Rico Electric Power Authority's First Rate Case*, Regulation No. 8720, March 28, 2016.

(k) Section 2.15: Only to the extent that a modification to the current rate structure is requested, M-1, M-2 and M-3; and

(l) Section 2.17: as it pertains to Luma Executives.[58]

(m) All workpapers and supporting documents used in the development of the aforementioned schedules.

V. Conclusion

The FY-2014 and FY-2016 data used to establish the current rates is stale. The current state and condition of the electric system is very different than the ones under which the Energy Bureau evaluated and approved the current PREPA rates. The changes introduced in the last five years makes it necessary to determine a new revenue requirement to operate the Puerto Rico electric system. Such revenue requirement must be based on the current conditions and the expected impact the LUMA contract will have on the system's operations and costs. LUMA's approach is insufficient to make such determination. Moreover, the revenue requirement determination must be done in an adjudicative proceeding with ample public and stakeholder/intervenor participation and, at a minimum, sufficient time to conduct discovery, pre-filed testimony and a full adjudicative hearing.

Therefore, I dissent.

Ángel R. Rivera de la Cruz
Associate Commissioner

In San Juan, Puerto Rico, on April 5, 2021.

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[58] Even under the scenario in which the Energy Bureau's evaluation is limited to verify if the proposed LUMA budget does not exceeds the projected revenues, as calculated by LUMA, the filing should contain schedules and supporting documents similar to the ones listed herein.

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PUERTO RICO ENERGY BUREAU

IN RE: REVIEW OF LUMA'S INITIAL BUDGETS	**CASE NO.:** NEPR-MI-2021-0004 **SUBJECT:** Completeness of LUMA's Initial Budgets Filing.

CHAIRMAN EDISON AVILÉS DELIZ, concurring

The Puerto Rico Electric Power Authority of Puerto Rico ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3"), LUMA ENERGY, LLC[1] as ManagementCo, and LUMA ENERGY SERVCO, LLC[2] as ServCo (collectively, "LUMA") entered into an Operation and Maintenance Agreement ("OMA") in connection with PREPA's transmission and distribution system ("T&D System"). Under the OMA, unless otherwise mutually agreed between the parties in writing and, as a condition precedent for the Service Commencement Date[3] or the Interim Service Commencement Date[4], LUMA shall secure the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") approval of the Initial Budgets[5] in accordance with Applicable Law.[6]

On February 24, 2021, LUMA filed a petition for approval of Initial Budgets ("LUMA's Petition").[7] Today, after a careful evaluation of LUMA's Petition and the accompanied information, the majority of the Energy Bureau determined that LUMA's Petition "lacked an in-depth discussion of key matters, supporting data, analysis, and assessments necessary for the Energy Bureau to make an adequate evaluation". Therefore, the Energy Bureau ordered LUMA to supplement its petition. Besides, the Energy Bureau ordered PREPA to provide LUMA an updated Generation Budget[8] and any information and/or documentation requested by LUMA to timely comply with the Resolution and Order. I concur with these

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[1] *See* In re: Request for Certification LUMA ENERGY, LLC, Case No. NEPR-CT-2020-0008.

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

[3] As defined in Section 1.1 of the OMA.

[4] As defined in Section 1.1 of the OMA.

[5] As defined in Section 1.1 of the OMA.

[6] Section 4.2(e) of OMA.

[7] In addition, LUMA's Petition includes a request for certain changes in the Terms of Service and a memorandum of law in support of those changes. See Exhibit 2 of the LUMA's Petition.

[8] As defined in Section 1.1 of the OMA.

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determinations of the majority of the Energy Bureau. However, I feel compelled make some remarks in further support of the Energy Bureau determination.

First, it should be noted that, at this stage of the process, the Energy Bureau is not making any determination on the merits of LUMA's Petition. It is simply requiring LUMA to provide the information that -at this time- the Energy Bureau deems necessary to evaluate the issues brought to its attention. Consistent with this approach, the Energy Bureau has stated that a procedural calendar will be establish once LUMA supplement its petition.

Second, as it is known, PREPA's current rate[9] was established in January 2017 and it was implemented on May 31, 2019.[10] LUMA's Petition was not submitted as a rate setting case, since LUMA is not requesting a modification or adjustment to the PREPA's current rate. That is, the revision of the Initial Budgets would not entail either an increase or decrease the prevailing base rate.[11] One the other hand, the Current Rate Order provides a mechanism for annual budget examination, as well as reconciliation procedures that may be suitable for the examination of the Initial Budgets proposed by LUMA.[12]

Third, I recognized that the electrical system of Puerto Rico has been affected by certain extraordinary circumstances since 2017, particularly by hurricanes Irma and María. In addition, the Government of Puerto Rico is initiating the implementation of the measures established aimed at transforming our Puerto Rico electrical system of into a modern, sustainable, reliable, efficient, cost-effective, and resilient one. Still those circumstances are not indicative that at this time, and particularly as part of this process (evaluation of LUMA Initial Budgets), a new revenue requirement and rate setting procedure is necessary nor justified. Without prejudging the matter, it is sufficient to mention at this time that PREPA's current and projected electricity sales and its revenues are substantially similar to those used to determine the revenue requirement that gave rise to the Current Rate Order.[13] Moreover, as *prima facie* established by LUMA's Petition, the proposed Initial Budgets contemplates levels of expenses which fall within the Current Rate Order.

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[9] See *Final Resolution and Order* dated January 10, 2017 and *Final Resolution and Order* dated March 8, 2018, both issued by the Energy Bureau in Case No.: CEPR-AP-2015-0001 (collectively "Current Rate Order").

[10] See *Resolución y Orden dated May 21, 2017, In Re: Revisión de Tarifas de la Autoridad de Energía Eléctrica de Puerto Rico*, Case No. CEPR-AP-2015-0001.

[11] Act 57-2014, Sec. 6.25(c).

[12] See, in general, *Final Resolution and Order* dated January 10, 2017 issued by the Energy Bureau in Case No.: CEPR-AP-2015-0001, at pp. 149-153.

[13] See for example: PREPA'S Operating Report, June 2017; PREPA'S Operating Report, June 2018; PREPA'S Operating Report, June 2019; PREPA'S Operating Report, June 2020; and PREPA'S Operating Report, January 2021.

While the Energy Bureau could use its discretion to initiate a full rate case it also has many other procedural options for review of the Initial Budgets. I believe that under the prevailing circumstances a full rate case is meritless. Therefore, since the Resolution and Order is pointing toward a process that could address LUMA's Petition, balancing the need for oversight and public participation with an administratively effective transition from PREPA to LUMA, I concur with the majority.

Edison Avilés Deliz
Chair

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