

**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: The Puerto Rico Electric Power Authority's Motion to Withdraw January 30, February 19 and 22, 2021 Comments.

RESOLUTION

On March 1, 2021, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *The Puerto Rico Electric Power Authority's Motion to Withdraw January 30 and February 19 and 22 Comments* ("March 1 Motion").¹

As part of its filing, PREPA states that after further review of the docket in the instant case, the other comments submitted in this proceeding, and further consideration, PREPA withdraws the following comments: (1) *Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies*, submitted on January 30, 2021; (2) *Reply Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies*, submitted on February 19, 2021 and the comments and statements made during the Technical Conference held on February 22, 2021 (collectively, "PREPA Comments"). In the March 1 Motion, PREPA requests that (i) the PREPA Comments be removed from the public docket and not considered for any adjudication or decision; and (ii) that the Energy Bureau and the other stakeholders take notice of the brief comments submitted in the March 1 Motion.

Upon review of the March 1 Motion, the Energy Bureau **DENIES** PREPA's request to withdraw its stated comments from the docket in the instant case, since the comments **will not** be considered on any adjudication proceeding. The Energy Bureau shall consider the **probative value** of PREPA Comments taking into consideration the March 1 Motion.

Be it notified and published.

¹ PREPA's Motion, presented on March 1, 2021.

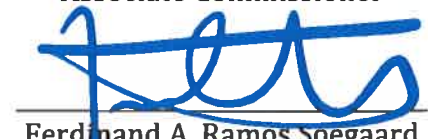




Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ángel R. Rivera de la Cruz
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on April 8, 2021. Associate Commissioner Ángel R. Rivera de la Cruz concurred with a written opinion. 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, Elias.sostre@aes.com; jesus.bolinaga@aes.com; cfl@mcvpr.com; ivc@mcvpr.com; notices@sonnedix.com; leslie@sonnedix.com; victorluisgonzalez@yahoo.com; tax@sunnova.com; jcmendez@reichardescalera.com; r.martinez@fonroche.fr; gonzalo.rodriguez@gestampren.com; kevin.devlin@patternenergy.com; fortiz@reichardescalera.com; jeff.lewis@terraform.com; mperez@prrenewables.com; coter@landfillpr.com; geoff.biddick@radiangen.com; hjcruz@urielrenewables.com; carlos.reyes@ecoelectrica.com; brent.miller@longroadenergy.com; tracy.deguise@everstreamcapital.com; agraitfe@agraitlawpr.com; h.bobea@fonrochepr.com; ramonluisnieves@rlnlegal.com; hrivera@oipc.pr.gov; info@sesapr.org; yan.oquendo@ddec.pr.gov; acarbo@edf.org; pjcleanenergy@gmail.com; Jmadej@veic.org; nicolas@dexgrid.io; javrua@gmail.com; JavRua@sesapr.org; lmartinez@nrdc.org; thomas.quasius@aptim.com; rtorbert@rmi.org; tjtortes@amscm.com; lionel.orama@upr.edu; noloseus@gmail.com; aconer.pr@gmail.com; dortiz@elpuente.us; wilma.lopez@ddec.pr.gov; gary.holtzer@weil.com; ingridmvila@gmail.com; rstgo2@gmail.com; agc@agcpr.com; presidente@ciapr.org; cpsmith@unidosporutuado.org; jmenen6666@gmail.com; cpares@maximosolar.com; CESA@cleanegroup.org; acasepr@gmail.com; secretario@ddec.pr.gov; julia.mignuccisanchez@gmail.com; professoraviles@gmail.com; gmch24@gmail.com; ausubopr88@gmail.com; carlos.rodriguez@valairlines.com; amaneser2020@gmail.com; acasellas@amgprlaw.com; presidente@camarapr.net; jmarvel@marvelarchitects.com;



amassol@gmail.com; jmartin@arcainc.com; melitza.lopez@aep.pr.gov;
eduardo.rivera@afi.pr.gov; leonardo.torres@afi.pr.gov; carsantini@gmail.com;
directoralcaldes@gmail.com; imolina@fedalcaldes.com; crivera@fedalcaldes.com;
LCSchwartz@lbl.gov; thomas@fundacionborincana.org; cathykunkel@gmail.com;
joseph.paladino@hq.doe.gov; adam.hasz@ee.doe.gov; Sergio.Gonsales@patternenergy.com;
energiaverdepr@gmail.com; hriviera@jrsp.pr.gov; Arnaldo.serrano@aes.com;
gustavo.giraldo@aes.com; accounting@everstreamcapital.com; mgrpcorp@gmail.com;
jczayas@landfillpr.com; auriarte@newenergypr.com; Jeanna.steele@sunrun.com;
mildred@liga.coop; rodrigomasses@gmail.com; presidencia-
secretarias@seguros multiples.com. I also certify that today, April 8, 2021, I have filed the
Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today April 8, 2021.



Sonia Seda Gaztambide
Clerk



**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
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IN RE: THE PERFORMANCE OF THE
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CASE NO.: NEPR-MI-2019-0007

SUBJECT: The Puerto Rico Electric Power
Authority's Motion to Withdraw January 30,
February 19 and 22, 2021 Comments.

Associate Commissioner Ángel R. Rivera de la Cruz, concurring

Today, the Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order through which it denied the Puerto Rico Electric Power Authority's ("PREPA") request to remove from the instant docket the following two documents: (1) *Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies* and, (2) *Reply Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies*, submitted by PREPA on January 30, 2021 and February 19, 2021, respectively. The Energy Bureau also denied PREPA's request to remove from the docket the comments and statements made by PREPA's personnel during the Technical Conference held on February 22, 2021. For the reasons expressed herein, I concur with such decisions.

* * *

The purpose of the instant case is to establish the baseline (*i.e.* PREPA's current performance) and the targets or compliance benchmarks applicable to the Puerto Rico electric system.¹ The Energy Bureau will use the resulting baseline and compliance benchmark to develop the corresponding targets to be applied to certified electric service companies such as LUMA Energy LLC and LUMA Energy ServCo, LLC (collectively, "LUMA").²

To accomplish these goals, the Energy Bureau established a procedural calendar that includes technical conferences and several milestones for PREPA, LUMA, stakeholders and general public to file comments and replies to comments.³ The Energy Bureau ordered PREPA and LUMA to "timely appear in this proceeding and provide their comments and

¹ Resolution and Order, In re: The Performance of the Puerto Rico Electric Power Authority, Case No. NEPR-MI-2019-0007, December 23, 2020, p. 4.

² *Id.*, p. 5.

³ *Id.*, pp. 5 – 6. The Energy Bureau amended such calendar since the email provided for the filing of comments was not functioning properly. However, the actual events or milestones were not changed. See Resolution and Order, In re: The Performance of the Puerto Rico Electric Power Authority, Case No. NEPR-MI-2019-0007, February 1, 2021.



inputs regarding the baseline, the compliance benchmarks and which specific key performance metrics, in their opinion, should be used for the [Performance Incentives Mechanisms].”⁴

Pursuant to the Energy Bureau’s orders, on January 30, 2021, PREPA presented the document titled *Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies* (“PREPA’s Comments”). The PREPA’s Comments is a well-thought-out document in which PREPA not only present its understanding of the instant proceeding, it also makes very specific and on point recommendations regarding the need for additional metrics to address potential Performance Incentives Mechanisms for LUMA or future generation contractors.⁵ To that effect, PREPA also proposed additional metrics to, among others, support the policies of energy transition, benefit the Public Interest, improve alignment of LUMA to said policies, ensure the accountability of LUMA for its impact to customers and to value PREPA’s electrical system assets.⁶

Moreover, on February 19, 2021, PREPA filed the document titled *Reply Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies* (“PREPA’s Reply”). The PREPA’s Reply is also a well-thought-out document in which PREPA provides specific replies to certain LUMA comments in areas such as safety metrics, customer service and T & D operations.⁷ PREPA also provided specific replies to some stakeholder comments.⁸

As stated before, this proceeding has very specific goals: to establish the baseline and the targets or compliance benchmarks applicable to the Puerto Rico electric system. In order for the Energy Bureau to achieve these goals it needs as much information as possible regarding the current state of the Puerto Rico electric system, as well as the comments, concerns and inputs from stakeholders and interested parties, such as LUMA and PREPA.

PREPA’s Comments and PREPA’s Reply brought to the Energy Bureau’s attention several issues and information that are pertinent to the instant case. As such, PREPA’s Comments and PREPA’s Reply are in line with the objectives and purpose of the instant proceeding and represent the comments, concerns and inputs of a major interested party, to wit, the owner and current operator of the electric system. Even if PREPA does not support

⁴ Resolution and Order, In re: The Performance of the Puerto Rico Electric Power Authority, Case No. NEPR-MI-2019-0007, December 23, 2020, p. 6.

⁵ See in general, PREPA’s Comments, pp. 19 – 28.

⁶ *Id.*, pp. 32 – 34.

⁷ PREPA’s Reply, pp. 6 – 13.

⁸ *Id.*, pp. 13 – 14.



such statements at this point, they should remain in the instant docket as part of the administrative record.

Furthermore, the Energy Bureau received reply comments from several stakeholders addressing specific portions of the PREPA's Comments.⁹ Removing PREPA's Comments from the instant docket will also have the unwanted effect of altering or removing portions of such stakeholders' reply comments. This is an unwarranted action that could have a negative effect in the information contained in the administrative record of this case and on the information available to the Energy Bureau.

Finally, the format used in the Technical Conference held on February 22, 2021 ("February 22 Technical Conference"), makes it impossible to remove PREPA's comments and statements while maintaining a cohesive record. During the February 22 Technical Conference, PREPA personnel participated in several discussions that are interrelated with other comments and statements from Energy Bureau's personnel and other stakeholders. As such, PREPA's request to remove from the record its comments and statements made during the February 22 Technical Conference is impractical.

Moreover, removing from the record PREPA's Comments, PREPA's Reply and the statements made by PREPA's personnel, is not only impractical but will also deprive the Energy Bureau of valuable information for the analysis required in this case. When evaluating such information, the Energy Bureau could take into consideration that PREPA no longer supports its statements and make its determination accordingly.

For all of the above, I concur with today's decision to deny PREPA's request.



Ángel R. Rivera de la Cruz
Associate Commissioner

In San Juan, Puerto Rico, on April 8, 2021.



⁹ See Motion Submitting LUMA's Reply to Comments Filed by the Puerto Rico Electric Power Authority and Stakeholders on Performance Baselines, Performance Metrics, and Compliance Benchmarks, filed by LUMA on February 19, 2021. See also Reply Comments by SESA, filed by the Solar and Energy Storage Association of Puerto Rico on February 19, 2021 and Motion Submitting LUMA's Sur-reply and Comments on the Information Presented at the Technical Conference of February 22, 2021, filed by LUMA on March 1, 2021.