

**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: Determination on completeness.

RESOLUTION

I. Introduction

On February 24, 2021, LUMA Energy, LLC as ManagementCo, and LUMA Energy ServCo, LLC as ServCo (collectively, "LUMA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Petition for Approval of Initial Budgets and Related Terms of Service* ("February 24 Petition"). In the February 24 Petition, LUMA requested the Energy Bureau's review and approval of, (i) the Initial Budgets¹, and (ii) the Liability Waiver.²

On April 5, 2021, the Energy Bureau issued a Resolution and Order ("April 5 Resolution") whereby it ordered LUMA to submit specific supporting material that the Energy Bureau needed to evaluate the proposed Initial Budgets. The Energy Bureau also ordered LUMA to submit an updated Generation Budget³ based on the information provided by the Puerto Rico Electric Power Authority ("PREPA").

On April 6, 2021 LUMA filed a document titled *Motion Submitting Clarification to Portions of LUMA's Initial Budgets* ("April 6 Motion"), which included two (2) exhibits with revisions to the Initial Budgets. In addition, on April 12, 2021, LUMA filed a document titled *Motion in Compliance with Resolution and Order of April 5, 2021 and Submitting Responses to Requests for Information* ("April 12 Compliance Motion"). In the April 12 Compliance Motion, LUMA includes the supporting material identified by the Energy Bureau as needed to adequately conduct its evaluation and proposes an alternative to address its inability to secure the Generation Budget from PREPA in a timely manner.

¹ *Initial Budgets: First 3 Year of Recovery & Transformation, February 23, 2021*, included as Exhibit 1 to the February 24 Petition ("Initial Budgets").

² *Request for Approval of Terms of Service and Memorandum of Law in Support Thereof*, included as Exhibit 2 of the February 24 Petition ("Liability Waiver").

³ As defined in Section 1.1 of the Operation and Maintenance Agreement entered by LUMA, PREPA, the Puerto Rico Public-Private Partnerships Authority.



On April 20, 2021, the Energy Bureau issued a Resolution and Order (“April 20 Resolution”) through which it determined that the February 24 Petition as clarified by the April 6 Motion and supplemented by the April 12 Compliance Motion was incomplete. The Energy Bureau ordered LUMA to, on or before April 22, 2021 file the required Generation Budget and corresponding supporting documentation. Further, the Energy Bureau ordered PREPA to immediately facilitate LUMA the required Generation Budget and supporting documentation. Notwithstanding the above, the Energy Bureau deemed appropriate to establish a preliminary Procedural Calendar in the instant case.

On April 22, 2021, LUMA filed a document titled *Motion submitting PREPA’s Generation Budget in Compliance with Order* (“April 22 Motion”). Through the April 22 Motion, LUMA submitted the Generation Budget prepared by PREPA.⁴

II. Determination on Completeness

Upon review of the information filed by LUMA, the Energy Bureau **DETERMINES** that the February 24 Petition, as clarified by the April 6 Motion, and supplemented by the April 12 Compliance Motion and the April 22 Motion is **complete**. Therefore, the Energy Bureau will proceed to its evaluation of the Initial Budgets.

The Energy Bureau will evaluate the Initial Budgets under the Procedural Calendar established as part of the April 20 Resolution. However, the Energy Bureau may modify the Procedural Calendar at its discretion.

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

⁴ Exhibit 1, April 22 Motion.



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on April 26, 2021. Associate Commissioner Ángel R. Rivera de la Cruz dissented with a written opinion. I also certify that on April 26, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com, kbolanos@diazvaz.law and jmarrero@diazvaz.law. I also certify that today, April 26, 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 26, 2021.


Sonia Seda Gatzambide
Clerk


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SUBJECT: Determination on completeness.

Associate Commissioner Ángel R. Rivera de la Cruz, dissenting

Today, the majority of the Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution through which it determined that LUMA's¹ *Petition for Approval of Initial Budgets and Related Terms of Service* ("February 24 Petition"), as clarified by the *Motion Submitting Clarification to Portions of LUMA's Initial Budgets* ("April 6 Motion") and supplemented by the *Motion in Compliance with Resolution and Order of April 5, 2021 and Submitting Responses to Requests for Information* ("April 12 Compliance Motion") and by the *Motion Submitting PREPA's Generation Budget in Compliance with Order* ("April 22 Compliance Motion"), is complete. For the reasons expressed herein, I dissent.²

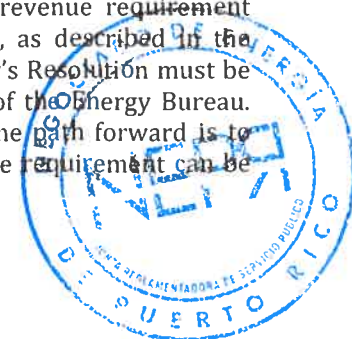
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Through the April 22 Compliance Motion, LUMA submitted the Puerto Rico Electric Power Authority's ("PREPA/GenCo") Generation Budget for FY-2022. LUMA's filing consisted of a single Excel spreadsheet containing three separate tabs: "GenCo", "Generation_Dir" and "NME_2022". The "GenCo" tab contained the Generation Budget's top sheet which detailed the summary of the three major expenses areas: Labor Operating Expenses, Non-Labor Operating Expenses and Necessary Maintenance Expenditures ("NME").

The Labor Operating Expenses included salaries and wages, pension and benefits, overtime pay, overtime benefits and net change in positions. The Non-Labor Operating Expenses contained non-labor related expenses such as materials and supplies, utilities and

¹ LUMA Energy, LLC as ManagementCo, and LUMA Energy Servco, LLC as ServCo, collectively, "LUMA".

² It is important to note that, as expressed in my April 5, 2021 dissenting opinion in the instant case, I would have initiated an adjudicative proceeding, similar to the one the Energy Bureau used to establish the current rates revenue requirement in Case No. CEPR-AP-2015-0001. Resolution and Order, *In Re: Review of LUMA's Initial Budgets*, Case No. NEPR-MI-2021-0004, April 5, 2021 ("April 5 Order"), Associate Commissioner Ángel R. Rivera de la Cruz dissenting. As a result, I would have ordered LUMA to file a revenue requirement determination request, in accordance with the schedules listed in Regulation 8720, as described in the dissenting opinion. Since that was a minority opinion, all my analysis regarding today's Resolution must be done in view of the provisions of the April 5 Order, as determined by the majority of the Energy Bureau. However, this must not be construed as a shift in my position. I still believe that the path forward is to determine LUMA's Initial Budgets in a rate case-like proceeding, where a new revenue requirement can be established. Notwithstanding, I must abide by the provisions of the April 5 Order.



rent and other miscellaneous expenses. The NME were divided by generation plant. All listed expenses categories are consistent with the operations of a utility such as PREPA/GenCo.

Tab "Generation_Dir" contained a comparison between the Financial Oversight and Management Board's ("FOMB") FY-2021 approved budget and PREPA/GenCo budget request. It has some cross references to the "GenCo" tab and the "NME_2022" tab. The "NME_2022" tab contained a breakdown of the maintenance costs associated with each power plant.

Notwithstanding the above, the April 22 Compliance Motion lacks the supporting documents for each listed expense. As an example, the PREPA/GenCo proposed Generation Budget shows that the budgeted amount corresponding to Salaries & Wedges is equal to \$32,670,736.³ However, LUMA did not provide supporting data for this amount or any other amount listed in Exhibit 1 to the April 22 Compliance Motion.⁴ Therefore, the February 24 Petition, as clarified by the April 6 Motion and supplemented by the April 12 Compliance Motion and by the April 22 Compliance Motion is incomplete. As a result, the Energy Bureau is not in position to analyze the February 24 Petition.

As I expressed in my April 20, 2021 opinion in the instant case, usually, before scheduling a final Technical Conference or Evidentiary Hearing in cases such as this one, the Energy Bureau has always ensured that it possesses all the required and necessary information to thoroughly evaluate the proposal.⁵ In order to issue a determination of reasonableness regarding the proposed Initial Budgets, the Energy Bureau must evaluate the proposed PREPA/GenCo Generation Budget.⁶ The Energy Bureau doesn't have the required information to evaluate the proposed PREPA/GenCo Generation Budget.

This is exacerbated by the fact that the **LONE** Technical Hearing is scheduled to commence in less than five business days, on May 3, 2021. The lack of supporting documents with regards to the proposed PREPA/GenCo Generation Budget will make it difficult, not to say impossible, for the Energy Bureau to have a meaningful discussion with LUMA and/or PREPA/GenCo during the **LONE** Technical Hearing in relation with this important aspect of the Initial Budgets.

³ April 22 Compliance Motion, Exhibit-1-GenCo-Budget-Request-NEPR-MI-2021-0004.xlsx, Tab "GenCo", Cell B6.

⁴ The "NME_2022" tab to Exhibit-1-GenCo-Budget-Request-NEPR-MI-2021-0004.xlsx, contained a breakdown by plant and by project. However, LUMA did not provide supporting documents for the amounts assigned to each project.

⁵ Resolution and Order, In Re: Review of LUMA's Initial Budgets, Case No. NEPR-MI-2021-0004, April 20, 2021, Commissioner Ángel R. Rivera de la Cruz concurring in part and dissenting in part, p. 3.

⁶ April 5 Order, Associate Commissioner Ángel R. Rivera de la Cruz dissenting, pp. 9 – 10.



Therefore, I would have determined that the April 22 Compliance Filing is incomplete, would have granted LUMA and/or PREPA/GenCo a reasonable term to file the supporting documents for the proposed PREPA/GenCo Generation Budget and would have rescheduled the **LONE** Technical Hearing to provide ample time for the evaluation of the referenced supporting documents, in order to be in position to thoroughly evaluate the proposed PREPA/GenCo Generation Budget.

Therefore, I dissent.



Ángel R. Rivera de la Cruz
Associate Commissioner

In San Juan, Puerto Rico, on April 26, 2021.

