

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

IN RE: REVIEW OF T&D'S OPERATORS
SYSTEM OPERATION PRINCIPLES

CASE NO.: NEPR-MI-2021-0001

SUBJECT: Request for Extension of Time to
File Responses to Resolution and Order of
May 11, 2021.

RESOLUTION AND ORDER

On April 27, 2021, the Energy Bureau of the Puerto Rico Service Regulatory Board ("Energy Bureau") issued a Resolution and Order through which it established the procedural calendar for the instant case ("April 27 Resolution"). The Energy Bureau scheduled a Technical Conference to be held remotely on May 10-11, 2021 from 9:00 a.m. to 5:30 p.m.

On May 11, 2021, after the technical conference was held as scheduled, the Energy Bureau issued a Resolution and Order through which, among other things, determined that, after considering the February 25 Request, the April 15 Responses and the May 7 Presentation in the instant case, there is a lack of specificity and focus that was not fully clarified by the information provided by LUMA¹ as part of the April 15 Responses, nor by the responses provided by LUMA representatives to the questions made by the Energy Bureau's Commissioners and consultants during the Technical Conference. Therefore, the Energy Bureau stated that further clarification is necessary to adequately evaluate the System Operation Principles ("SOP"). As a result, the Energy Bureau ordered LUMA to submit certain information² on or before May 14, 2021.

On May 13, 2021, LUMA filed a document titled *Informative Motion and Urgent Request for Extension of Time to File Response to Resolution and Order of May 11, 2021* ("May 13 Request"), through which LUMA seeks an extension of the May 14, 2021 deadline.

In the May 13 Request, LUMA states, *inter alia*, the following: that their representatives appeared for the Technical Conference scheduled in this proceeding and provided extensive and detailed testimonies on May 10 and 11, 2021; that the record shows that LUMA representatives offered and requested leave to file additional information or responses with regards to several topics and/or to provide written clarifications on specific

¹ LUMA Energy, LLC ("ManagementCo"), and LUMA Energy ServCo, LLC ("Servco"), (jointly referred to as "LUMA").

² See Resolution and Order, In re: Review of T&D Operator's System Operating Principles, Case No. NEPR-MI-2021-0001, May 11, 2021, pp. 3 - 4.



matters; that the Energy Bureau issued bench orders granting LUMA leave to provide additional information or supplemental written responses to certain questions and/or to submit clarifications by May 14, 2021 and they are working on those responses to be filed by May 14, 2021.³ Also, LUMA states that, during The Technical Conference, the Energy Bureau requested, for the first time, the system operation procedures that LUMA has been developing,⁴ in addition to several others specific requests for information, including the final versions or drafts of the operating procedures and a final version or draft of the emergency response plan, as it relates to the operation of the system.⁵

The May 13 Request also contained certain legal discussions that could be deemed as an unsupported endeavor to use the provisions of the Operations and Maintenance Agreement executed between LUMA, the Puerto Rico Electric Power Authority and the Public Private Partnerships Authority as a mechanism to avoid the Energy Bureau's jurisdiction and as potential grounds to refuse to comply with its orders.⁶

Notwithstanding the foregoing, LUMA requested the Energy Bureau to grant additional time, **until May 21, 2021**, to file its fulsome responses to the May 11 Resolution, including the additional clarifications requested by the Energy Bureau and the other various requests regarding the system operating procedures.

Upon review of the May 13 Request, the Energy Bureau **GRANTS** LUMA until **May 19, 2021** to file its complete responses to the Energy Bureau's requests for information, including those required in the May 11 Resolution.

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 57-2014⁷ and applicable Energy Bureau's regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it hereby notified and published.

³ May 13 Request, p. 6.

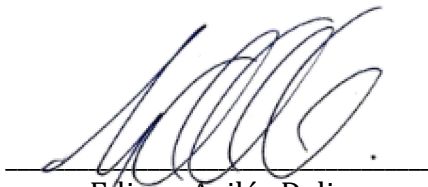
⁴ *Id.*


⁵ *Id.*, ¶ 17.

⁶ *Id.*, ¶ 8.

⁷ Known as *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.




Edison Avilés Deliz
Chairman


Ferdinand A. Ramos Soegaard
Associate Commissioner


Lillian Mateo Santos
Associate Commissioner


Sylvia Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on May 14, 2021. Associate Commissioner Ángel R. Rivera de la Cruz concurred with a written opinion. I also certify that on May 14, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: kbolanos@diazvaz.law, jmarrero@diazvaz.law and margarita.mercado@us.dlapiper.com. A copy was also sent to: 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; cotero@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; nicolas@dexgrid.io; javrua@gmail.com; JavRua@sesapr.org; lmartinez@nrhc.org; thomas.quasius@aptim.com; rtorbert@rmi.org; tjtorres@amscm.com; lionel.orama@upr.edu; nolozeus@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;



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Jeanna.steele@sunrun.com; mildred@liga.coop; rodrigomasses@gmail.com; presidencia-
secretarias@seguros multiples.com. I also certify that today, May 14, 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 May 14, 2021.



Sonia Seda Gaztambide
Clerk



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PUBLIC SERVICE REGULATORY BOARD
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**SUBJECT: Request for Extension of Time to
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11, 2021.**

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 partially granted LUMA's¹ *Informative Motion and Urgent Request for Extension of Time to File Response to Resolution and Order of May 11, 2021* ("May 13 Motion"), extending the deadline for LUMA to file certain information in the instant case. Although I concur with such extension, I must address some arguments LUMA raised in the May 13 Motion.

* * *

In the May 13 Motion, LUMA argues that the request of information the Energy Bureau issued through the May 11, 2021 Resolution and Order in the instant case, "runs counter to the April 27th Order deeming the SOP Filing Complete."² Based on LUMA's other arguments, it seems LUMA was under the impression that once the Energy Bureau determined the filing was complete, the Energy Bureau would not request additional information in the evaluation process of LUMA's petition.³ LUMA misconstrues the determination of completeness issued by the Energy Bureau through the April 27 Order in the instant case.⁴

In every Energy Bureau proceeding, the determination that a filing is complete means that the proponent presented the minimum information required for the Energy Bureau to initiate its evaluation. It is not implied by such determination that those are the only documents or information the Energy Bureau will use to evaluate the petition. More

¹ LUMA ENERGY, LLC as ManagementCo, and LUMA ENERGY SERVCO, LLC as ServCo (collectively, "LUMA").

² May 13 Motion, p. 6, ¶ 17.

³ In the May 13 Motion, LUMA argued that it was "placed in the position of having three days to provide information and items that had not been requested previously by the Bureau and that require time and attention. This, close to three months after LUMA submitted its original filing and notwithstanding the fact that on April 27th, the Bureau deemed the filing complete." May 13 Motion, p. 7, ¶ 18.

⁴ On April 27, 2021, the Energy Bureau issued a Resolution and Order through which it determined the LUMA filing in the instant case was complete and established the procedural calendar for the valuation of LUMA's proposal.

importantly, such determination doesn't prevent the Energy Bureau to request additional information at a later date. As a matter of fact, the procedural schedule the Energy Bureau normally establishes to evaluate petitions similar to LUMA's, contain, at a minimum, the following basic steps: (1) determination of completeness; (2) initial technical hearing for the proponent to present its proposal; (3) **discovery process**, through which the Energy Bureau and intervenors, if any, request additional information or clarifications; (4) filing of witnesses' direct testimony, if the proceeding is adjudicative in nature; (5) technical or evidentiary hearing; (6) public hearings; and (7) Energy Bureau's final determination.

For the evaluation of the proposed System Operation Principles ("SOP"), the Energy Bureau established an expedited proceeding that contained a single technical hearing, in which LUMA was given the opportunity to present the proposed SOP. The approved procedural calendar did not provide time to conduct discovery however, the Energy Bureau established May 14, 2021 **as the deadline for filing any revised and/or additional information required by the Energy Bureau.**⁵

Although the Energy Bureau did not approve a period to perform discovery, through the approved procedural calendar, the Energy Bureau put LUMA on notice that revised and/or additional information might be required after the technical hearing. That is why LUMA's argument that "[t]he May 11th Order does not cite legal or regulatory authorities, OMA requirements or industry practices, to explain the determination that LUMA's System Operation Principles should include additional explanations or information"⁶ is very surprising.

h1 To that effect, paragraph (o) of Article 6.3 of Act 57-2014⁷ establishes that the Energy Bureau has the power to "[h]old public hearings, **require and gather any pertinent or necessary information to properly carry out its powers and duties.**"⁸ Moreover, paragraph (s) of the referenced Article 6.3 establishes that the Energy Bureau has the power to "[r]equire any electric power service company certified in Puerto Rico to keep, maintain, and regularly submit to the PREB those records, data, **documents**, and plans that are necessary to attain the objectives of this law."⁹ Similarly, paragraph (a)(8) of Article 6.22 of Act 57-2014 establishes that every certified electric power company and any transmission and distribution Contractor must, among other, submit to the Energy Bureau "[a]ny other specific information, data, document, or report that the PREB may deem necessary in the exercise of its duties, as applicable to the electric power company."¹⁰

⁵ April 27 Order, p. 2.

⁶ May 13 Motion, p. 7, ¶ 18.

⁷ *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

⁸ Emphasis supplied.

⁹ Emphasis supplied.

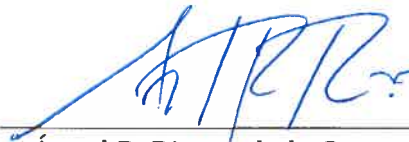
¹⁰ Emphasis supplied.



Not only LUMA is a certified electric power company¹¹ it is also the Contractor of the transmission and distribution system. As such, LUMA is required to submit the information and documents the Energy Bureau deems necessary to properly carry out its powers and duties.

LUMA is scheduled to take over the operation of the transmission and distribution system, as well as the Puerto Rico Electric Power Authority's customer service function, in the next several months. To that effect, we must point out that System Operating Principles without well-defined actions or implementation procedures are just simple aspirations. As such, it is important for the Energy Bureau to evaluate, not only the proposed SOP, but also the procedures and mechanisms LUMA intends to use to implement and enforce the proposed SOP. This, in order for the Energy Bureau to discharge its duty to "[o]versee the quality and reliability of the electric power services provided by PREPA **and any other electric power company certified in Puerto Rico.**"¹²

Notwithstanding the above, LUMA has the option of not filing the information requested by the Energy Bureau. However, by doing so, LUMA runs the risk of not placing the Energy Bureau in position to approve the proposed SOP.



Ángel R. Rivera de la Cruz
Associate Commissioner

In San Juan, Puerto Rico, on May 14, 2021.



¹¹ See In re: Request for Certification LUMA ENERGY, LLC, Case No. NEPR-CT-2020-0008 and In re: Request for Certification LUMA ENERGY SERVCO, LLC, Case No. NEPR-CT-2020-0007.

¹² Article 6.3(d), Act 57-2014. Emphasis supplied.