

**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 LUMA's Initial
Budgets.

RESOLUTION AND ORDER

I. Introduction

The request and analysis before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") is whether the Initial Budgets Petition¹ presented by LUMA² complies with the criteria necessary to enable the Energy Bureau to determine whether to consider the FY 2022 budget is in accordance with the criteria set forth in the 2017 Rate Order³. The 2017 Rate Order requires that the proposed annual budgets submitted for review do not increase the overall revenue requirements thus no change be required to the existing base rates or the current rate structure approved by the 2017 Rate Order. Neither the Puerto Rico Electric Power Authority ("PREPA") nor LUMA has asked for a rate review process.⁴ The Initial Budgets Petition does not represent an increase nor a decrease in the revenue requirement as approved by the 2017 Rate Order. That criterion is satisfied as discussed herein.

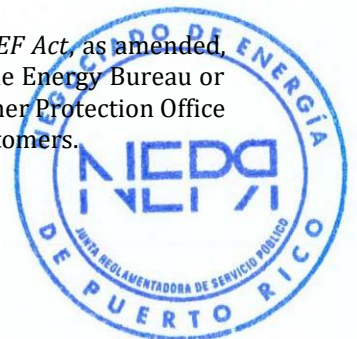
Puerto Rico suffers from an inherently deficient electric system, which has been exacerbated after the impact of hurricanes Irma and María. In particular, the planning, design, and operation of an isolated island-based electricity system imposes on PREPA, and Puerto Rico as a whole, significant challenges with respect to power system stability and

¹ See *In Re. Review of LUMA's Initial Budgets*, Caso. No. NEPR-MI-2021-0004, Petition for Approval of Initial Budgets and Related Terms of Service, February 24, 2021 ("Initial Budgets Petition or Petition").

² LUMA Energy, LLC as ManagementCo, and LUMA Energy ServCo, LLC as ServCo. (collectively, "LUMA").

³ See *In Re: Puerto Rico Electric Power Authority Rate Review*, Case No. CEPR-AP-2015-0001, Final Resolution and Order, January 10, 2017 ("2017 Rate Order").

⁴ Section 6.25(c) of Act 57-2014, known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended, states that any electric service company may request a change in the rate approved by the Energy Bureau or the Energy Bureau may initiate, *motu proprio*, or at the request of the Independent Consumer Protection Office or any other interested party, the rate review process when it is in the best interest of customers.



reliability. Act 120-2018⁵ establishes the legal framework for the transformation of the electric power system in Puerto Rico.⁶ It empowers PREPA to sell its assets related to electric power generation and transfer or delegate any of its operations, functions, or services.⁷

Any agreement arising from Act 120-2018 shall be entered into pursuant to the legal and administrative framework established in Act 29-2009⁸, which regulates Public-Private Partnerships. Thus, for such purposes, Act 120-2018 establishes the process that shall apply to any transaction that establishes a Public-Private Partnership for any PREPA function, services, or facility. In addition, Act 120-2018 empowers PREPA and the Puerto Rico Public-Private Partnerships Authority ("P3A") to carry out the processes through which such transactions shall be executed.⁹

After conducting a competitive process in accordance with Act 120-2018 and Act 29-2009, the P3A selected a third-party operator for the T&D System. Under the proposed transaction, the operation of PREPA's Transmission and Distribution System ("T&D System") would be assumed by a private manager for a period of time, with ownership of the assets remaining at PREPA. Thereafter, on June 17, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Certificate of Energy Compliance for the then proposed T&D System operation and management agreement.¹⁰

Pursuant to the provisions of Act 57-2014,¹¹ the Energy Bureau is the independent regulator with jurisdiction over PREPA and other electric service companies, including LUMA. Act 57-2014 states as public policy that all consumers have the right to reliable and stable electric service.¹² Act 17-2019¹³ reinforced the foregoing public policy by declaring that "(t)he electric power system should be reliable and accessible, promote industrial, commercial, and community development, improve the quality of life at just and reasonable

⁵ Known as the "Puerto Rico Electric Power System Transformation Act", as amended ("Act 120-2018").

⁶ See generally, *Statements of Motives*, Act-120-2018, pp 3-5.

⁷ *Id.*

⁸ Known as "Public-Private Partnership Act", as amended ("Act 29-2009").

⁹ *Id.*

¹⁰ See *Resolution and Order (Certificate of Energy Compliance)* dated June 17, 2020, *In re Certificate of Energy Compliance*, Case No.: NEPR-AP-2020-0002 ("Certificate of Energy Compliance").

¹¹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

¹² See Act 57-2014, Article 1.2(l).

¹³ Known as the *Puerto Rico Energy Public Policy Act*.



cost, and promote the economic development of the Island.”¹⁴ In the aftermath of the destruction caused by hurricanes Irma and María, it is of the utmost importance that Puerto Rico transforms its power grid and its operations to provide a more reliable and stable service to its customers.

As per the provisions of Act 120-2018, under the OMA, PREPA retains the ownership of the assets of the T&D System, LUMA is the T&D System operator and the P3A serves as the contract administrator. In general terms, under the OMA LUMA steps in PREPA’s position for all T&D operational purposes. Upon the service commencement date (*i.e.*, June 1, 2021) all PREPA responsibilities, both operational and regulatory, shall be assumed by LUMA. Under the terms of the OMA, LUMA will also assume responsibility for PREPA planning functions related to transmission and distribution and will also administer PREPA’s sub-recipient responsibilities related to federally funded disaster relief programs and protocols.

The Energy Bureau, among other things, is tasked with the enforcement of public policy to ensure that electric service companies provide services at reasonable and just prices.¹⁵ This duty inescapably entails the review and monitoring of budgets, fiscal and operational practices, and the prudence of spending activities. Consistent with the foregoing, in the rate case of 2017, the Energy Bureau established a yearly procedure that, among other things, allows the regulator to ensure the appropriate and efficient use of the revenues collected from its customers.¹⁶

Regarding budget matters, 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

¹⁴ *Id.*, Statement of Motives, p. 2.

¹⁵ See Act 57-2014, Articles 1.2, 6.3, 6.4 and 6.25 and Act 17-2019, Article 1.5(1)(a).

¹⁶ See 2017 Rate Order, ¶¶ 439-444, pp. 149-150.



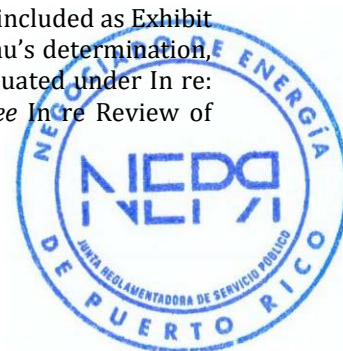
respond within such thirty (30) day period, Administrator shall be deemed to have no objection to such proposed Initial Budgets being submitted by ManagementCo to Energy Bureau. The Parties agree that, within thirty (30) days following receipt of Administrator's comments, if any, or the end of Administrator's review period described in the immediately preceding sentence, if Administrator has no comments, Operator shall submit for Energy Bureau'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. **Energy Bureau 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 Energy Bureau to the proposed Initial Budgets and submit any updates to the proposed Initial Budgets to Energy Bureau for its approval. If Energy Bureau 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 Energy Bureau had approved such proposed Initial Budgets."¹⁷

On February 24, 2021, LUMA filed before the Energy Bureau a document titled *Petition for Approval of Initial Budgets and Related Terms of Service* ("Petition"). In the Petition, LUMA requested the Energy Bureau's review and approval of (i) the Initial Budgets¹⁸; and (ii) the Related Terms of Service.¹⁹ LUMA states it prepared the Initial Budgets and Related Terms of Service in accordance with the OMA which, during the Front-End Transition period, requires LUMA to prepare and submit the Initial Budgets to the P3A for review and comment and after such review and comment, to submit the Initial Budgets to the Energy Bureau. LUMA states that under the OMA, the Energy Bureau's approval of the Initial Budgets is a condition precedent to the Service Commencement Date. Finally, LUMA asserts that it is not seeking an increase or revision in the base rate, overall revenue requirement or rate structure approved in the 2017 Rate Order and that it only seeks approval for the annual budget for Fiscal Year 2022("FY 2022") which begins on July 1, 2021 and concludes on June 30, 2022.

¹⁷ Emphasis added.

¹⁸ See Exhibit 1 to the Petition.

¹⁹ See *Request for Approval of Terms of Service and Memorandum of Law in Support Thereof*, included as Exhibit 2 of the Petition ("Terms of Service"). It is important to note that, as per the Energy Bureau's determination, the Related Terms of Service included in the filing with the Initial Budgets, are being evaluated under In re: Review of Luma's Terms of Service (Liability Waiver), Case No. NEPR-MI-2021-0007. See In re Review of LUMA's Initial Budgets, Case No. NEPR-MI-2021-004, Resolution and Order, April 5, 2021.



II. Procedural Background

On February 24, 2021, LUMA filed the Petition before the Energy Bureau. On the same date, LUMA filed a document titled *Request to Submit Portions of Appendix D of the Initial Budget Confidential and Memorandum of Law in Support Thereof* (“February 24 Request for Confidential Designation”). LUMA requested confidential designation and treatment for portions of Appendix D to the Petition, arguing that some information was qualified as sensitive commercial information and trade secrets, and Critical Energy Infrastructure Information (“CEII”).

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.²⁰ The Energy Bureau also ordered LUMA to submit an updated Generation Budget²¹ based on the information provided by PREPA. Further, the Energy Bureau determined to be more appropriate to evaluate LUMA’s Terms of Service request in a separate proceeding.²²

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.

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 included the supporting material identified by the Energy Bureau as part of the April 5 Resolution and as needed to adequately conduct its evaluation. LUMA stated that as of the date of the filing, it had not received PREPA’s Generation Budget and requested the Energy Bureau to approve LUMA’s proposed allocation of the Generation Budget for Fiscal Year 2022.

On April 13, 2021, LUMA filed before the Energy Bureau a document titled *Request to Submit Portions of LUMA’s Responses to Requests for Information Confidentially, and Memorandum of Law in Support Thereof* (“April 13 Request for Confidential Designation”).

²⁰ See Resolution and Order, In re: Review of LUMA’s Initial Budgets, Case No. NEPR-MI-2021-0004, April 5, 2021.

²¹ Under Section 1.1 of the OMA “Generation Budget” means, for any given Contract Year, the budget of the Generation Pass-Through Expenditures for such Contract Year, together with the projected budget of the Generation Pass-Through Expenditures for the following two (2) Contract Years, in each case, including monthly budgets of such expenditures and cash flows, as such budget may be amended or adjusted from time to time in accordance with the terms and conditions of the GridCo-GenCo PPOA, the Shared Services Agreement and any Generation Supply Contract.

²² See Resolution and Order, In re: Review of LUMA’s Terms of Service (Liability Waiver), Case No. NEPR-MI-2021-0007, May 4, 2021. See, also, Resolution and Order, In re: Review of LUMA’s Initial Budgets, Case No. NEPR-MI-2021-0004, April 5, 2021.



LUMA requested the Energy Bureau confidential treatment for several attachments or portions thereof, of the information provided in response to the April 5 Resolution.

On April 20, 2021, the Energy Bureau issued a Resolution and Order (“April 20 Resolution”) through which it determined that the 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. Furthermore, the Energy Bureau scheduled a two-day Virtual Public Hearing to be held during May 12-13, 2021, in order for the general public to have the opportunity to present comments and suggestions regarding LUMA’s Petition. In order to ensure the further public participation, the Energy Bureau also provided until May 24, 2021 for the general public to provide written comments regarding the Petition.²³

On April 21, 2021, the Energy Bureau issued a Resolution and Order addressing the February 24 Request for Confidential Designation. The Energy Bureau ordered LUMA to provide a revised redacted version of Appendix D. On the same date, the Energy Bureau issued a Resolution and Order addressing the April 13 Request for Confidential Designation. The Energy Bureau granted confidential designation to several documents, as requested by LUMA, and ordered LUMA to submit a revised redacted version of several attachments and portions of information provided in response to the April 5 Resolution.

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.²⁴

On April 23, 2021, LUMA filed a document titled *Motion for Partial Reconsideration and Submitting Public Version of Appendix D to Initial Budgets in Compliance with Order* (“Motion for Partial Reconsideration of Appendix D”). On the same date, LUMA filed a document titled *Motion for Partial Reconsideration and Submitting Public Versions of Documents and Attachments in Compliance with Order* (“Motion of Partial Reconsideration of Attachments”).

²³ On April 28, 2021, the Energy Bureau issued a public notice in the *Primera Hora* newspaper with respect to the calendar for public hearings and the term established for the general public to present written comments. See *Primera Hora*, Wednesday, April 28, 2021, p. 17.

²⁴ Exhibit 1, April 22 Motion.



On April 26, 2021, LUMA filed before the Energy Bureau a document titled *Motion Submitting Clarification on Initial Budgets and Shared Services* ("April 26 Motion"). Through the April 26 Motion, LUMA includes as Exhibit 1, a detailed breakdown of the shared services costs included in the Petition. Further, LUMA provides additional details of the components on LUMA's proposed allocation for payment of shared services. On the same date, the Energy Bureau issued a Resolution and Order ("April 26 Resolution"), through which it determined that the Petition, as clarified by the April 6 Motion, and supplemented by the April 12 Compliance Motion and the April 22 Motion is complete. The Energy Bureau stated that it would proceed with the evaluation of the Initial Budgets.

On April 28, 2021, in compliance with the April 20 Resolution, LUMA filed a document titled *Motion Submitting Summary of LUMA's Initial Budgets in the Spanish Language*. LUMA filed a Spanish-language summary of the Petition.

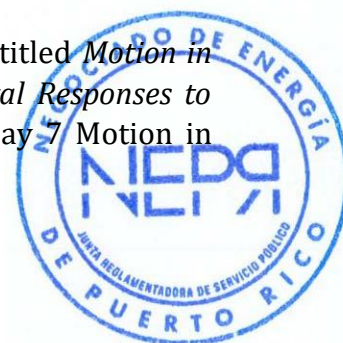
On April 29, 2021, LUMA filed a document titled *Urgent Request for Brief Extension of Time to File LUMA's Presentation for Technical Conference* ("April 29 Urgent Request"). On the same date, the Energy Bureau issued three (3) Resolutions and Orders pertaining to: (i) the April 29 Urgent Request, ordering LUMA to submit the Presentation for the Technical Conference no later than April 30, 2021 by 12:00 p.m.; (ii) the Motion for Partial Reconsideration of Appendix D and Motion for Partial Reconsideration of Attachments, partially reconsidering a confidentiality determination and requiring LUMA to file revised redacted versions of certain documents; and (iii) establishing the agenda for the Technical Conferences scheduled for May 3rd to the 5th of 2021.

On April 30, 2021, LUMA filed before the Energy Bureau a document titled *Motion Submitting Presentation for Technical Conference* ("April 30 Motion"). As part of the April 30 Motion, LUMA submitted the presentation to be offered in the Technical Conference.

On May 3, 2021, LUMA filed a document titled *Motion in Compliance with April 29th Resolution and Order and Submitting Revised Public Version of LUMA's Response to Request for Information Number 2* ("May 3 Motion in Compliance"). Through the May 3 Motion in Compliance, LUMA submitted as Exhibit 1 an unredacted version of its Response to Request for Information Number 2.

From May 3rd to the 5th of 2021, the Energy Bureau held a series of Technical Conferences to evaluate LUMA's Initial Budgets. Throughout the process the Energy Bureau issued several bench orders requiring LUMA to provide additional information with regard to issues discussed in the Technical Conference.

On May 7, 2021, LUMA filed before the Energy Bureau a document titled *Motion in Compliance with Order Submitting Additional Information and Supplemental Responses to Questions Posed in Technical Conference and Submitting Clarifications* ("May 7 Motion in



Compliance”). Through the May 7 Motion in Compliance, LUMA submitted additional information or supplemental written responses to the bench orders issued as part of the Technical Conference.

On May 14, 2021, LUMA filed before the Energy Bureau a document titled *Memorandum of Law in Support of Request to Submit Portions of LUMA’s Submission of Additional Information Related to the Initial Budgets Confidentially* (“May 14 Memorandum of Law”). LUMA states that the May 14 Memorandum of Law supports the May 7 Motion in Compliance and identifies confidential responses and states the legal basis for the requested confidential treatment.

On May 21, 2021, the Energy Bureau issued a Resolution and Order regarding the May 14 Memorandum in which the Energy Bureau (i) granted confidential treatment to portions or attachments of responses included on the May 7 Motion in Compliance, and (ii) determined that other information submitted by LUMA would not be designated or treated as confidential information.

On May 24, 2021, LUMA filed before the Energy Bureau a document titled *Motion in Compliance with May 21st Resolution and Order and Submitting Revised Public Version of LUMA’s Response to Request for Additional Information No. 10* (“May 24 Motion”). Through the May 24 Motion, LUMA submitted an unredacted version of its Response to Request for Additional Information Number 10.

Also on May 24, 2021, as part of the process, the Energy Bureau received written comments from the Puerto Rico Solar Energy Industries Association Corp., d/b/a Solar and Energy Storage Association of Puerto Rico (“SESA”).²⁵ Through its written comments, SESA highlights the urgent need for a comprehensive study which paints a clear pathway for the sequence of events needed to upgrade the electric grid in order to accommodate the amount of renewable energy required to be integrated to the system. SESA states that the aforementioned study would help to correct timelines that seem misaligned with Act 17-2019 and the Approved IRP binding renewable goals and would only serve to help the public interest. Therefore, SESA suggested the Energy Bureau to include a budget item as part of the Initial Budgets, in the amount of five hundred thousand dollars (\$500,000.00), to furnish the referenced study.²⁶

²⁵ See Letter, RE: LUMA Initial Budgets and Related Terms of Service, Docket Number: NEPR-MI-2021-0004; Budget Item Suggested by SESA, Case No. NEPR-MI-2021-0004, May 24, 2021.

²⁶ *Id.*, pp. 2-3.



III. Analysis of LUMA's Initial Budgets Proposal

A. Scope

In the Petition LUMA states that the Initial Budgets cover the activities that LUMA will undertake during the first three years of the OMA and includes the allocation of funds necessary for the operation and maintenance of the system as well as capital projects funded from both federal and non-federal sources. The activities during those first three years of operation will further the goals set forth in the System Remediation Plan ("SRP")²⁷ which addresses components of the system that are sub-standard, pose a risk to the system and require remediation to be able to achieve industry standard levels of reliability and performance.

According to LUMA, the Initial Budgets are intended to: (i) fund the operation of the system under the System Operations Principles ("SOP")²⁸ which are intended to ensure efficient generation and reliable energy delivery, and (ii) fund the SRP, which under LUMA's proposals, are both needed to achieve reliability and resiliency, and to further Puerto Rico's public policy goals.²⁹ More specifically, the Initial Budgets include Operating Budget and Capital Budget (both Federally Funded and Non-Federally Funded) pertaining to Transmission & Distribution for the first year of LUMA's operations (FY 2022), and projected budgets for the following two years (FY 2023, and FY 2024). Finally, the Initial Budgets include allocations for the Generation Budget³⁰ and Shared Services³¹.

B. Analysis and Discussion

In its evaluation of the Initial Budgets, the Energy Bureau is determining whether the proposed remediation activities are appropriately prioritized and adequately funded to ensure that electric service quality is progressively improved, that safety, reliability, and emergency preparedness deficiencies are effectively corrected and that compliance with public policy is timely achieved. Specific evaluation elements considered in the Energy Bureau's review of the Initial Budgets follow:

²⁷ The SRP is under the Energy Bureau's evaluation under In re: Review of LUMA's System Remediation Plan, Case No. NEPR-MI-2020-0019.

²⁸ The SOP is under the Energy Bureau's evaluation through case, In re: Review of T&D Operator's System Operation Principles, Case No. NEPR-MI-2021-0001.

²⁹ Exhibit 1, Petition, p. 31.

³⁰ Schedule 5.1, Line 9, Petition.

³¹ Exhibit 1, April 26 Motion.



1. Gap Assessment and Funding Prioritization

In developing its Initial Budgets, LUMA first completed a Gap Assessment to identify both spending and business process deficits under the current PREPA business operations, and to assist LUMA in developing capital spending and operations initiatives that are needed to remediate the PREPA system, and to transition to providing industry standard levels of service reliability and performance.³²

LUMA stated that the goals and objectives of the Gap Assessment were to develop improved understanding of PREPA's business processes, controls, communications and safety protocols, technologies and tools, and to assess the current organization's capabilities across general management and specific business functions. Additional goals of the Gap Assessment were to assess condition of PREPA's transmission and distribution assets, including supporting physical infrastructure and temporary restoration work completed post-hurricane. LUMA indicates that its Gap Assessment was designed to review and assess major departmental functions, records, observations related to PREPA's business operations and planning activities. The Gap Assessment reviewed major departments including PREPA Operations, Utility Transformation, Capital Programs, Customer Service, Information Technology and Operations Technology (IT/OT), Financial Management, Regulatory Compliance, Human Resources and Generation.³³

For each major department and for a range of functions within each department, LUMA assigned Maturity Scores ranging from 1 to 5, with lower ratings indicating the organization does not recognize basic elements that need to be fulfilled, work is performed informally or on an ad hoc basis, and processes are undocumented or undefined. The specific ratings and rating titles assigned by LUMA include:

- Unfocused: 1
- Aware: 2
- Developing: 3
- Competent: 4
- Excellent: 5

In the General Management Gap Assessment, LUMA examined 456 management sub-focus areas. Of those, 213 were rated at a level of 1 (Unfocused), 180 were rated at a level of

³² See, in general, April 12 Compliance Motion, RFI-LUMA-MI-21-0004-210405-PREB-005a, Attachment 1 (Redacted).

³³ *Id.*



2 (Aware), and 60 were rated at a level of 3 (Developing). Only 3 management sub-focus areas were rated as 4 (Competent), and none were rated as 5 (Excellent).³⁴

Similarly, LUMA examined 308 Core Business sub-focus areas. Of those, 191 were rated at a level of 1 (Unfocused), 78 were rated at a level of 2 (Aware), and 36 were rated at a level of 3 (Developing). Only 2 Core Business sub-focus areas were rated as 4 (Competent), and one was rated as 5 (Excellent).³⁵

LUMA's Gap Assessment also examined asset condition of the transmission, distribution and supporting infrastructure assets. LUMA also graded asset condition on a 5-point scale, using these categories:

- End of Life or Not Operational: 0
- Major Safety, Reliability or Unit Output Issues: 1
- Deficiencies Noted, or Components Out of Service: 2
- System Maintained with General Operations on Routine Basis: 3
- System Like New (Replace or Refurbished in Last 5 Years): 4

As part of its assessment of T&D System assets, LUMA found substantial safety, maintenance and reliability gaps across the transmission and distribution system assets and found infrastructure and organizational systems in significant need of improvement. Using its Gap Assessment as foundation, LUMA developed the Initial Budgets by identifying over 600 programs and capital expenditure categories, with a focus in identifying those categories driven by addressing gaps and capability shortcomings identified through the gap assessment process.³⁶

According to LUMA, it followed this process in order to develop a comprehensive approach to recovery and transformation of Puerto Rico's electric grid; recovery, to restore the grid to a well-functioning state and to begin the transformation and re-design of the grid to meet Puerto Rico's emerging energy goals and requirements.³⁷ The result of this process must be increased customer satisfaction and a safer, more reliable, and cost-effective electric system. As part of the Gap Assessment, LUMA identified three (3) key activities or phases these are Phase 1-Assess, Phase 2-Analyze and Phase 3-Plan.³⁸

³⁴ Exhibit 1, April 30 Motion, p. 19.

³⁵ *Id.*

³⁶ Petition, p. 6. *See, also*, Exhibit 1, Petition, p. 3.

³⁷ Exhibit 1, Petition, pp. 14–15.

³⁸ *Id.*, p. 22.



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In Phase 1,³⁹ the assessment, LUMA examined the condition of electric system's physical assets and the utility's management practices. The purpose of this phase was to identify both spending and business process deficits under the current PREPA business operations, and to assist LUMA in developing capital spending and operations initiatives needed to remediate the PREPA system, and to transition to providing industry standard levels of service reliability and performance.⁴⁰ Multiple areas in need of significant improvement, or gaps, were identified. In making its determination, LUMA performed a comprehensive review, utilizing subject matter experts, conducting interviews, examining existing utility data, and reviewing studies performed by others. The identified gaps formed the basis for the improvement programs reflected in the Initial Budgets. LUMA also utilized a team of subject matter experts in the specific areas of performance to be assessed in the performance metrics, which provide the basis for determining LUMA's incentive compensation. LUMA may earn incentive compensation if its performance in several important areas meet established standards. These performance areas include customer service, health, safety, environmental and quality, asset management and financial management.

Phase 2⁴¹, the analysis, in which LUMA compared the information gathered in Phase 1 to industry standards, explored root causes and began developing potential solutions. In developing solutions, LUMA explained that it sought to comply with public policy, address the concerns identified in the gap assessment, repair, replace and harden infrastructure as identified and prioritized and improve customer satisfaction. A key focus of LUMA's approach was to identify both processes and business practices, and equipment needs to ensure worker and public safety.

Phase 3 comprises the planning process.⁴² In this phase, LUMA explains the comprehensive nature of the strategic planning that went into coordination and prioritization of the programs identified in the prior phases. This included ensuring that public policy objectives and customer needs, SRP and non-SRP programs, performance metrics related improvements, and federally and non-federally funded Capital and Operations and Maintenance expenditures were appropriately reflected in the Initial Budgets, without increasing Base Rates.

During the Technical Conference, LUMA provided testimony indicated that it identified, developed cost estimates for, and prioritized over 600 program initiatives designed to address gaps found in its Gap Analysis, with initiatives including both capital

³⁹ *Id.*

⁴⁰ See, in general, April 12 Compliance Motion, RFI-LUMA-MI-21-0004-210405-PREB-005a, Attachment 1 (Redacted).

⁴¹ Exhibit 1, Petition, p. 24.

⁴² *Id.*, p. 25.



investments and investment and reform of business processes and procedures. LUMA testified that it applied a multi-factor evaluation framework to sequence and prioritize those programs and to develop spending amounts and profiles underlying its Initial Budgets filing. LUMA testified that it sought to identify, prioritize, and sequence investment and spending programs to achieve goals, which include:

- Prioritize public and worker safety
- Improved customer satisfaction
- System rebuild and resiliency
- Operational excellence
- Sustainable energy transformation

LUMA described the resulting Initial Budgets, “[t]he Initial Budgets include all federally funded and non-federally funded capital program expenditures along with LUMA’s departmental O&M expenditures required to manage improvement programs and conduct day-to-day operations.”⁴³ LUMA further sets forth the scope of its Initial Budgets as, “focused on the recovery and transformation of electric utility service to usher in a clean and resilient energy future for the people of Puerto Rico.”⁴⁴ LUMA explains in its Petition that its Initial Budgets include “the culmination of all activities, including day-to-day operating activities as well as items within the SRP, Performance Metrics and SOP, during the first three years of LUMA operations,”⁴⁵ and that, “LUMA has compiled its estimates based on a bottom-up exercise, using an activity-based budgeting approach to support the first three years of the Recovery and Transformation Framework.”⁴⁶ LUMA advised that it relied heavily on historic information provided by PREPA which it generally assumes to be correct.⁴⁷

Effective prioritization of programs and expenditures is essential. In the Petition and during the Technical Conference, LUMA explained the process it utilized to prioritize the programs and expenditures it identified as necessary.⁴⁸ To accomplish this, LUMA developed a qualitative process to evaluate the identified needs and their respective role in achieving the recovery Goals and Objectives LUMA established. These Goals and Objectives address safety, customer satisfaction, system rebuild and resiliency, operational excellence,

⁴³ *Id.*, p. 30.

⁴⁴ *Id.*

⁴⁵ *Id.*, p. 31.

⁴⁶ *Id.*, p. 32.

⁴⁷ *Id.*, p. 33.

⁴⁸ *Id.*, p. 27.



and sustainable energy transformation.⁴⁹ LUMA also points to its recognition of the importance of considering the effective use of federally funded expenditures, for rebuilding, repairing and hardening infrastructure, in prioritizing the recovery and transformation programs that form the Initial Budgets.

Upon careful review and analysis of the Petition, LUMA's responses to the Energy Bureau's Information Requests, the testimony provided in the Technical Hearing and the other information included in the administrative record, the Energy Bureau **FINDS** that the three-phase process described by LUMA to identify needs, develop and prioritize the programs necessary to achieve system remediation and transformation, and subsequent bottoms up approach to develop its Initial Budgets is reasonable and appropriate.

2. Funding Adequacy of High Priority Activities

LUMA's Initial Budgets, and the associated System Remediation Plan that comprises a large component of the Initial Budget, include several high priority activities designed to repair and remediate the Puerto Rico power system and improve business practices to achieve the set goals. These activities include:

a. Vegetation Management

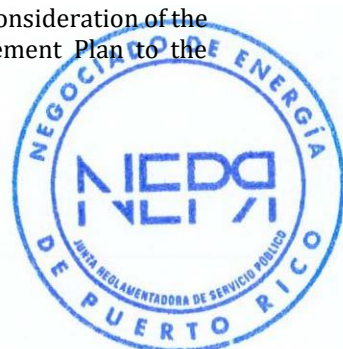
Underspensing and deficiencies in PREPA's vegetation management have been documented as a key contributor to power system outages and have left the transmission and distribution system more vulnerable to storm events. The Vegetation Management Plan developed by LUMA its associated spending and program initiatives included in the Initial Budgets are critical to improve both public safety and power system reliability. The Energy Bureau's evaluation includes an assessment of the spending levels and anticipated effectiveness of vegetation management under LUMA's proposed plan and budget.

LUMA has developed a Vegetation Management Plan⁵⁰ designed to reclaim rights of way and to significantly reduce vegetation encroachment and vegetation induced outages on the distribution and transmission system. The Initial Budgets includes \$51.3 million in expenditures for Fiscal Year 2022, \$51.8 million in Fiscal Year 2023 and \$52.3 million in Fiscal Year 2024.⁵¹ Vegetation management has been an area of chronic under-spending under PREPA operations, with cash budgeted for maintaining vegetation often having been

⁴⁹ *Id.*, p. 467.

⁵⁰ LUMA filed its Vegetation Management Plan under Case No. NEPR-MI-2019-0005 for the consideration of the Energy Bureau on April 11, 2021. See Petition Submitting LUMA's Vegetation Management Plan to the Honorable Puerto Rico Energy Bureau, Case No. NEPR-MI-2019-0005, April 11, 2021.

⁵¹ Schedule 5.2, Exhibit 1, Petition, p. 66.



allocated to other functions, and overgrown vegetation has been a widely recognized high incidence cause of power outages on the island. In LUMA's Gap Assessment, its review of PREPA vegetation management found several significant gaps, including absence of a centralized vegetation management function, deferred vegetation maintenance with work scheduled primarily to reactive or corrective maintenance, ineffective pruning practices, and lack of specialized or adequately maintained equipment. LUMA stated that it engaged a team of industry-leading subject matter experts, and utilized available LIDAR data, publicly available imagery, system maps, PREPA employee and contractor knowledge and existing outage data to develop its Vegetation Management Plan.⁵²

LUMA indicates it is dedicated to having an industry-leading Vegetation Management Plan and that budgeted expenditures will maintain vegetation and to reclaim rights-of-way. LUMA's Initial Budget indicates its practices will focus on employee and contractor training and safety, and the overall focus will be to reduce vegetation-caused customer outages and to improve customer satisfaction. LUMA's plan utilizes integrated vegetation management, which is a structured decision-making process that emphasizes continuous improvement and refinement and adjustment of processes to meet current and new conditions. LUMA indicates it will apply an integrated approach that optimizes vegetation inspection, maintenance and trimming intervals and that systematically identifies and removes high risk trees and vegetation. LUMA indicates it will initially focus on reestablishing and clearing rights of way and will determine the viability of using selective application of herbicides, as a supplemental activity, in compliance with Puerto Rico and federal law. The LUMA Vegetation Management plan includes reactive rapid response, to identify and remediate the "worst of the worst" conditions on the transmission and distribution system that present risks to safety and reliability, reclamation of overgrown rights of way, and establishment of routine preventive vegetation maintenance.

The Energy Bureau has reviewed LUMA's planned expenditure levels in the Initial Budgets for Vegetation Management. The Initial Budgets includes \$51.3 million in expenditures for Fiscal Year 2022, \$51.8 million in Fiscal Year 2023 and \$52.3 million in Fiscal Year 2024.⁵³ The Energy Bureau has reviewed LUMA's proposed budget for Vegetation Management and **FINDS** that the corresponding allocation is **reasonable**. The Energy Bureau expects the expenses allocated for this purpose to be as proposed by LUMA, and if vegetation management expenditure levels require revision from the current forecast, LUMA shall submit proposed revisions in its next budget filing (*i.e.* FY 2023 Budget).

⁵² See Petition Submitting LUMA's Vegetation Management Plan to the Honorable Puerto Rico Energy Bureau, In re: Review of Puerto Rico Electric Power Authority Comprehensive Vegetation Management Plan, Case No. NEPR-MI-2019-0005, April 11, 2021, p. 4.

⁵³ Schedule 5.2, Exhibit 1, Petition, p. 66.



b. Personal Protective Equipment (PPE) and Worker's Safety

LUMA's Gap Assessment revealed worker safety gaps and deficits in a range of areas, and LUMA's Petition proposes both programmatic changes and expenditures designed to address those gaps. For example, LUMA's Gap Assessment found that PREPA's T&D Operations tooling system is well below prudent utility safety standards, requirements from the Occupational Safety and Health Administration ("OSHA"), and IEEE⁵⁴ standards, which leaves both employees and the public at risk of injury or fatality. LUMA concluded that PREPA lacks both an adequate tool maintenance program and a dielectric insulated tool program, which are basic requirements to be OSHA compliant and to ensure worker safety.

LUMA's Initial Budget includes expenditures to procure critical safety equipment, personal protective equipment, and associated supplies such as automatic external defibrillators, portable eye wash, lone worker/confined space entry monitors and audiometric testing equipment. Also, it includes funding for tools repair and management, and improvements on workflow processes and tracking which will enable the use of appropriate communication and reporting tools. LUMA indicates there are current gaps in safety equipment availability, and that procuring those items will critically improve employee's current state of work-related injuries. LUMA's budget includes expenditures for approximately 1,100 field-based employees who require safe PPE and tooling for approximately 80 fleet units.⁵⁵ PPE needs, which are funded in the Initial Budgets, include fire retardant clothing, rubber gloves, potential indicators, metering testing equipment, live line sticks and rubber goods, ground chains, jacks, grips, tampers and jackhammers. LUMA has budgeted expenditures for the highest safety priority PPE and tools to ensure employees can work safely and follow all OSHA standards as early as possible during the service commencement period and thereafter. LUMA's program targets worn-out and failed tools.⁵⁶

LUMA's Initial Budget also includes funding for safety training for its workers. LUMA indicates that under the remediated state, all field workers will have training in safety equipment and will have access to lifesaving safety equipment when conducting work. LUMA states it intends to be industry-leading in deployment of safety equipment. LUMA projects achieving a remediated state, including full field staff safety training, by 2024.⁵⁷

⁵⁴ Stands for Institute of Electrical and Electronics Engineers.

⁵⁵ Appendix D, Exhibit 1. Petition, pp. 285-288.

⁵⁶ *Id.*

⁵⁷ *Id.*, pp. 292-296.



The Initial Budgets includes \$22.4 million in expenditures for Fiscal Year 2022, \$14.7 million in Fiscal Year 2023 and \$15.1 million in Fiscal Year 2024.⁵⁸ The Energy Bureau has reviewed LUMA's proposed budget for PPE and worker's safety and **FINDS** that the corresponding allocations are **reasonable**.

c. Emergency Preparedness and Response

Emergency Preparedness and Response is a key element in the event of hurricane or other natural disasters, to protect public health and safety, restore damaged facilities, reduce outages, and mitigate further damage to the power system. The Initial Budgets includes expenditures and programmatic initiatives and development of LUMA's proposed Emergency Response Plan. The Energy Bureau's review includes an evaluation of expenditure levels and proposed procedures developed by LUMA to improve emergency response and storm readiness.

LUMA has developed an Emergency Response Plan and Emergency Management Plan and has budgeted dedicated expenditures for emergency response in its Petition. LUMA's budget includes \$1.8 million for Emergency Response Preparedness in FY2022, \$1.2 million in FY2023 and \$0.9 million in FY2024⁵⁹. In addition, LUMA's budget includes \$48.4 million for Transmission and Distribution Fleet capital investments in FY2022,⁶⁰ and LUMA testified that upgraded fleet vehicles will play a key role in emergency response and service restoration following future emergency events.

In its Gap Assessment, LUMA evaluated PREPA's current emergency response and readiness and concluded it is well below Prudent Utility Practice. LUMA found there are major challenges in the ability to predict the severity of storm damage and to ensure adequate staffing and material resources are on site and ready to go in advance or immediately following a storm event, there is a poorly functioning capability to map and monitor the power system, and that lack of IT visualization and analytic tools add to difficulty in prioritizing and reporting restoration efforts and in properly allocating recovery resources. LUMA also concluded that the current restoration process does not utilize formal operating procedures or checklists, which results in inconsistency in applying restoration protocols and leads to safety and operational hazards.⁶¹

⁵⁸ *Id.*, Table D-7, Tool Repair Management, HSEQ And Technical Training, Workflow Processes & Tracking, pp. 263 and Table D-8, Safety Equipment, pp 348-349.

⁵⁹ *Id.*, Table D-7, p. 263.

⁶⁰ *Id.*

⁶¹ *Id.*, pp. 313-316.



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To address identified gaps, LUMA is proposing to establish an Office of Emergency Management and Business Continuity, and to also establish primary and alternate Emergency Operations Centers. LUMA has also developed plans, processes, and procedures to be enacted if an emergency occurs. The budget includes expenditures to acquire damage assessment software to gain accreditation from the Emergency Management Accreditation Program (“EMAP”). LUMA’s budget also includes procurement and implementation of required tools, including an incident management platform, a damage assessment platform, an event outage management platform, and a business continuity platform. LUMA is also budgeting for development of training modules, exercises, and formal certification for employees in the Incident Command System it will put in place, and of the Restoration Annex. Finally, LUMA’s budget includes expenditures for development of an adequate resource plan to be implemented in emergencies, including development of more strategic relationships, materials, addressing skills/competency gaps, and identification and reallocation of key system spare parts and equipment so they are available and staged in strategic locations following an emergency event. The Emergency Response Preparedness program also includes funding for development and implementation of a communications strategy to educate stakeholders and customers, and to engage local support during major outage events.

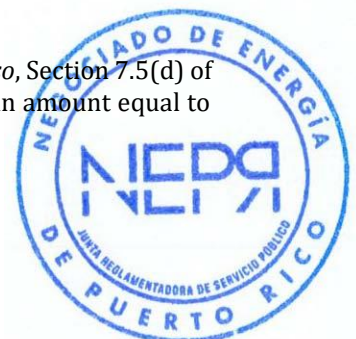
Besides the budgeted amounts, LUMA indicates that the OMA requires PREPA funding of a \$30 million emergency response account, which is to be continually replenished if a storm occurs or other emergency event, following drawdowns by LUMA to fund emergency response.⁶² Finally, LUMA states that its Emergency Management Plan will allow to be prepared for the next disaster with a comprehensive set of emergency response and business continuity plans, with emergency management training and with exercises tailored to the response effort required in Puerto Rico.

The Energy Bureau has reviewed LUMA’s proposed budget for emergency response plans and **FINDS** that the corresponding allocations are **reasonable**.

d. Reliability and Resiliency

A key part of LUMA’s Petition centers on its development of a System Remediation Plan (“SRP”). The SRP includes a range of capital expenditures and business process improvements designed to improve reliability and resiliency of the Puerto Rico power system and also designed to improve organizational efficiency and effectiveness.

⁶² Technical Conference Recording, May 3, 2021, morning session, 2:37:23 – 2:37:59. *See, also*, Section 7.5(d) of the OMA, which indicates that “Owner shall fund the Outage Event Reserve Account with an amount equal to US\$30,000,000.”



For distribution feeder assets, LUMA testified that it completed an assessment of available outage data received from PREPA and used those data to identify the worst-performing circuits on the system. LUMA supplemented that analysis with feeder inspection data developed by Sargent and Lundy, under contract with PREPA. LUMA also reviewed other assessment, inspections, and damage assessment data available from PREPA, or available through the COR3/FEMA funding process. In addition, LUMA completed additional sampling inspections to independently verify its analysis and of the data sources it reviewed. Based on its analysis of worst-performing feeders, and inspection data reviewed, LUMA has developed a capital spending and prioritization program designed to sequence repair and rebuild activity to target distribution feeders with highest priority to improve public safety and to reduce customer outages and improve reliability. LUMA's proposed budget includes \$237 million for distribution feeders capital investment in FY2022, \$352 million in FY2023 and \$518 million in FY2024.⁶³ A large portion of that capital investment is targeted to receive federal funding support, and the upward trajectory in budgeted capital expenditures reflects build-up of successful project scopes of work through that funding process, and improved understanding of the extent of repairs needed on the distribution system as more detailed asset condition assessments and inspections are completed.

For substation assets, LUMA has also developed a prioritization and sequencing process building upon available damage assessment and inspection data and supplemented by LUMA's own sampling inspection activities. Building upon previous work done by PREPA, LUMA is prioritizing hurricane damaged substations, but is also budgeting funds to address safety and reliability gaps observed at substations across the power system. LUMA is budgeting \$115 million in substation expenditures in FY2022, \$108 million in FY2023 and \$107 million in FY2024.⁶⁴

For transmission assets, LUMA is following a similar sequencing and prioritization approach in repairing damaged and unsafe assets first and then targeting expenditures to address reliability and performance issues. LUMA is undergoing studies to determine optimal rebuild design to use for transmission towers and is targeting rebuild to enable the power system to withstand 160 mph hurricane-force wind speeds.⁶⁵

For the transmission and distribution system assets, including substations, LUMA is proposing to complete a multi-stage inspection program. The initial stage includes visual "drive-by" inspection of key facilities, besides training all LUMA employees to enable sight inspection and identification of easily identifiable issues needing repair, and particularly of issues presenting public safety risks. LUMA is also planning to carry out a four-year

⁶³ Table D-1, Exhibit 1, Petition, p. 88.

⁶⁴ *Id.*

⁶⁵ Technical Conference Recording, May 4, 2021, morning session, 2:33:27 – 2:36:39.



comprehensive inspection and inventory program for all transmission and distribution system facilities, during which it will complete detailed safety and engineering inspection, and will document asset condition, repair/replacement needs, and priority for completing needed work. LUMA has indicated that its capital spending and repair prioritization and sequencing plans will be dynamic and will adjust based on specific findings of its detailed inspection program. LUMA has budgeted repair and rebuild activities that reflect needed upgrades to current codes and standards. LUMA has further indicated that when rebuilding any given asset, it will also include grid modernization and transformation equipment upgrades, needed to improve the operational flexibility and resiliency of the power system and to enable connection and integration of distributed energy resources, as envisioned in the Approved IRP, and as required under Act 17-2019.

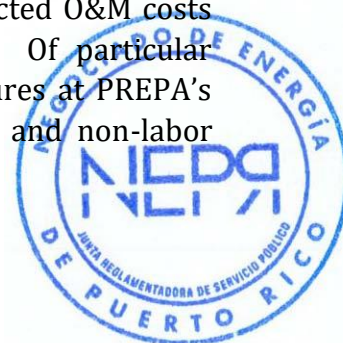
The Energy Bureau **FINDS** that LUMA's Petition appropriately identifies, prioritizes, and sequences capital and operational expenditures to improve reliability and resiliency of the Puerto Rico power system. However, much of the Initial Budget development was based on limited data about the asset condition of the underlying T&D system. The Energy Bureau recognizes that upon Service Commencement, LUMA will have improved visibility of the state of the power system and will be better positioned to address data quality and data deficiencies identified in the Gap Assessment. The Energy Bureau expects that subsequent budget filings will build upon progress made in repairing the system, and upon improved data available through LUMA's actions, expenditures, and remediation programs.

3. Generation Budget

As part of its Petition, LUMA did not include a Generation Budget prepared by PREPA, as envisioned under the OMA, but instead provided its own Generation Budget which it developed based on the 2017 Rate Order and subsequent analysis completed by LUMA. As part of the April 22 Motion, LUMA submitted revised Initial Budgets which included a Generation Budget developed by PREPA. The Energy Bureau's analysis is based on the latter filing.

Under the OMA, LUMA is not responsible for operating, maintaining, or managing generation assets, but is responsible for system operations and dispatch, and for the planning function, including Integrated Resource Planning, power supply planning, transmission and distribution planning, and other similar functions. LUMA's responsibility for operating the system interacts closely with PREPA or a subsequent entity's responsibility to operate generation, and to coordinate in such operation with LUMA dispatch instructions.

The Generation Budget submitted by PREPA/LUMA, includes projected O&M costs and projected capital expenditures during the Initial Budgets period. Of particular significance is a projected \$106.4 million in FY2022 for capital expenditures at PREPA's existing generation facilities, and an additional \$103.6 million for labor and non-labor



Operating and Maintenance expenditures.⁶⁶ Those costs do not include fuel costs or Power Purchase Operating Agreement (“PPOA”) costs, which are not part of the Initial Budgets under the OMA.

For the projected capital expenditures, PREPA testified at the Technical Conference that such expenditures are needed to maintain its existing generating assets at current levels of performance and availability. PREPA testified that the planned capital expenditures would neither improve plant availability or efficiency performance, nor would they add to the operational life of the generation assets. Instead, the planned capital expenditures are intended to maintain resource adequacy, and do not affect planned operations or retirement decisions as outlined in PREPA’s IRP, as approved by the Energy Bureau.

PREPA representatives testified that major lead-time items in the list of plant maintenance activities have been ordered, and that planning, and engineering needed to carry out the plant maintenance is on track.

As part of its Front-End Transition activities, LUMA completed site visits, interviews with plant managers and operating personnel, review of plant records, and visual inspection of PREPA generating facilities. LUMA provided key findings of its plant inspections and site visits as part of its Initial Budgets filing and supporting material. At the Technical Conference, LUMA testified that its plant inspection findings are consistent with PREPA’s representations about the need for Initial Budgets planned capital expenditures to maintain generating asset performance at current levels and to maintain resource adequacy.

The PREPA Generation Budget addresses only FY2022, and does not reflect budgeted expenditures, either capital or operating, for FY2023 or FY2024. As PREPA currently has an outstanding Request for Proposals for new generation resources, the Generation Budget also does not reflect anticipated changes in PREPA generation costs due to contracting and commercial operation of new renewable generation resource anticipated to be procured through the RFP process.

The Energy Bureau has reviewed PREPA’s proposed generation budget and **FINDS** that the corresponding allocations are **reasonable**.

4. Regulatory Compliance

As part of the analysis conducted, the Energy Bureau evaluated whether the Initial Budgets are consistent and in compliance with past rate orders and other directives issued by Energy Bureau. In the Initial Budgets⁶⁷, and in testimony provided at the Technical

⁶⁶ Exhibit 1, April 22 Motion.

⁶⁷ See, generally, Petition, pp. 10-13.



Conference⁶⁸, LUMA stated that it developed the Initial Budgets to pursue numerous objectives, but that one of the stated objectives is to ensure compliance with Energy Bureau directives and orders, including previous rate orders. The Petition does not request a change in rates. The Energy Bureau shall also evaluate whether the Initial Budgets include a comparison of projected Operating, Capital, and Generation Budgets with PREPA's existing revenue requirement, and with PREPA's Fiscal Plan, as certified by FOMB.

a. The 2017 Rate Order

The 2017 Rate Order established the revenue requirement and allocated the revenues in rates for Fiscal Year 2018, and pertinent for this review, established a procedure for updating those rates for the years thereafter⁶⁹. In addition to setting new rates for PREPA, the Energy Bureau set forth numerous directives to ensure that PREPA appropriately and efficiently used the revenues collected from its customers.

The 2017 Rate Order stated that, "[t]o ensure that PREPA's rates do not exceed its reasonable costs, the [Energy Bureau] will review PREPA's budgets and spending annually, using two different procedures",⁷⁰ set forth in pertinent part below.

One procedure is the "three-year rate case", in which the Energy Bureau will review PREPA's cost reduction efforts, the physical condition of its system and its prior and prospective budgets for each major department.⁷¹

The other procedure is "one year budget examinations" that occur between each three-year rate case. The Energy Bureau stated that, "[t]he purpose of this procedure will be to update the prior year's revenue requirement. The updated revenue requirement will reflect (a) all feasible cost reductions that have been implemented in the prior year, along with those cost reductions that must be implemented in the next year; and (b) any known and measurable changes that we expect to occur in the upcoming fiscal year."⁷²

The Energy Bureau stated in subsequent sections that in each of the two types of procedures, the three-year rate case and the one-year budget examination: that changes of rates will be prospective only, that only in extraordinary situations, where PREPA proves it had no control of a cost increase (such as proof to include testimony from those individuals

⁶⁸ Exhibit 1, April 30 Motion, pp. 6-8.

⁶⁹ 2017 Rate Order, pp. 149 – 150, ¶¶ 439–444.

⁷⁰ *Id.*, p. 149, ¶ 439.

⁷¹ *Id.*, p. 149, ¶ 440.

⁷² *Id.*, p. 149, ¶ 441.



responsible for the areas that experienced the cost increase), will the Energy Bureau permit after-the-fact recovery of costs not pre-approved by the Energy Bureau, and that the approach of matching revenue requirements to budgets can work only if the budgets are reasonable, realistic and accurate. The Energy Bureau required for PREPA to prepare, before each proceeding (whether three-year or one-year), a set of departmental budgets applicable to the upcoming fiscal year for which a new revenue requirement is sought.⁷³

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The 2017 Rate Order was further clarified and modified by the Energy Bureau.⁷⁴ As part of the Order on Reconsideration, the Energy Bureau clarified several provisions of the 2017 Rate Order. One significant area of clarification was regarding the Energy Bureau's requirement that department level budgets be submitted. The Energy Bureau explained this requirement was due to its inability to disallow imprudent expenses after that spending had been incurred, and the Energy Bureau must induce PREPA to act prudently before incurring such expenses. The review and approval would provide the Energy Bureau with the tools necessary to ensure that PREPA's rates are just and reasonable and consistent with sound fiscal and operational practices, as required by Act 57-2014.⁷⁵ The Energy Bureau further stated that, "the increased detail required by the [Energy Bureau's] Final Resolution and Order should not represent an increased burden to PREPA, since PREPA may use the accounting system it uses in its day-to-day operations, rather than translating its actual budgets into an accounting system generally used in a rate review setting. The [Energy Bureau's] review of such budgets is aimed at ensuring that PREPA's management acts prudently and that PREPA's proposed expenditures respond to, and are consistent with, existing public policy and regulatory requirements."⁷⁶

The 2017 Rate Order and the Order on Reconsideration comprehensively set forth the Energy Bureau's directives and requirements regarding PREPA's rates and services. Except for those areas modified in this Resolution and Order, the provisions and requirements of the 2017 Rate Order and Order on Reconsideration will remain in effect.

In its Petition, LUMA is requesting approval for its budget for Fiscal Year 2022 under the one-year budget approval process in the 2017 Rate Order. In this respect, LUMA asserts that because it is not requesting an increase to approved base rates, the Energy Bureau may approve the Initial Budgets for Fiscal Year 2022 without requiring a full rate review, as authorized by Act 57-2014. In addition, LUMA asserts that it is not proposing to change the existing rate structure. The Energy Bureau finds that because LUMA is not proposing to increase existing base rates, nor changing the existing rate structure, a full rate review is

⁷³ *Id.*, pp. 149 – 150, ¶¶ 442–444.

⁷⁴ See Final Resolution, Case No. CEPR-AP-2015-0001, March 8, 2017. ("Order on Reconsideration").

⁷⁵ *Id.*, p. 11.

⁷⁶ *Id.*, p. 12.



unnecessary for the Energy Bureau to determine whether to approve the Initial Budgets as proposed.

In its Petition, LUMA compares its proposed Initial Budgets to the 2017 Rate Order⁷⁷ approved base rate revenue requirement to demonstrate that the requested Initial Budgets are within the approved base rates.⁷⁸ This is shown in Table 3-4, Titled Summary Comparison to Current Rate Order⁷⁹ and Revised Schedule 5-6, Titled 2017 Base Rate revenue Requirement Limit Comparison - Revised.⁸⁰ LUMA budgets for 2022, 2023 and 2024 are compared with the established PREPA Base Rate Revenue Requirement in the Rate Order,⁸¹ considering efficiencies and sales forecasts for those years. The tables reflect lower proposed Initial Budgets than approved base rate levels. In making this assessment, Fuel and Purchase Power and CILT and Subsidies are excluded from base rates because they are Pass Through Expenses, outside of base rates. For Fiscal Year 2022, the year for which the Energy Bureau approval is requested, Table 3-4 reflects a forecast for Fiscal Year 2017 of \$3,452 million based on the 2017 Rate Order, which when reduced by \$226 million for CILT and Subsidies and \$1,937 million for Fuel and Purchased Power results in base rates of \$1,289 million. LUMA proposes lower Initial Budgets for Fiscal Year 2022 of \$1,183 million. Table 5.6 reflects the same comparison. Revised Schedule 5-6 reflects LUMA proposed Total Non-Federally Funded Transmission & Distribution and Generation Expenditures amount of \$1,183 million for Fiscal Year 2022 which is lower than the PREPA Base Rate Revenue Requirement of \$1,289 million. It should be noted, however, that LUMA efficiencies⁸² are not included for Fiscal Year 2022 and for Fiscal Years 2023 and 2024, efficiencies are not certain.⁸³

In addition, as set forth in its filing, “LUMA has assumed the same Title III exit date for PREPA as projected in the Fiscal Plan, and access to debt may not be available immediately. LUMA has conservatively assumed that PREPA will not access debt financing until after Fiscal Year 2024. Therefore, all projected years within the Initial Budgets are on a cash basis with no debt servicing costs.”⁸⁴ LUMA indicates that it will update these assumptions in future annual budgets and present any necessary requests for approvals to the Energy

⁷⁷ Order on Reconsideration, Attachment 1.

⁷⁸ *Id.*, p. 44.

⁷⁹ Exhibit A, April 6 Motion, p. 3.

⁸⁰ *Id.*, p. 2.

⁸¹ *Id.*, p. 2, Revised Schedule 5-6, Line 17.

⁸² *Id.*, Revised Schedule 5-6, Line 9.

⁸³ Technical Conference Recording, May 4, 2021, afternoon session, 2:19:05.

⁸⁴ *Id.*, p. 41.



Bureau.⁸⁵ As such, for Fiscal Years 2023 and 2024 LUMA may need to include debt service costs in the budgets.

Upon review of the above, the Energy Bureau **DETERMINES** that LUMA's Petition submitted for review does not increase the overall revenue requirements thus no change is required to the existing base rates or the current rate structure approved in the 2017 Rate Order.

b. The 2020 IRP

The 2020 IRP established an Action Plan guiding generation system changes over the next twenty (20) years and outlines the resource additions and retirements to maintain and improve generation system reliability and to achieve Puerto Rico's energy public policy goals through the expansion of renewable energy resources. It also identified key transmission system improvements and additions answering to the effects of Hurricanes Irma and Maria, PREPA's forecasted electricity demand, and targeted energy efficiency demand reductions, among other items. The key evaluation criteria in reviewing LUMA's Initial Budget, focuses on whether the capital spending initiatives outlined in the budget comply with the IRP Final Order. The evaluation considers if the Initial Budgets are sufficiently detailed and justified to allow the Energy Bureau to assess projected O&M and capital expenditures for:

- The System Remediation Plan;
- Generation Budget;
- Generation Budget for any new PPOA's achieving COD during the Initial Budgets period;
- Fuel costs for legacy generation, including cost impacts of use (or non-use) of LNG at San Juan Units 5 & 6;
- Capital expenditures for Legacy Generation Assets;
- Operations and Maintenance costs incurred by LUMA in operating the T&D system (Operations Budget), and by PREPA in providing functions not covered by LUMA through the OMA;
- Shared services costs for services provided by LUMA, including demonstration of no cross-subsidization;
- Vegetation Management Plan; and
- Emergency Response Plan.

LUMA states in its Petition that the activities described in the Initial Budgets will lay the groundwork, and incorporate solutions for the grid modernization, digital transformation and renewable energy called for in the IRP. LUMA discusses in both its

⁸⁵ *Id.*



Petition and during the Technical Conference how it intends to comply with public policy, including the IRP and related Renewable Portfolio Standards (“RPS”) for transforming Puerto Rico’s electrical system. LUMA indicated that as it completes planned inspections, rebuilds, upgrades and hardening of the transmission and distribution facilities, and of substations, it will also identify additional equipment installations to facilitate energy system transformation and modernization, and to facilitate interconnection and integration of renewable energy resources. LUMA indicated that it is in the process of calibrating power flow models for the Puerto Rico system, and will have both modeling capability and an analytic team in place to timely complete interconnection studies and evaluation of renewable resource bids and projects that bid into PREPA’s current Request for Proposals for new renewable energy resources. LUMA indicates that as interconnection and renewable integration needs arise, it will re-prioritize transmission and distribution system upgrades as needed to accommodate interconnection and energy delivery from new solar and wind generation projects, both at a distributed and utility scale of production.

Recognizing that LUMA is not responsible for generation, including energy transformation initiatives in the Initial Budgets demonstrates intended compliance with the IRP. As LUMA assumes responsibility for system generation, transmission and distribution planning upon Service Commencement, the Energy Bureau expects that it will take necessary additional actions to assure IRP compliance, and to target compliance with Act 17-2019 RPS requirements. To ensure such compliance, the Energy Bureau will require annual reports from LUMA on its progress in meeting the goals and milestones in the IRP and the RPS. With the first annual report, the Energy Bureau will require a long-range plan setting forth LUMA’s plan for meeting these goals.

c. Electric Distribution System Planning Initiative

The Energy Bureau established Distribution Planning Guidelines and requirements under Case No. NEPR-MI-2019-0011,⁸⁶ which include several activities designed to improve the distribution system, and to ready the system for interconnection and integration of both distributed and utility-scale renewable generation. A key activity outlined in that proceeding focuses on inspection and inventory of existing distribution facilities, to develop data needed to complete an accurate feeder hosting capacity study. As the Initial Budget includes substantial capital expenditures and programmatic expenditures directed to the distribution system, the Energy Bureau’s review includes an assessment of compliance with the Distribution Planning Guidelines.

LUMA states in its Petition that its Initial Budgets will lay the groundwork and incorporate solutions where effective for the goals of sustainable energy transformation and

⁸⁶ See In Re: Process for the Adoption of Regulation for Distribution Resource Planning, Case No. NEPR-MI-2019-0011.



follow the Principles for Distribution System Planning set forth by the Energy Bureau in Case No. NEPR-MI-2019-0011.

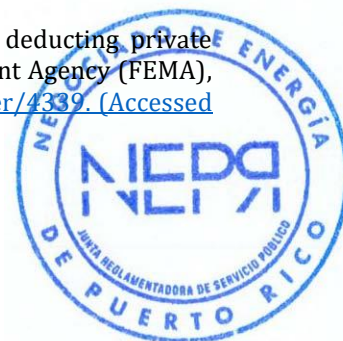
LUMA testified that the identification and prioritization of distribution circuit rebuild, and hardening projects focuses initially on the worst-performing circuits, and on public safety. LUMA has developed its Petition and project sequencing to repair, upgrade and harden the distribution feeder and substation system. To date, LUMA testified that its budgeted capital expenditure program is based primarily upon asset inspection work completed by the engineering firm Sargent & Lundy, on behalf of PREPA. LUMA reviewed the Sargent & Lundy inspection work, completed inspections itself for several feeder and substation systems, and concluded that its own inspections confirmed validity of the Sargent & Lundy work. Upon Service Commencement, LUMA proposes to complete an inspection program, phased over the next four years, during which it plans to complete detailed engineering inspection and inventory of PREPA's distribution feeder and substation facilities. The Initial Budget reflects LUMA's forecast of rebuild expenditures, but LUMA has indicated that the capital program will be adjusted as it obtains more detailed and more reliable information about the underlying asset condition and physical state of the power system.

The Energy Bureau will require that LUMA provide a report on the status of the goals reflected in Case No. NEPR-MI-2019-0011, in its next rate or budget request.

5. Use of Federal Funds and Non-Federal Funds

Recovery and improved reliability and resiliency of the Puerto Rico power system depends critically upon efficient use of federal funding made available following the extensive damage to the system caused by Hurricanes Irma and Maria. The Federal Emergency Management Agency ("FEMA"), under DR-4339, identified the cost to restore the electric infrastructure at \$10.704B. From these amounts, \$9.459B will be available from FEMA public assistance funding⁸⁷ to assist Puerto Rico in repairing damaged power facilities, and to enable rebuilding of facilities to current codes and standards. LUMA has proposed expenditures and described its plan for administering federal funding activities and is finalizing completion of the Federal Funding Procurement Manual and the Non-Federal Funding Procurement Manual, outlined in the OMA. A key aspect of the Energy Bureau's review of the Initial Budgets focuses on whether outlined activities are positioned to maximize utilization of available federal funding and whether expenditure prioritization focuses on obtaining the maximum legally permissible amount of federal funding support.

⁸⁷ Actual FEMA funding available to PREPA under DR-4339 amounts to \$9.459B after deducting private insurance payments and 10% state matching requirement. Federal Emergency Management Agency (FEMA), *Puerto Rico Hurricane Maria (DR-4339-PR)*. Retrieved from <https://www.fema.gov/disaster/4339>. (Accessed May 29, 2021).



The availability of federal funding, and efficient use of FEMA's DR-4339 allocation of approximately \$10.5B in public assistance funding support, will be critical to the successful repair, rebuild and modernization of the Puerto Rico power system.

Under the terms of the OMA, LUMA will assume responsibility for managing the federal funding process upon Service Commencement. LUMA has contracted with the specialized firm Innovative Energy Management (IEM), to provide expert assistance in managing that process, as IEM has substantial experience in successfully working to obtain FEMA funding following storm and disaster events on the U.S. Mainland.

LUMA's Initial Budgets rely heavily upon the use and maximization of federal funding support. Of planned FY2022 capital expenditures of \$774.5 million, \$650.4 million are targeted to receive federal funding support.⁸⁸ In FY2023, LUMA's budget includes \$1.05B of federal funding support, out of total capital expenditures of \$1.2B.⁸⁹ Similarly, in FY2024, LUMA's proposed budget includes \$1.2B of federal funding support out of total capital expenditures of \$1.3B.⁹⁰

In support of its federal funding responsibilities, LUMA testified at the Technical Conference it has worked with PREPA to reconcile its planned federal funding initiatives with PREPA's 10 Year Infrastructure Plan. LUMA testified that PREPA had adjusted its infrastructure plan to match LUMA's prioritization and sequencing for repairing upgrading and hardening T&D facilities. LUMA indicated that current contractors to PREPA such as Burns & McDonnell will be retained, in a supporting role, to ensure seamless transition of the federal funding responsibility and activity. LUMA also testified, through its IEM subcontractor, that, in addition to the FEMA 428 public assistance funding, it will be pursuing other available federal funding sources such as 404 or 406 funding for hazard mitigation, and that maximization of federal funding resources will be a key component of its overall capital spending and prioritization process.

The Energy Bureau finds that LUMA's Petition is designed to maximize the use of federal funding, and is targeted to repair, rebuild and harden the transmission, distribution and substation system to improve reliability and resiliency, and to reduce customer outages. However, there remains uncertainty about the exact federal funding procedures that will be implemented by LUMA, and about the efficiency of transition of federal funding responsibility from PREPA to LUMA. As such, the Energy Bureau requires LUMA to provide monthly reporting of federal funding activity, so the Energy Bureau may monitor such

⁸⁸ Schedule 5.1, Exhibit 1, Petition, p. 65.

⁸⁹ *Id.*

⁹⁰ *Id.*



activity and may require further action, as needed, to ensure that ratepayers are protected and are receiving the greatest possible benefit from available federal funding sources.

While LUMA's procurement manuals are still undergoing finalization, the Energy Bureau's review includes an assessment of proposed procurement guidelines, principles, and processes, and assessment of whether proposed procurement practices and guidelines reflect efficient purchasing activities, and reflect non-discriminatory, competitive procurement and contracting.

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The Energy Bureau has reviewed the activities that LUMA intends to fund with federal Public Assistance ("PA") and **FINDS** that the proposed plan is reasonable on a short term-basis, however the Energy Bureau expects from LUMA to explore distributed approaches to increase system stability so it can better withstand a weather event. Especially when the Puerto Rico Department of Public Housing is making available up to \$300MM for the installation by homeowners and tenants of energy and water resilience facilities.⁹¹ The system visibility and controllability of distributed facilities now afforded by the requirements of the IEEE STD 1547-2018 , *e.g.*, distributed solar generation, distributed energy storage, demand-side-management measures, can preclude LUMA from having to rebuild a substation because the distributed alternative would achieve the same result for less cost, even when not accounting for externalities and the cost of not complying with the Renewable Portfolio Standard ("RPS").⁹²

6. Remediation Work to Achieve Compliance with Current National Codes and Standards.

The Bipartisan Budget Act of 2018 (BBA)⁹³ contains important provisions regarding how the FEMA can implement disaster assistance in Puerto Rico and the U.S. Virgin Islands' recovery after Hurricane María. BBA section 20601 amended the Stafford Act, which authorizes FEMA to provide assistance in order to repair and reconstruct destroyed public facilities:

Sec. 20601. The Administrator of the Federal Emergency Management Agency may provide assistance, pursuant to **section 428 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act** (42 U.S.C.

⁹¹ Programs allow the installation of standard photovoltaic system with battery back-up, <https://cdbg-dr.pr.gov/en/download/community-energy-and-water-resilience-installations-program/> (Accessed May 29, 2021).

⁹² See Act 82-2010, Section 2.14(f) for penalties for noncompliance with the RPS.

⁹³ Public Law 115-123 115th Congress (February 9, 2018) Retrieved from <https://www.congress.gov/115/plaws/publ123/PLAW-115publ123.pdf>. (Accessed May 29, 2021).



5121 *et seq.*), for critical services as defined in section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for the duration of the recovery for incidents DR-4336-PR, DR-4339-PR, DR-4340-USVI, and DR-4335-USVI to—

- (1) replace or restore the function of a facility or system to industry standards without regard to the pre-disaster condition of the facility or system; and
- (2) replace or restore components of the facility or system not damaged by the disaster where necessary to fully effectuate the replacement or restoration of disaster-damaged components to restore the function of the facility or system to industry standards.

Through the Petition, LUMA proposes to federally fund robust initiatives to repair and bring to current safety codes and standards distribution poles and conductors.⁹⁴ The activities proposed to be funded by the Initial Budgets for the electric distribution system will increase system resilience by restoring electric distribution poles to safety standards, improve power quality and reduce losses by deploying distribution automation, *e.g.*, VAR controls, and improve reliability by selectively installing feeder reclosers. For FY 2022 the total spending proposed by LUMA for electric distribution activities total \$236.6 million, of which \$199.2 million (84%) is federally funded.⁹⁵

The Initial Budgets will be funding an aggressive vegetation management program⁹⁶ to ensure clearances for transmission and distribution facilities comply with safety codes and standards. It also allocates \$11.3 million during fiscal year 2022, \$12.5 million during fiscal year 2023, and \$11.9 million during fiscal year 2024⁹⁷ for activities that ensure substation grounding compliance to the National Electrical Safety Code and IEEE Standards.

The Energy Bureau has reviewed the proposed budget allocations for activities that will bring the electric system in compliance with national codes and standards **FINDS** that the corresponding allocations are reasonable and takes effective advantage of the new dispositions of section 428 of the Stafford Act resulting from the BBA.

⁹⁴ Appendix D, Table D-3, Petition, p. 134. During the Technical Conference, Mr. Cortez stated that restoration of electric distribution poles was to follow safety requirements per the current National Electrical Safety Code (NESC ANSI C2).

⁹⁵ Schedule 5.4, Exhibit 1, Petition, p. 70.

⁹⁶ See Section B 2(a). titled Vegetation Management of this Resolution and Order.

⁹⁷ Exhibit 1, Petition, Table D.4, p.191.



7. PREPA's Debt Service, Bad Expense, Pension Costs.

PREPA's 2020 FOMB Certified Fiscal Plan allocated \$127M under Labor Operating Expense for Pension and Benefits costs in FY 2021, of which \$67M was projected for pension contributions.⁹⁸ FOMB projections starting in FY 2022 do not include debt service expenses or pension debt under labor expenses. LUMA, as part of its Petition, did not provide for pensions debt or PREPA's debt service, however it did provide for bad debt expenses.⁹⁹ FOMB must, therefore, coordinate the emergence from Title III to enable LUMA to appropriately account for these expenses.

Significant legacy debt and pension obligations led PREPA to seek restructuring its legacy obligations through a voluntary petition under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), in which the FOMB is negotiating these obligations for PREPA.

8. Improved Efficiencies and Resulting Savings

One of the most persuasive components of LUMA's proposal when it was selected as the successful bidder in the competitive solicitation for an entity to operate Puerto Rico's electric grid was the efficiencies, resulting on savings, that LUMA was expected to implement.¹⁰⁰ LUMA has stated the savings it will bring have not been quantified and will not be known immediately. The Energy Bureau will require that LUMA provide annual reports on the implementation of improved efficiencies and quantification of resulting savings. The measures that the Energy Bureau expects will deliver the most meaningful results are as follows:

- Contracting of services will be more efficient.¹⁰¹ The Energy Bureau expects LUMA to implement a process to issue Requests for Proposals more efficiently, identify winning proposals and contract in a cost-effective manner.

⁹⁸ PREPA's 2020 FOMB Certified Fiscal Plan, p. 68.

⁹⁹ Exhibit 1, Petition, p. 41.

¹⁰⁰ Partnership Committee Report, *Puerto Rico Public-Private Partnership for the Electric Power Transmission and Distribution System*, May 15, 2020.

¹⁰¹ Technical Conference Recording, May 4, 2021, afternoon session, 1:30:53 – 1:36:18.



- Revenue collections from past due bills will be more effectively addressed.¹⁰² The Energy Bureau expects LUMA to diligently address collection of money due.
- Transmission line losses will be minimized.¹⁰³ This is another area where LUMA has indicated it will have a positive impact. The losses that occur in transmission between generation and the load must be minimized. The Energy Bureau expects this to occur utilizing engineering technology to make transmission more efficient and innovative thinking utilizing advanced grid technologies such as distributed generation to reduce the distance from generation to the end user.
- Energy theft will be reduced.¹⁰⁴ The Energy Bureau expects LUMA to implement effective measures to minimize energy theft.
- Customers without meters or with malfunctioning meters will be addressed.¹⁰⁵ LUMA has also indicated this will be diligently addressed.
- The electric distribution infrastructure will become more efficient. This is an important area to be addressed. Pursuing additional revenue from third parties, such as telecommunication companies, who utilize electric poles for their attachments. This extends to timely removal of those facilities when poles are to be removed. Use of poles by multiple parties will have the additional benefit of reducing the number of poles throughout the Puerto Rico electric service area.¹⁰⁶

LUMA asserts that it expects these efficiencies to offset other expenses and therefore, enable LUMA to improve electric service without the necessity of modifying rates. The Energy Bureau expects LUMA to provide further information on the status of these programs and their associated financial benefits. LUMA has not yet quantified the financial benefits that will potentially arise from the improved efficiencies it expects to provide. The Energy Bureau deems it essential to quantify the impact of the efficiencies that LUMA is set to impart

¹⁰² *Id.*, 1:24:23 – 1:25:55.

¹⁰³ *Id.*, 1:17:36 – 1:19:57, and 1:19:57 – 1:21:02.

¹⁰⁴ *Id.*, 1:22:17 – 1:23:20, and 1:27:26 – 1:27:48.

¹⁰⁵ *Id.*, 1:21:08 – 1:22:15, and 1:27:48 – 1:30:52.

¹⁰⁶ *Id.*, 1:36:18 – 1:42:56, 1:48:46 – 1:51:38, 1:54:34 – 2:02:55, and 1:57:50.



as the T&D System Operator and as such, the Energy Bureau will require LUMA to report on the quantification of said savings arising from implemented efficiencies.

9. Energy Public Policy.

LUMA references compliance with the Approved IRP and Renewable Portfolio Standards (RPS) as one of the considerations that went into development of the over 600 programs that constitute its Initial Budgets.¹⁰⁷ The Energy Bureau observes this is reflected in several programs that respond to requirements in the IRP, including specific system hardening initiatives and plans to meet the renewable resource goals in the IRP.¹⁰⁸ The Energy Bureau is optimistic that based on the numerous references to being guided by and meeting the requirements of the IRP in Initial Budgets planning, this component of Puerto Rico's grid transformation will meet the goals and requirements set forth. Because of its importance, the Energy Bureau requires for LUMA to report annually on its plans and the status of its achievement in this area, as set forth in further detail below.

In its Initial Budgets proposal, LUMA references its consideration of clean energy, and grid modernization in its preliminary budget planning and some programs it is developing.¹⁰⁹ The Energy Bureau finds, however, that specific programs for the achievement of these goal are sparse. The Energy Bureau is cognizant of LUMA's primary goal to remediate that upgrade the electric system under our goal of safe and reliable electric service at reasonable rates, however, LUMA must vigorously pursue clean energy and grid modernization goals. The Energy Bureau is also aware of LUMA's responsibility to file an IRP every three years. Clean energy and advanced grid technology goals must be addressed aggressively. The Energy Bureau requires reporting by LUMA in these areas in the next section.

LUMA must transform Puerto Rico's electric system in accordance with clean energy goals set forth in Puerto Rico's public policy and the best interests of the environment and consumers. In its Petition, LUMA asserts that it is aware of the significant goals and requirements in this area, however, the Energy Bureau is not confident that actual programs have been developed to achieve these goals. Most areas that are referenced in this respect are reflected in the development of studies, under which, programs are expected to be developed.¹¹⁰ The Energy Bureau reminds LUMA that clean energy milestones are approaching, for example the goal of 40% renewable energy by 2040. LUMA must diligently

¹⁰⁷ Exhibit 1, Petition, p. 2.

¹⁰⁸ *Id.*, pp. 3, 58, 170, 410.

¹⁰⁹ *Id.*, pp. 2, 22, 39, 109.

¹¹⁰ *Id.*, pp. 349, 362, 364.



plan to achieve these goals now and set forth a clear path for how that will be achieved. In its next budget filing, the Energy Bureau requires LUMA to provide a report delineating relevant clean energy policies and milestones, and its short and long-range plan for achieving this, with quarterly progress reports thereafter.

LUMA demonstrates a strong commitment to customer service, customer satisfaction and service quality in its Initial Budgets. This is shown in the three phase Budget development process that LUMA utilized as well as in the Department Level Operation and Maintenance activities that informed the activities that comprised the programs provided for in LUMA's Initial Budgets. LUMA also shows a strong commitment to compliance with applicable federal and industry standards. These commitments constitute a pervasive theme throughout LUMA's Initial Budgets proposal, and the Energy Bureau is satisfied that LUMA will diligently pursue a high level of performance in these areas, to improve and maintain the high standards of power quality, system reliability and resilience we expect. On a pragmatic note, these areas are reflected in the performance metrics, under which, LUMA's performance in specific areas will be assessed and that performance will form the basis for a determination of the incentive compensation to which LUMA may be entitled.

10. Customer Impact.

LUMA has addressed customer impact as part of its Petition. Among the numerous customer service areas that LUMA states it will focus are billing services, personal, automated, and interactive communication with customers, as well as incorporating customer input to improve overall delivery of electric service. LUMA's Petition discusses the positive impact that the initiatives LUMA has developed are intended to have on customer satisfaction and customer service. LUMA asserts that the transition of management and operation of the transmission and distribution system will not disrupt customer service and that implementation of the new policies, procedures and plans, will improve the state and operation of the transmission and distribution system and its reliability and service to customers.¹¹¹ LUMA has also emphasized its focus on customer and employee safety.¹¹² Many aspects of LUMA's provision of electric service will be assessed through performance metrics, under which, LUMA can earn performance-based compensation. This will give LUMA additional incentive to achieve outstanding customer service. In addition, it is expected that the efficiencies LUMA provides will benefit customers through improved service within existing base rates.

The Energy Bureau is confident that LUMA has appropriately focused its Initial Budgets on customer service and its impact on customers as System Operator. This is

¹¹¹ *Id.*, pp. 36 - 37.

¹¹² *Id.*, p. 2.



reflected in both the system remediation and transformation upon which LUMA has focused as well as direct improvements in customer services.

IV. Conclusion

The 2017 Rate Order requires that the proposed annual budgets submitted for review do not increase the overall revenue requirements thus no change be required to the existing base rates or the current rate structure approved by the 2017 Rate Order. As a threshold question, the Energy Bureau must determine whether the Initial Budgets, as proposed, comply with these criteria in accordance with that set forth in the 2017 Rate Order. The Energy Bureau **FINDS** that said criteria is satisfied.

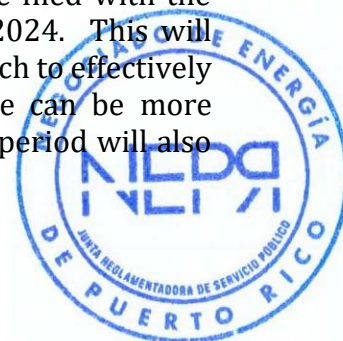
The Energy Bureau must then evaluate whether the components of the Initial Budgets have been appropriately identified and prioritized. The Initial Budgets must provide for effective remediation and transformation of Puerto Rico's electric system. LUMA has explained the process it followed to gather sufficient information from PREPA and to develop its Initial Budgets utilizing a bottom-up approach, and to apply its expertise to appropriately identify and prioritize the Initial Budget components. Upon review of LUMA's submissions and its responses to the questions posed in the three-day Technical Conference, the Energy Bureau **FINDS** that the Initial Budgets are appropriate to accomplish those goals.

In addition, the proposed Initial Budgets must comply with the various regulatory requirements set forth in statute, regulation, and policy. LUMA has addressed these issues, regarding the 2017 Rate Order, the Approved IRP, and other necessary requirements. LUMA has also provided assurances that going forward, it will continue to advance the goals those regulatory requirements address. Because of the importance of these issues, the Energy Bureau **REQUIRES** LUMA comply with strict reporting requirements as it moves forward.

The Energy Bureau has considered the extent to which LUMA reviewed the ongoing Title III process in developing its Petition. The impacts of this process are, as of yet, not fully known. Based on the information provided to as part of this proceeding, the Energy Bureau **FINDS** that LUMA has appropriately addresses these uncertainties in the development of its Initial Budget.

Based in the current circumstances, under the authority provided to the Energy Bureau, the Energy Bureau **APPROVES** the Fiscal Year 2022 Initial Budget proposed by LUMA, subject to the conditions established as part of this Resolution and Order. In addition, in the next and subsequent reviews, historic information will become available that will be useful to adequately gauge the effectiveness of LUMA's planning and implementation.

A full rate review, in which a comprehensive review of a utility rate proposal is undertaken, and base rates are set for the upcoming fiscal period must be filed with the Energy Bureau not later than August 1, 2023, for rates effective July 1, 2024. This will provide the Energy Bureau with the necessary historic information with which to effectively set rates. In addition, the efficiencies that LUMA is expected to provide can be more accurately quantified and their impact reflected in future rates. That time period will also



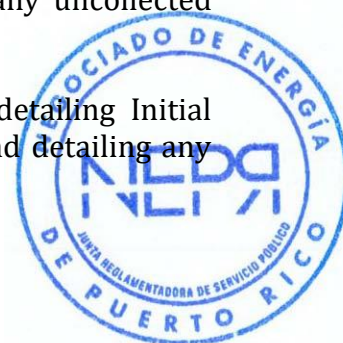
enable the changing circumstances that accompany LUMA's operation of the electric system, as compared with PREPA's operation of the system, to be reflected as part of the process. Other unique circumstances can be better reflected in a subsequent rate filing, including the impact of Federal Funding and the Title III process. The Energy Bureau notes that this requirement does not preclude LUMA from filing for rate approval in a full rate proceeding at an earlier date in time, nor does it preclude the Energy Bureau's determination that an annual rate review requested at an earlier date in time may require a full rate review.

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A key element of the Energy Bureau's review of the Initial Budgets focused on whether priority items and capital expenditure programs are funded, and whether the Petition, and overall framework maximizes utilization of available federal funding. In developing capital spending programs for the System Remediation Plan and the Initial Budgets, LUMA completed gap analyses of the current PREPA electrical system and of planning and operational practices and procedures in place at PREPA. LUMA developed capital spending sequencing and prioritization based on several principles designed to identify the most critical projects and spending programs needed to improve safety, reliability, and customer satisfaction. The Energy Bureau finds that LUMA's Initial Budgets filing appropriately prioritize capital investments and spending initiatives, with the goals of making high priority investments first, so that safety and reliability of the Puerto Rico electric system is substantially improved, and so that the power system is more resilient in the face of any future hurricane and/or earthquake events.

Upon completing its review of the Petition, the LUMA personnel testimony and comments from Puerto Rico stakeholders the Energy Bureau **CONDITIONALLY APPROVES** LUMA's Initial Budgets, as included in **Attachment A** of this Resolution and Order. The Energy Bureau's approval of LUMA's Initial Budgets is subject to several conditions including, but not limited to, requiring LUMA to periodically report on revenue collections and expenditures. Said conditions are necessary to monitor LUMA and thus preserve consumer protections and the public interest.

The Energy Bureau's approval of the Initial Budgets is **CONDITIONED** upon robust reporting requirements. The Energy Bureau will require LUMA to periodically provide detailed financial statements, annual budget status, and report on its performance in obtaining federal funds, and any and all other material financial impacts. The Energy Bureau has identified several other requirements for LUMA to fulfill during the Interim Period and going forward.


1. LUMA shall maintain detailed accounting of annual expenses for FY 2022 and FY 2023 and account for the use of funds within the budget for that timeframe. LUMA is to explain annually any differences between accounts expenses and approved budgets and request approval for cost recovery of any uncollected funds.
2. LUMA shall provide quarterly reports to the Energy Bureau detailing Initial Budget spending amounts, broken out by spending initiative, and detailing any

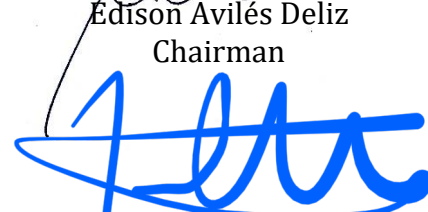


variances from the Initial Budget filing. These reports should also include detail allowing the Energy Bureau to assess funding, withdrawals and outstanding balances in the Operating Budget, the Capital Budget and the Generation Budget Accounts outlined in the OMA.

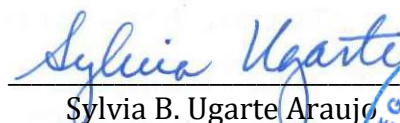
3. LUMA shall submit to the Energy Bureau, on a monthly basis, summary reports outlining Federal Funding activity. These summary reports shall include aggregated information showing the cumulative amount of federal funding applied for by LUMA and/or PREPA, broken out by the source of such funding, the incremental amount of federal funding applied for in the reporting month, and both the cumulative and monthly amount of federal funding received. The monthly reports should also include a list of Project Worksheets (PWs) currently under review by federal agencies, a list of new PWs submitted in the reporting month, and for each reported PW, a status report describing its stage of review by FEMA and other federal government agencies. The PWs shall also be summarized by spending category (substation, distribution, transmission, etc.).
4. LUMA shall provide annual reports on the implementation of improved efficiencies and quantification of resulting savings.
5. Not later than October 31, 2021, LUMA shall submit to the Energy Bureau the Fiscal Year 2023 proposed budgets following the annual budget examination process delineated in the 2017 Rate Order. The filing requirements will be specified by the Energy Bureau in a future Resolution and Order.
6. Not later than August 1, 2023, LUMA shall file a formal rate review for rates effective July 1, 2024, utilizing the most recent historic test year in accordance with the requirements set in the 2017 Rate Order. During these proceedings LUMA must demonstrate and quantify the projected operational efficiencies claimed in its petition for Initial Budgets approval; these efficiencies are expected to favorably impact customer rates.

Be notified and published.


Edison Avilés Deliz
Chairman


Ferdinand A. Ramos Soegaard
Associate Commissioner


Lillian Mateo Santos
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 May 31, 2021. Associate Commissioner Ángel R. Rivera de la Cruz dissented with a written opinion. I also certify that on May 31, 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, May 31, 2021, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today May 31, 2021.



Sonia Seda Gaztambide
Clerk



Attachment A
Approved Initial Budget
5.1 Initial Budgets Summary¹
(\$ in 000s)

		1	2	3	4
		<i>Schedule Reference</i>	2022	2023	2024
1	Transmission & Distribution				
2	Operating Expenditures	5.2	514,502	502,004	447,922
3	Other ²	5.3	110,976	120,715	134,141
4	Total Operating Budget		\$ 625,478	\$ 622,719	\$ 582,064
5	Federally Funded Capital Expenditures ³	5.5	650,365	1,050,549	1,205,645
6	Non-Federally Funded Capital Expenditures ³	5.5	124,101	126,893	135,783
7	Total Capital Budget		\$ 774,467	\$ 1,177,442	\$ 1,341,428
8	Generation				
9	Operating and Capital Expenditures ³		210,000	200,000	175,000
10	Shared Services Provided by LUMA to GenCo ³		78,092	78,873	79,661
11	Total Generation Budget³		\$ 288,092	\$ 278,873	\$ 254,661
11	Other				
12	Bad Debts	5.3	59,351	56,115	51,863
13	PREPA Legacy	5.3	22,816	22,237	21,749
14	Bankruptcy and Advisor Costs	5.3	63,472	6,818	6,885
15	Total Other	5.3	\$ 145,639	\$ 85,170	\$ 80,497

Note:

1 Exhibit 1, Petition, p. 65

2 Includes 2% reserve for Excess Expenditures.

3 As the Generation Budget was not provided by PREPA, LUMA has included an allocation for the Generation Budget aligned with the 2017 Rate Order and historical allocations. As part of the April 22 Motion, LUMA filed PREPA's Generation Budget.



5.2 Transmission & Distribution Operating Expenditures¹

(\$ in 000s)

	1	2	3	4	5	6
				FY22		
		Customer Service	Operations	Utility Transformation	Support Services	2022
Labor						
1 Salaries, Wages and Benefits		41,281	120,933	20,130	40,014	222,358
2 Total Labor		41,281	120,933	20,130	40,014	222,358
Non-Labor						
3 Materials & Supplies		346	18,302	616	1,331	20,595
4 Transportation, Per Diem, and Mileage		701	18,093	1,865	1,930	22,588
5 Property & Casualty Insurance		-	-	-	56,743	56,743
6 Retiree Medical Benefits		-	-	-	-	-
7 Security		250	-	-	19,548	19,798
8 IT Service Agreements		-	3,211	-	34,785	37,996
9 Utilities & Rents		20	9,000	2	13,507	22,529
10 Legal Services		600	500	-	8,670	9,770
11 Communications Expenses		328	1,712	2	2,762	4,804
12 Professional & Technical Outsourced Services		23,695	22,596	6,813	35,804	88,908
13 Vegetation Management		-	51,301	-	-	51,301
14 Regulation and Environmental Inspection		-	-	-	4,000	4,000
15 Other Miscellaneous Expenses		1,055	12,742	760	14,800	29,357
16 Other Expenses					315	315
17 Total Non-Labor / Other Operating Expense		26,995	137,457	10,057	194,195	368,704
18 Subtotal Labor and Non-Labor/Other Operating Expense:		68,276	258,389	30,187	234,209	591,062
19 Shared Services Provided by LUMA to GenCo ²						(76,561)
20 Future Efficiencies ³						-
21 Total Operating Expense		68,276	258,389	30,187	234,209	514,502

Notes:

1 Exhibit 1, Petition, pp. 66-68.

2 OMA requirement for Shared Services to be within Generation Budget, however associated costs are included in Department Forecast above.

3 Reduction required for 2017 Rate Order Limit with future efficiencies that may be achieved by additional LUMA operational efficiencies and reallocation of ratepayer funds. Refer to Section 2.2 for further information.

4 Above figures do not include 2% reserve for Excess Expenditures.



5.2 Transmission & Distribution Operating Expenditures¹

(\$ in 000s)

	1	7	8	9	10	11
		FY23				
		Customer Service	Operations	Utility Transformation	Support Services	2023
Labor						
1 Salaries, Wages and Benefits		46,403	133,801	26,703	43,847	250,754
2 Total Labor		46,403	133,801	26,703	43,847	250,754
Non-Labor						
3 Materials & Supplies		350	18,174	562	1,393	20,479
4 Transportation, Per Diem, and Mileage		708	30,043	1,618	2,264	34,633
5 Property & Casualty Insurance		-	-	-	57,310	57,310
6 Retiree Medical Benefits		-	-	-	-	-
7 Security		253	-	-	19,744	19,996
8 IT Service Agreements		-	3,243	-	38,454	41,698
9 Utilities & Rents		20	9,090	2	13,642	22,754
10 Legal Services		606	505	-	10,522	11,633
11 Communications Expenses		331	1,729	2	2,790	4,852
12 Professional & Technical Outsourced Services		19,932	22,822	6,854	37,745	87,353
13 Vegetation Management		-	51,814	-	-	51,814
14 Regulation and Environmental Inspection		-	-	-	4,040	4,040
15 Other Miscellaneous Expenses		2,460	12,098	653	15,894	31,105
16 Other Expenses					318	318
17 Total Non-Labor / Other Operating Expense		24,660	149,518	9,690	204,117	387,985
18 Subtotal Labor and Non-Labor/Other Operating Expense:		71,063	283,319	36,393	247,964	638,739
19 Shared Services Provided by LUMA to GenCo ²						(77,326)
20 Future Efficiencies ³						(59,409)
21 Total Operating Expense		71,063	283,319	36,393	247,964	502,004

Notes:

1 Exhibit 1, Petition, pp. 66-68.

2 OMA requirement for Shared Services to be within Generation Budget, however associated costs are included in Department Forecast above.

3 Reduction required for 2017 Rate Order Limit with future efficiencies that may be achieved by additional LUMA operational efficiencies and reallocation of ratepayer funds. Refer to Section 2.2 for further information.

4 Above figures do not include 2% reserve for Excess Expenditures.



5.2 Transmission & Distribution Operating Expenditures¹

(\$ in 000s)

	1	13	14	15	16	17
		FY24				
		Customer Service	Operations	Utility Transformation	Support Services	2024
Labor						
1 Salaries, Wages and Benefits		46,209	134,453	29,979	43,639	254,280
2 Total Labor		46,209	134,453	29,979	43,639	254,280
Non-Labor						
3 Materials & Supplies		353	18,073	629	1,407	20,462
4 Transportation, Per Diem, and Mileage		715	23,938	1,819	2,287	28,759
5 Property & Casualty Insurance		-	-	-	57,884	57,884
6 Retiree Medical Benefits		-	-	-	-	-
7 Security		255	-	-	19,941	20,196
8 IT Service Agreements		-	3,276	-	37,532	40,808
9 Utilities & Rents		20	9,181	2	13,779	22,982
10 Legal Services		612	510	-	10,627	11,750
11 Communications Expenses		334	1,747	2	2,818	4,900
12 Professional & Technical Outsourced Services		18,438	23,050	6,949	38,122	86,560
13 Vegetation Management		-	52,332	-	-	52,332
14 Regulation and Environmental Inspection		-	-	-	4,080	4,080
15 Other Miscellaneous Expenses		1,847	12,219	776	16,423	31,265
16 Other Expenses					321	321
17 Total Non-Labor / Other Operating Expense		22,576	144,325	10,177	205,221	382,298
18 Subtotal Labor and Non-Labor/Other Operating Expense:		68,785	278,778	40,156	248,860	636,579
19 Shared Services Provided by LUMA to GenCo ²						(78,100)
20 Future Efficiencies ³						(110,557)
21 Total Operating Expense		68,785	278,778	40,156	248,860	447,922

Notes:

¹ Exhibit 1, Petition, pp. 66-68.

² OMA requirement for Shared Services to be within Generation Budget, however associated costs are included in Department Forecast above.

³ Reduction required for 2017 Rate Order Limit with future efficiencies that may be achieved by additional LUMA operational efficiencies and reallocation of ratepayer funds. Refer to Section 2.2 for further information.

⁴ Above figures do not include 2% reserve for Excess Expenditures.



5.3 Other¹

(\$ in 000s)

	1	2	3	4
	Notes	2022	2023	2024
Transmission & Distribution Other				
1 LUMA Fees	2	100,686	110,675	125,183
2 2% Reserve for Excess Expenditures	3	10,290	10,040	8,958
3 Total Transmission & Distribution Other		110,976	120,715	134,141
Other				
4 Bad Debts	4	59,351	56,115	51,863
5 PREPA Legacy	5	22,816	22,237	21,749
6 Title III Costs	6	38,722	2,020	2,040
7 FOMB Advisor Costs	6	20,000	-	-
8 P3A Transaction Costs	6	4,750	4,798	4,845
9 Total Other		145,639	85,170	80,497

Notes:

- 1 Exhibit 1, Petition, p. 69
- 2 Please refer to Section 2.2 for further information on LUMA Fees.
- 3 Excess Expenditures reserve is 2% as per the approved OMA.
- 4 Bad Debts is consistent with Methodology used by PREPA in 2020 Fiscal Plan, with Revenues multiplied by 2%, 1.9%, and 1.8% for 2022-2024, respectively.
- 5 PREPA legacy includes an estimate of all ongoing PREPA residual costs; including the direct labor costs of resources retained.
- 6 Bankruptcy and advisor costs are confirmed with applicable entity and consistent with amounts certified by the FOMB within the 2020 PREPA Fiscal Plan, unless estimates updated by applicable entities.



5.4 Improvement Portfolios - Summary¹

(\$ in 000s)

	1	2	3	4	5	6	7
		FY 2022					
		Federally Funded Capital	Non- Federally Funded Capital	Operating Expense	Total	System Remediation Plan	Non-System Remediation Plan
Improvement Portfolio							
1 Customer Service		82,653	13,064	19,467	115,184	38,509	76,675
2 Distribution		199,224	35,310	2,093	236,628	165,936	70,692
3 Transmission		235,983	1,675	2,420	240,078	185,634	54,444
4 Substations		89,097	18,909	6,845	114,851	63,727	51,124
5 Control Center & Buildings		9,299	3,199	7,240	19,738	17,421	2,317
6 Enabling		17,036	41,275	90,437	148,748	127,909	20,840
7 Support Services		4,320	8,236	91,234	103,790	21,445	82,345
8 Total²		637,613	121,668	219,735	979,017	620,581	358,435
9 <i>Reference</i>		<i>Schedule 5.5</i>	<i>Schedule 5.5</i>		<i>Appendix D</i>		

Note:

- 1 Exhibit 1, Petition, pp. 70-72
2 Total does not include 2% reserve for Excess Expenditures, inflation, or O&M Non-Capital



5.4 Improvement Portfolios - Summary¹

(\$ in 000s)

	1	8	9	10	11	12	13
		FY 2023					
		Federally Funded Capital	Non- Federally Funded Capital	Operating Expense	Total	System Remediation Plan	Non-System Remediation Plan
Improvement Portfolio							
1 Customer Service		122,000	16,805	28,986	167,792	44,070	123,722
2 Distribution		311,237	37,810	2,483	351,531	238,254	113,277
3 Transmission		456,780	1,675	4,620	463,075	269,580	193,495
4 Substations		80,967	21,234	5,845	108,046	73,752	34,294
5 Control Center & Buildings		44,678	5,219	6,208	56,105	50,851	5,254
6 Enabling		2,165	29,947	85,288	117,401	111,543	5,858
7 Support Services		1,925	10,483	91,361	103,768	13,325	90,443
8 Total²		1,019,752	123,173	224,791	1,367,717	801,375	566,342
9 <i>Reference</i>		<i>Schedule 5.5</i>	<i>Schedule 5.5</i>		<i>Appendix D</i>		

Note:

¹ Exhibit 1, Petition, pp. 70-72

² Total does not include 2% reserve for Excess Expenditures, inflation, or O&M Non-Capital



5.4 Improvement Portfolios - Summary¹

(\$ in 000s)

	1	14	15	16	17	18	19
		FY 2024					
		Federally Funded Capital	Non- Federally Funded Capital	Operating Expense	Total	System Remediation Plan	Non-System Remediation Plan
Improvement Portfolio							
1 Customer Service		122,000	15,482	27,426	164,908	42,455	122,453
2 Distribution		477,350	37,810	3,093	518,253	278,154	240,100
3 Transmission		419,890	1,675	5,580	427,145	219,960	207,185
4 Substations		80,597	22,134	4,190	106,921	72,627	34,294
5 Control Center & Buildings		55,475	6,169	5,915	67,560	58,479	9,081
6 Enabling		1,703	38,629	81,012	121,344	117,022	4,322
7 Support Services		1,700	8,598	84,607	94,905	10,525	84,380
8 Total²		1,158,715	130,497	211,823	1,501,035	799,222	701,813
9 <i>Reference</i>		<i>Schedule 5.5</i>	<i>Schedule 5.5</i>		<i>Appendix D</i>		

Note:

- 1 Exhibit 1, Petition, pp. 70-72
2 Total does not include 2% reserve for Excess Expenditures, inflation, or O&M Non-Capital



5.5 Improvement Portfolios - Total Capital Expenditures¹

(\$ in 000s)

	1	2	3	4	5	6	7	9	10	11
		Total			Fed Funded Contributions			Net Non Federally Funded		
		2022	2023	2024	2022	2023	2024	2022	2023	2024
1										
2	Improvement Portfolio									
5	Customer Service	95,717	138,805	137,482	82,653	122,000	122,000	13,064	16,805	15,482
6	Distribution	234,534	349,047	515,160	199,224	311,237	477,350	35,310	37,810	37,810
8	Transmission	237,658	458,455	421,565	235,983	456,780	419,890	1,675	1,675	1,675
7	Substations	108,006	102,201	102,731	89,097	80,967	80,597	18,909	21,234	22,134
4	Control Center & Buildings	12,499	49,897	61,645	9,299	44,678	55,475	3,199	5,219	6,169
9	Enabling	58,312	32,112	40,332	17,036	2,165	1,703	41,275	29,947	38,629
10	Support Services	12,556	12,408	10,298	4,320	1,925	1,700	8,236	10,483	8,598
11	Subtotal	759,281	1,142,926	1,289,212	637,613	1,019,752	1,158,715	121,668	123,173	130,497
12	Other									
13	2% Reserve for Excess Expenditures	15,186	23,087	26,303	12,752	20,599	23,640	2,433	2,488	2,662
14	Inflation	-	11,429	25,913	-	10,198	23,290	-	1,232	2,623
15	Total Capital Expenditures	774,467	1,177,442	1,341,428	650,365	1,050,549	1,205,645	124,101	126,893	135,783

Note:

¹ Exhibit 1, Petition, p. 73



5.6 2017 Rate Order Base Rate Revenue Requirement Limit Comparison¹

(\$ in 000s, or otherwise indicated)

1		2		3		4		5	
		Schedule Reference		2022		2023		2024	
1									
2	PREPA Forecasted Sales Without Efficiencies (kWh)				16,271,516,696		16,066,156,200		15,973,683,885
3	Load Reduction Due to Efficiencies (kWh)				(406,749,115)		(1,135,276,543)		(1,855,936,826)
4	PREPA Forecast Sales (kWh)				15,864,767,581		14,930,879,657		14,117,747,059
5	Expenditures Limit based on PREPA Projected Sales				\$ 1,184,321		\$ 1,114,605		\$ 1,053,904
6	Transmission & Distribution Operating Expenditures	5.2			\$ 514,502		\$ 561,413		\$ 558,479
7	Transmission & Distribution Other	5.3			\$ 110,976		\$ 120,715		\$ 134,141
8	Capital Budget - Non-Federally Funded	5.5			\$ 124,101		\$ 126,893		\$ 135,783
9	Future Efficiencies ²	5.2			\$ -		\$ (59,409)		\$ (110,557)
10	Generation Budget ³	5.1			\$ 288,092		\$ 278,873		\$ 254,661
11	Other (Bad Debts, PREPA Legacy, Bankruptcy and Advisor Costs)	5.3			\$ 145,639		\$ 85,170		\$ 80,497
12	Total Non-Federally Funded Transmission & Distribution and Generation Expenditures				\$ 1,183,310		\$ 1,113,655		\$ 1,053,005
13	Surplus / (Deficit)				\$ 1,011		\$ 951		\$ 899
14	Total Non-Federally Funded Transmission & Distribution and Generation \$/kWh				\$ 0.0746		\$ 0.0746		\$ 0.0746
15	Updated Actual Load (Nov 1, 2019 to Oct 30, 2020) (kWh)				16,079,046,283		16,079,046,283		16,079,046,283
16	Illustrative \$/kWh assuming Consistent Load (Line 10 divided by Line 13) ⁴				\$ 0.0736		\$ 0.0693		\$ 0.0655
2017 Rate Case					Revised ⁵	Previously Reported ⁶	Variance		
17	PREPA Projected Sales (kWh)				17,268,325,180	17,268,325,180	-		
18	PREPA Base Rate Revenue Requirement (\$)				1,289,098	1,287,998	1,100		
19	PREPA Base Rate Rev Req (\$/kWh)				\$ 0.0747	\$ 0.0746		\$	0.0001

Note:

1 Exhibit A, April 6 Motion, p. 2.

2 Reduction required for 2017 Rate Order Limit with future efficiencies that may be achieved by additional LUMA operational efficiencies and reallocation of ratepayer funds. Refer to Section 2.2 for further information.

3 Generation budget includes Shared Services provided by LUMA to GenCo.

4 Demonstrates a decreased \$/kWh rate if FY 2022-2024 load remains consistent with November 1, 2019 to October 30, 2020 actual load.

5 Revised PREPA Base Rate Revenue Requirement from revisions made in the March 8, 2017 Final Resolution did not include Subsidies (\$1,289,098).

6 Previously Reported PREPA Base Rate Revenue Requirement (\$1,287,998) = \$1,476,724 less \$188,726 (Subsidies)



5.7 PREPA FY2022 GenCo Budget¹

Description	PREPA Budget
GenCo	
1) Labor Operating Expenses (GenCo)	
Salaries & Wages	\$ 32,670,736
Pension & Benefits	18,052,711
Overtime Pay	10,328,778
Overtime Benefits	1,175,831
Add: Net change in positions	2,933,500
Total Labor Operating Expenses (GenCo)	65,161,556
2) Non-Labor Operating Expenses (GenCo)	
Materials & Supplies	18,000,000
Transportation, Per Diem, and Mileage	1,500,000
Utilities & Rents	1,949,876
Communications Expenses	-
Professional & Technical Outsourced Services	5,000,000
Other Miscellaneous Expenses	12,000,000
Total Non-Labor Operating Expenses (GenCo)	38,449,876
3) NME (GenCo)	
Aguirre	22,300,000
Costa Sur	3,700,000
Palo Seco	9,895,000
San Juan	44,240,000
Hidrogas y Cambalache	14,105,000
División de Generación	11,648,568
Servicio de Regadío	500,000
Total NME (GenCo)	106,388,568
Total Generation Budget (before Shared Services)	210,000,000

Note:

¹ Exhibit 1, April 22 Motion.



**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 LUMA's Initial
Budgets.**

Associate Commissioner Ángel R. Rivera de la Cruz, dissenting

Today, the majority of the Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order through which, among other things, approved LUMA's¹ Initial Budgets. For the reasons expressed herein, I dissent.

* * *

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-2015-0001.² I also expressed that, as a result, I would have ordered LUMA to file a revenue requirement determination request, in accordance with the schedules listed in Regulation 8720.³ After analyzing the information presented in the instant proceeding (or the lack thereof), I must reiterate 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.

Although it didn't happen in the instant case, such rate review process should occur as soon as possible (preferably before the evaluation of next year's budgets) since the data used to determine the current base rate revenue requirement is stale, especially in the aftermath of all the changes the electric system has undergone in the last several years, including the transition to a private operator of the T&D System.⁴ As such, the system is currently being operated based on seven-year-old data and assumptions that differ greatly from the current state of the system. This will soon be exacerbated by the pending transition to private operators of the Puerto Rico Electric Power Authority's ("PREPA") legacy generation assets.

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

² 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, p. 13.

³ *Id.*, pp. 13 – 14.

⁴ *Id.*, p. 11.



Through the April 5 Order, the majority of the Energy Bureau decided to initiate the instant proceeding as a non-adjudicative process. Although I disagree with such determination, I must evaluate the Initial Budgets in light of the nature of this proceeding. After a careful analysis of the information contained in the instant docket, I believe that **due to the gaps in the supporting information and documentation submitted by LUMA, a more thorough analysis of the costs presented in the proposed Initial Budgets is required to ensure they are reasonable and in the best public interest.**

As part of the original filing, LUMA submitted an Excel document that contained a summary of its budget proposal.⁵ On April 6, 2021, LUMA filed an updated version of the Excel document.⁶

On the original filing, LUMA based its Initial Budget on the expected revenues for FY2022. To calculate the expected revenues, LUMA 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).⁷ 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 (*i.e.* 15,864,767,581 kWh).⁸ LUMA used this “Expenditures Limit” as the basis and constraint to its budget process.⁹

LUMA’s original filing did not contain a Generation Budget. Instead, LUMA “allocated” a generation budget by subtracting from the 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).¹⁰ The remainder amount (\$288,092,000) was completely allocated to generation.¹¹ This amount consisted of \$210,000,000 for Operating and Capital Expenditures and \$78,092,000 for Shared Services Provided by LUMA to GenCo.¹²

Through the April 6 Motion, LUMA updated the Expenditure Limit to \$1,184,321,000, based on the Final Resolution of March 8, 2017 in Case No. CEPR-AP-2015-0001. However,

⁵ *Petition for Approval of Initial Budgets and Related Terms of Service*, Attachment “Section 5_Initial Budgets Schedules_FINAL.xlsx”, February 24, 2021 (“February 24 Motion”).

⁶ *Motion Submitting Clarification to Portions of LUMA’s Initial Budgets* (“April 6 Motion”), Exhibit B.

⁷ February 24 Motion, “Section 5_Initial Budgets Schedules_FINAL.xlsx”, Tab “5.6- Reconciliation to RR”, Cells E31 – E39.

⁸ *Id.*, Cells E9 – E11.

⁹ *Id.*, Cell E19.

¹⁰ *Id.*, Cells E11 – E19.

¹¹ *Id.*

¹² *Id.*, Tab “5.1 Summary”, Cells F18 – F20.



LUMA did not alter the \$1,183,310,000 total non-federally funded T&D Budget nor the \$288,092,000 allocated Generation Budget.

Although throughout the instant proceeding LUMA submitted responses to several requests for information issued by the Energy Bureau, there are still several shortcomings in the information filed in support of LUMA's Initial Budgets. As an example, in its May 3, 2021 presentation, LUMA expressed that its estimates regarding salaries and wagers "were based on a median market range salary and wage plan for employees informed using PREPA historical wages and departmental evaluations of positions with support from Human Resources".¹³

The supporting documents filed by LUMA contained head counts and the total salaries and benefit costs associated with them.¹⁴ However, the departmental costs were manually input data. LUMA did not provide the data and methodology used to calculate the total costs associated with labor. Therefore, it was not possible to validate LUMA's estimates. It is important to note that LUMA estimated total Labor Costs in the amount of \$222,358,000.¹⁵ As expressed before, the estimated total non-federally funded T&D Budget for FY2022 is \$1,183,310,000. Furthermore, LUMA estimated the total Operating Expense for FY2022 as \$514,502,000.¹⁶ Hence Labor Costs represent approximately 19% of total non-federally funded T&D Budget and approximately 43% of the Operating Expense for FY2022. This is a significant portion of the proposed Initial Budgets for which a determination of reasonableness cannot be achieved, since LUMA's estimates could not be validated.

Moreover, 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 filed, as Exhibit 1, a Generation Budget prepared by PREPA.¹⁷ The proposed Generation Budget was \$210,000,000 (before shared services), which is identical to the amount LUMA allocated in its proposed Initial Budgets.¹⁸

¹³ Motion Submitting Presentation for Technical Conference, Exhibit 1, Slide 40, April 30, 2021. LUMA used this slide deck to present its Initial Budgets during the May 3, 2021 Technical Conference.

¹⁴ Motion in Compliance with Resolution and Order of April 5, 2021 and Submitting Responses to Request for Information ("April 12 Motion"), File "CONFIDENTIAL RFI-LUMA-MI-21-0004-210405-PREB-009 Attachment 2 .xlsm", Tabs labeled "Budget Templates", April 12, 2021. Total Labor costs are shown on Tab "5.2.1 T&D Op Exp".

¹⁵ February 24 Motion, "Section 5_Initial Budgets Schedules_FINAL.xlsx", Tab "5.2 - T&D Op Exp", Cell D19.

¹⁶ *Id.*, Cell I30.

¹⁷ April 22 Motion, p. 1, ¶ 3.

¹⁸ *Id.*, Exhibit 1.



We must point out that, prior to the April 22 Motion, LUMA expressed that it “was provided a draft requested Generation Budget from the Generation Directorate which **included a significant increase in spending over the previous year’s budget.**”¹⁹ According to LUMA, “[b]ased on a detailed review of PREPA’s proposed O&M budget increase, LUMA failed to see the justification of such expenditures.”²⁰

Notwithstanding the above, PREPA prepared, and LUMA presented, an O&M Generation Budget that was identical to the one allocated by LUMA in its proposed Initial Budgets. Neither LUMA nor PREPA provided supporting documentation or information regarding the proposed Generation Budget.²¹

During the May 3, 2021 Technical Hearing, PREPA’s witness, Mr. Fernando Padilla, confirmed that the original Generation Budget draft was higher than the final one. After being questioned, Mr. Padilla expressed that PREPA’s final Generation Budget was heavily influenced by the self-imposed LUMA budget limit.²² Furthermore, Mr. Padilla expressed that PREPA adjusted the programs that compose the O&M portion of the Generation Budget, to reflect the \$210,000,000 limit, alleging it is what PREPA could execute during FY2022.²³

As stated before, the Generation Budget also contain an estimate of \$78,092,000 corresponding to Shared Services Provided by LUMA to GenCo. Although the February 24 Filing contains a general description and breakdown of the Shared Services to be provided by LUMA,²⁴ the underlying supporting data and calculation methodology was not provided. As such, we could not validate this estimate and as a result, cannot issue a determination of reasonableness regarding the proposed Shared Services Budget.

The proposed total Generation Budget is $\$210,000,000 + \$78,092,000 = \$288,092,000$, which represents approximately 24% of the total proposed non-federally funded T&D Budget (\$1,183,310,000). However, **since these estimates could not be validated, we are not in position to determine if the proposed Generation Budget is reasonable.**

¹⁹ April 12 Motion, “RFI-LUMA-MI-21-0004-210405-PREB-008”. Emphasis supplied. To that effect, in the February 24 Motion, LUMA expressed 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. February 24 Motion, Initial Budgets, Appendix F, p. 469.

²⁰ *Id.*

²¹ As part of the April 22 Motion, LUMA included as Exhibit 1 an Excel file titled “Exhibit 1 - GenCo Budget Request - NEPR-MI-2021-0004”. Although this file contains a breakdown of the major categories of the Generation O&M Budget, the underlying supporting data for these amounts was not provided.

²² May 3, 2021 Technical Conference, testimony of Mr. Fernando Padilla, at 1:25:50 – 1:26:45.

²³ May 3, 2021 Technical Conference, testimony of Mr. Fernando Padilla, at 1:22:46 – 1:25:38.

²⁴ February 24 Motion, Exhibit 1, pp. 63 – 64.



Although they are not part of this proceeding, LUMA's projected budgets for FY2023 and FY2024 are worrisome. As part of the projected budgets for FY2023 and FY2024, LUMA estimated reductions related to "Future Efficiencies" in the amount of \$59,409,000 and \$110,557,000, respectively.²⁵ When questioned regarding the basis or the source of such projected "Future Efficiencies", LUMA representatives stated that they don't come from specific programs, but rather represent the difference (*i.e.* the delta) between the projected budget and the expected projected revenues based on PREPA sales, as presented in the February 24 Motion.²⁶

To that effect, we must point out that the projected costs for the components of the LUMA proposed budget for FY2023 is equal to \$1,173,064,000, whereas the projected sales are \$1,113,654,000.²⁷ This represents a spending excess of \$59,409,000, which corresponds to LUMA's "Future Efficiencies" for FY2023. Similarly, for FY2024, the projected costs for the components of the LUMA proposed budget is equal to \$1,163,562,000, whereas the projected sales are \$1,053,005,000.²⁸ This represents a spending excess of \$110,557,000, which corresponds to LUMA's "Future Efficiencies" for FY2024.

As stated before, LUMA is yet to identify the manner in which to achieve the projected "Future Efficiencies". If such efficiencies are not attained, LUMA's expenses will likely surpass the expected revenues. This is an example of the shortcomings of the top-to bottom approach LUMA used in the development of its Initial Budgets.

With the February 24 Motion and the April 6 Motion, LUMA represented to the Energy Bureau that the budgets for FY2022, FY2023, and FY2024 are within the revenue limit established by the Energy Bureau in its January 10, 2017 Final Resolution in Case No. CEPR-AP-2015-0001. However, for FY2023 and FY2024, this statement is contingent to LUMA achieving the projected Future Efficiencies, even although at this time it is uncertain how LUMA will be able to attain that level of savings.

In my dissenting opinion of April 5, 2021 in the instant case, I stated that "[w]ith all the changes that have happened 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

²⁵ April 6 Motion, Exhibit B, File "EXHIBIT B Section 5_Initial Budgets Schedules Update Sch 5.6", Cells F16 and G16.

²⁶ May 3, 2021 Technical Conference, testimony of Mr. Kalen Kostyk, at 4:02:43 – 4:03:27.

²⁷ February 24 Motion, "Section 5_Initial Budgets Schedules_FINAL.xlsx", Tab "5.6 - Reconciliation to RR", Column F. The budget components are Transmission & Distribution Operating Expenditures, Transmission & Distribution Other, Capital Budget – Non-Federally Funded, Generation Budget and Other (Bad Debts, PREPA Legacy, Bankruptcy and Advisor Costs). The sum of these components for FY2023 is \$561,413,000 + \$120,715,000 + \$126,893,000 + \$278,873,000 + \$85,170,000 = \$1,173,064,000.

²⁸ *Id.*, Column G. The sum of the budget components for FY2024 is \$558,479,000 + \$134,141,000 + \$135,783,000 + \$254,661,000 + \$80,497,000 = \$1,163,562,000.



operator of the T & D system and the impact its contract is going to have on operational costs.”²⁹ I also stated that, this situation was exacerbated, among other things, by the fact that there is no visibility with respect of the actual generation costs.³⁰

Furthermore, I also stated that, 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”**.³¹

Without a clear path to achieving savings in the amount of \$59,409,000 and \$110,557,000 during FY2023 and FY2024, respectively, it is very likely that LUMA will be in a “less than compensatory” situation. Therefore, any resulting budget under those circumstances will not meet the just and reasonable standard. As such, if the majority of the Energy Bureau has not conducted a rate case before the evaluation of the FY2023 and/or FY 2024 LUMA budgets, it **must** conduct a more rigorous analysis than the one done for this proceeding, to ensure that the resulting FY2023 and/or FY 2024 budgets are sufficient to cover LUMA’s operation and that they meet the just and reasonable standard.

Finally, in my dissenting opinion with respect to the Resolution and Order of June 17, 2020 in Case No. NEPR-AP-2020-0002, through which the Energy Bureau issued LUMA’s Energy Compliance Certificate, I stated that “the Energy Bureau will have an opportunity to align revenues and actual prudent costs for the duration of the [LUMA Contract].”³² To that effect, and since the OMA considers the costs associated with the operation of the T&D system as pass-through expenses, I expressed that “the Energy Bureau, exercising its regulatory powers, should develop and establish a rate structure that provides for the yearly reconciliation of actual prudent costs and revenues.”³³ That way, the Energy Bureau “will not only maintain visibility of the costs and revenues related to the operation of the T&D

²⁹ April 5 Order, Associate Commissioner Ángel R. Rivera de la Cruz dissenting, p. 12.

³⁰ *Id.*

³¹ *Id.*

³² Resolution and Order, In Re: Certificate of Energy Compliance, Case No. NEPR-AP-2020-0002, June 17, 2020, Commissioner Ángel R. Rivera de la Cruz dissenting, p. 4.

³³ *Id.* As I expressed in my dissenting opinion of June 17, 2020 in Case No. NEPR-AP-2020-0002, true pass-through expenses are reconciled periodically in order to align revenues with actual costs. The specific timeframe for such reconciliation is driven by the nature of the expense. For example, under the current PREPA rate, the Energy Bureau reconciles fuel and purchased power costs every three months. The fuel (FCA) and purchased power (PPCA) reconciliation riders have a built-in adjustment provision that reconciles, during the following period (*i.e.* the following three months), any excess or deficiency in revenues incurred in the first two months of the current period and the last month of the prior period. For the costs associated with the Contribution in Lieu of Taxes and the other PREPA subsidies, such reconciliation is done on a yearly basis.




System, but will also ensure that prudent costs and revenues are aligned to better serve the public interest.”³⁴

Such opportunity is now wasted; squandered in favor of a fast-track proceeding designed to accommodate LUMA’s expected service commencement date. Not only we will not have a mechanism to reconcile annual costs, but also, we are not in position to determine that significant portions of the proposed Initial Budgets are reasonable.³⁵

As I stated before, due to the gaps in the supporting information and documentation submitted by LUMA, a more thorough analysis of the costs presented in the proposed Initial Budgets is required to ensure they are reasonable and in the best public interest. At this time, I cannot determine LUMA’s labor costs (\$222,358,000) and PREPA’s Generation Budget (\$288,092,000) are reasonable. I must point out that these two portions of the Initial Budgets total $\$222,358,000 + \$288,092,000 = \$510,450,000$, which represent approximately 43% of the total non-federally funded T&D Budget (\$1,183,310,000).

Therefore, I dissent.


Ángel R. Rivera de la Cruz
Associate Commissioner

In San Juan, Puerto Rico, on May 31, 2021.



³⁴ *Id.*

³⁵ In today’s Resolution and Order, as part of the conditions for approval of LUMA’s Initial Budgets, the majority of the Energy Bureau established that “LUMA shall maintain detailed accounting of annual expenses for FY 2022 and FY 2023 and account for the use of funds within the budget for that timeframe. LUMA is to explain annually any differences between accounts expenses and approved budgets and request approval for cost recovery of any uncollected funds.” Resolution and Order, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, May 31, 2021, p. 36. We must point out that the current PREPA rate structure doesn’t have a mechanism to recover any difference between the approved LUMA budgets and the actual expenses or to recover any uncollected funds to that effect. Such mechanisms can only be prospectively established through a rate review proceeding.