

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

**IN RE:** REVIEW OF THE PUERTO RICO  
ELECTRIC POWER AUTHORITY'S PHYSICAL  
SECURITY PLAN

**CASE NO.:** NEPR-MI-2020-0018

**SUBJECT:** Evaluation of LUMA's Physical  
Security Plan.

**RESOLUTION AND ORDER**

**I. Introduction**

Pursuant to Act 57-2014,<sup>1</sup> the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") has jurisdiction over the Puerto Rico Electric Power Authority ("PREPA") and all other electric service companies. Act 57-2014 states it is public policy that all consumers have the right to a reliable and stable electric service.<sup>2</sup> Based on the current state of the electric system, it is of the utmost importance that PREPA transforms the power grid and its operations to provide a more reliable and stable service to its clients.

Act 17-2019<sup>3</sup> broadened the Energy Bureau's authority and 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 cost, and promote the economic development of the Island."<sup>4</sup> Act 17-2019 also declared as public policy of the Government of Puerto Rico, among others, to maintain the electric power infrastructure in optimal conditions to ensure the reliability, resilience, and safety of the electric power service. To that effect, electric power service providers shall have to submit annual energy assurance plans, asset standardization plans, spare part inventories, and the best system maintenance practices plans.<sup>5</sup>

As the regulator of the energy sector in Puerto Rico, the Energy Bureau has the authority to review and approve the physical security plans for the electric infrastructure to ensure compliance with public policy.

<sup>1</sup> *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>2</sup> *Id.*, Article 1.2(l).

<sup>3</sup> *Puerto Rico Energy Public Policy Act*.

<sup>4</sup> *Id.*, Statement of Motives, p. 2.

<sup>5</sup> *Id.*, Section 1.5(9).



On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnerships Authority, LUMA ENERGY, LLC<sup>6</sup> as ManagementCo, and LUMA ENERGY SERVCO, LLC<sup>7</sup> as ServCo (collectively, "LUMA") entered into an Operation and Maintenance Agreement ("OMA") under which LUMA will manage PREPA's transmission and distribution system ("T&D System").<sup>8</sup> As a certified electric service company and the operator of the T&D System, LUMA is subject to compliance with applicable statutory and regulatory requirements.

Regarding a comprehensive Physical Security Plan, Section 4.2(h) of the OMA, states:

(h) Physical Security Plan, Data Security Plan and Vegetation Management Plan. ManagementCo shall develop and provide Administrator and PREB, for their information, with plans of action meeting Contract Standards that outline the procedures and actions necessary for maintaining (i) the physical security of the T&D System after the Service Commencement Date (the "Physical Security Plan"); (ii) data security, cyber security and information security relating to the T&D System (the "Data Security Plan"); and (iii) a comprehensive vegetation management program (the "Vegetation Management Plan"), each of which shall become effective on the Service Commencement Date; provided that if each of the Physical Security Plan, Data Security Plan, and Vegetation Management Plan are substantially complete on the Service Commencement Date, their finalization shall not delay the Service Commencement Date from occurring if all other Service Commencement Date Conditions have been satisfied or waived. To avoid doubt, the Data Security Plan shall be subject to the System Remediation Plan, including the approach for implementation outlined in Section 4.1(d) (*Front-End Transition Period Generally - Transition to Standard of Performance*).<sup>9</sup>

As expressed in the Energy Bureau's Resolution and Order of June 17, 2020, in Case No. NEPR-AP-2020-0002, any language depriving or restricting Energy Bureau's jurisdiction is not binding to the Energy Bureau.<sup>10</sup>

## II. Procedural Background

On December 31, 2021, the Energy Bureau issued a Resolution and Order through which it commenced the instant proceeding and scheduled a Pre-Filing Technical Conference

<sup>6</sup> See *In re: Request for Certification LUMA ENERGY, LLC*, Case No. NEPR-CT-2020-0008.

<sup>7</sup> See *In re: Request for Certification LUMA ENERGY SERVCO, LLC*, Case No. NEPR-CT-2020-0007.

<sup>8</sup> The execution copy of the OMA is available at <https://bit.ly/3xfAsmm>.

<sup>9</sup> See Section 4.2(h) of the OMA.

<sup>10</sup> See *In re: Certificate of Energy Compliance*, Case No. NEPR-AP-2020-0002, Resolution and Order, June 17, 2020.



to be held on January 20, 2021 (“December 31 Order”).<sup>11</sup> In the December 31 Order, the Energy Bureau established that the draft of the Physical Security Plan to be filed shall be aligned with principles beneficial to the public interest, including, but not limited to:

1. **Advance the Earlier Compliance with Public Policy** - The proposed plan shall discuss and show how it helps achieve the accelerated implementation of public policy such as reliability, resiliency, security, safety, and other similar mandates.
2. **Further Efficiencies and Savings** – The proposed plan shall discuss and show how it pursues the achievement of the highest level of efficiencies and savings.
3. **Impact to areas with significant issues** - The proposed plan shall discuss and show how it will address areas where vegetation management has a historic unsatisfactory record to achieve a positive impact to the electric service user.
4. **Synergies** - The proposed plan shall discuss and show how it will take advantage of effective timelines and sequencing of work to achieve the most cost-effective results.
5. **Benefits for the Public Interest** - The proposed plan shall discuss and show how its implementation will result in a clear benefit for the public interest and the ratepayers.

Finally, the Energy Bureau ordered PREPA and LUMA to ensure that any filing to be presented before the Energy Bureau under Section 4.2(h) of the OMA is aligned with: (i) the public policy established in Act 57-2014 and Act 17-2019 and (ii) the foregoing principles. The filing shall also show and discuss how it will take advantage of any previous plans done by PREPA. The Energy Bureau determined that, given the information to be handled under the instant case, all proceedings and filings are deemed confidential unless the Energy Bureau determines otherwise.

The Pre-Filing Technical Conference was held as scheduled.<sup>12</sup> During the Pre-Filing Technical Conference, LUMA representatives gave a presentation to the Energy Bureau and answered questions from the Commissioners.<sup>13</sup>

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<sup>11</sup> See Resolution and Order, *In Re: Review of the Puerto Rico Electric Power Authority’s Physical Security Plan*, Case No. NEPR-MI-2020-0018, December 31, 2020.

<sup>12</sup> The Pre-Filing Technical Conference was held remotely. Based on the confidential nature of the proceeding, the recording is made part of the confidential administrative file of this case.

<sup>13</sup> On January 21, 2021, LUMA filed with the Energy Bureau a copy of the presentation given during the Pre-Filing Technical Conference. See *Motion in Compliance with Order Submitting LUMA’s Presentation Given at the*



On May 28, 2021, LUMA filed before the Energy Bureau a document titled *Motion Submitting LUMA's Physical Security Plan* ("Motion"). A document titled *Physical Security Plan* was included as Exhibit 1 of the Motion ("Plan"). In the Motion, LUMA requests that the Energy Bureau consider and accept the Plan, maintain the Plan under seal of confidentiality in alignment with the December 31 Order and deem that LUMA complied with the December 31 Order.<sup>14</sup>

**III. Energy Bureau's Determination**

Based on the confidential nature of this proceeding, the Energy Bureau's review and analysis of the Plan is incorporated into Exhibit A of this Resolution and Order which shall be maintained confidential.

Upon review of the Motion and the Plan, the Energy Bureau **FINDS** that the Plan is a reasonable working tool to remediate the physical security gaps identified by LUMA and achieve a physical security completed state. Notwithstanding the foregoing, there are components of the Plan not completed or fully delineated. Therefore, the Energy Bureau **CONDITIONALLY APPROVES** the Plan, subject to compliance with the requirements established in Exhibit A of this Resolution and Order.

The Energy Bureau **INFORMS** it will establish a calendar for compliance monitoring hearings as part of this process at a later date.

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

Be it notified and published.



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*Pre-Filing Technical Conference on January 20, 2021 and Submitting the Same as Confidential Per the Energy Bureau's Order on the Confidentiality of this Proceeding, January 21, 2021.*

<sup>14</sup> See Motion p. 15.

  
Edison Avilés Deliz  
Chairman

  
Ángel R. Rivera de la Cruz  
Associate Commissioner

  
Lillian Mateo Santos  
Associate Commissioner

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
Sylvia B. Ugarte Araujo  
Associate Commissioner

### CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on July 2, 2021. I also certify that on July 2, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com, jmarrero@diazvaz.law and kbolanos@diazvaz.law. I also certify that today, July 2, 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 July 2, 2021.

  
Sonia Seda Gaztambide  
Clerk



**Exhibit A  
(Confidential)**

