

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

**IN RE: THE UNBUNDLING OF THE ASSETS  
OF THE PUERTO RICO ELECTRIC POWER  
AUTHORITY**

**CASE NO.: NEPR-AP-2018-0004**

**SUBJECT: Evidentiary Hearing Format and  
Guidelines; Appointment of Hearing  
Examiner.**

**RESOLUTION AND ORDER**

**I. Introduction**

On February 5, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("February 5 Order") in the instant case regarding the establishment of unbundled rates for wheeling. Through the February 5 Order, the Energy Bureau required the Puerto Rico Electric Power Authority ("PREPA") to file an unbundled rate proposal on or before May 10, 2021, along with other substantive elements and a procedural schedule.

On May 10, 2021, PREPA filed before the Energy Bureau a document titled *Motion in Compliance with Resolution and Order Entered on February 5<sup>th</sup> 2021* ("May 10 Motion in Compliance").

On May 13, 2021, the Energy Bureau issued a Resolution and Order whereby it determined that May 10 Motion in Compliance was insufficient and required PREPA to file sworn testimony and substantive amendments by May 17, 2021.

On May 17, 2021, PREPA filed a document titled *Motion in Compliance with Resolution and Order Entered on May 13, 2021* ("May 17 Motion in Compliance"). PREPA filed the direct testimony of Mrs. Margot Everett, Director of Guidehouse, and revised information related to the "default" retail energy supply credit of its proposal for an unbundled tariff.

On May 18, 2021, the Energy Bureau held an Initial Technical Conference, as scheduled in the February 5 Order.

On June 1, 2021, LUMA<sup>1</sup> commenced its operations pursuant to the *Puerto Rico Transmission and Distribution Operation and Maintenance Agreement* ("OMA") and the *Puerto Rico Transmission and Distribution Supplemental Terms Agreement* ("Supplemental

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<sup>1</sup> LUMA Energy, LLC as ManagementCo, and LUMA Energy ServCo, LLC as ServCo (together "LUMA")



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Agreement”).<sup>2</sup> Based on the above, the Energy Bureau ordered LUMA to appear as part of the instant case, determined LUMA shall be responsible for attending any matter related to the instant case and required LUMA and PREPA to coordinate any efforts to comply with the Energy Bureau requirements.<sup>3</sup>

On June 22, 2021, the Energy Bureau issued a Resolution and Order (“June 22 Order”), through which it modified the Procedural Calendar and established that it will hold an Evidentiary Hearing, beginning on Monday, July 19, 2021, until Wednesday, July 21, 2021. The Evidentiary Hearing shall be extended for the period of time the Energy Bureau deems appropriate.

Due to the technical nature of the hearing, it will be conducted in the English language. All participants must conduct themselves efficiently and in full compliance with the procedures set forth herein or established by the Energy Bureau at a later date. The Energy Bureau will provide a livestream with simultaneous translation to the Spanish language for the benefit of the stakeholders and the general public.

In order to facilitate a thorough evaluation, the Energy Bureau establishes these guidelines, which will apply to all participants in the Evidentiary Hearing. The purpose of this Evidentiary Hearing, and of the guidelines established herein, is to enable the Energy Bureau to conduct an effective and efficient process, while giving all parties a reasonable opportunity to question witnesses. It is the Energy Bureau’s intention to establish a productive and effective conversation through this process in which the parties are able to inform the Energy Bureau in order to put it in a position to make a determination on the matter at hand.

## II. Appointment of Hearing Examiner

Pursuant to Article 6.11 of Act 57-2014<sup>4</sup> and the provisions of Act 38-2017,<sup>5</sup> the Energy Bureau hereby appoints Dennis Seilhamer, *Esq.* as hearing examiner for the Evidentiary Hearing. As such, attorney Seilhamer shall have the power and the responsibility to preside over the Evidentiary Hearing, to administer oaths and to receive documents.

<sup>2</sup> On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnerships Authority (“P3A”), and LUMA entered into an Operation and Maintenance Agreement (“OMA”) and a Transmission and Distribution System Supplemental Terms Agreement (“Supplemental Agreement”) under which PREPA transferred operational control of its transmission and distribution system (“T&D System”) to LUMA. OMA retrieved from <https://www.p3.pr.gov/wp-content/uploads/2020/06/executed-consolidated-om-agreement-td.pdf>. (Last accessed July 14, 2021).

<sup>3</sup> See In Re: The Unbundling of the Assets of the Puerto Rico Electric Power Authority, Case No. NEPR-AP-2018-0004, Resolution and Order, June 10, 2021.

<sup>4</sup> Puerto Rico Energy Transformation and RELIEF Act, as amended.

<sup>5</sup> Uniform Administrative Procedures Act of the Government of Puerto Rico.



### III. Evidentiary Hearing Format and Schedule

The Energy Bureau established the witness schedule, which is included as Exhibit A of this Resolution and Order. **The Energy Bureau will strictly adhere to the time allocated to each witness or panel.** The identified witnesses are expected to be able to respond to cross-examination of his/her pre-filed testimony, discovery responses, or technical conference statements pertaining to each topic area. A morning and an afternoon session are scheduled for Monday, July 19, 2021, and afternoon sessions only are scheduled for Tuesday, July 20, 2021, and Wednesday, July 21, 2021. As noted in Exhibit A, the Energy Bureau is reserving the afternoon of Wednesday, July 21, 2021, to address issues and areas that were not fully covered on July 19, 2021, and July 20, 2021, as well as the potential for closing arguments as described below.

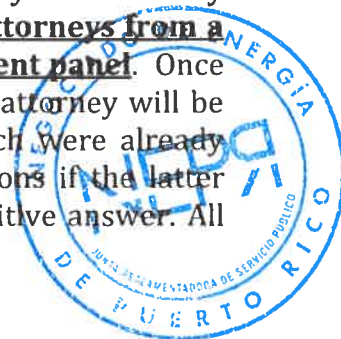
If a witness is unavailable at the designated date and time, it is the responsibility of the relevant party to inform the Energy Bureau through a timely filed motion. In such motion, the party will express the reasons for the unavailability and propose an alternative date for the witness to be available for examination. If a witness fails to attend at the designated date and time, the Energy Bureau may take all necessary administrative actions, including, but not limited to, striking the witness' testimony from the record.

### IV. Witness Examination

Each session will consist of questions directed at specific witnesses. Witnesses will not read their testimonies nor make an opening statement. All sessions will begin with questions by the Energy Bureau to the witnesses, followed by questions from intervenors and lastly questions from PREPA/LUMA. In light of the above, the Energy Bureau **ORDERS** intervenors to notify the Energy Bureau, **on or before July 16, 2021, at 5:00 p.m.**, whether they intend to ask questions to each witness during the sessions established in Exhibit A of this Resolution and Order.

All parties may ask any question to other intervenors' witnesses, regardless of whether such question is traditional cross-examination or "amicable" cross-examination. However, any "amicable" cross-examination of an intervenor's witness may only be for purposes of clarification or to educate the Energy Bureau and the parties. Redirect examination will be permitted at the Energy Bureau's discretion and only if there is time remaining on that particular panel.

With respect to questions asked by PREPA/LUMA or intervenors, **only one attorney** from each party may question a particular witness. However, **different attorneys from a party may ask questions provided they are addressed during a different panel.** Once an attorney asks questions in a specific panel, no changes in said party's attorney will be allowed. Intervenors must refrain from asking repetitive questions which were already asked during the proceeding; however, they may reference such questions if the latter question is related to their line of questioning and will not elicit a repetitive answer. All



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parties will have a minimum of five (5) minutes per panel to question the panel witnesses. Additional time will be allowed at the Energy Bureau's discretion, but always within the allotted time for the specific witnesses.

In answering questions, all persons must refrain from repeating answers previously given. Their response must be succinct but sufficient to adequately answer each question. Only the person to whom a question is addressed may answer that question.

## V. Closing Arguments

Should there be sufficient time on the final day of the hearings, the Energy Bureau may provide, at its discretion, an opportunity for each party to present closing arguments. The Energy Bureau will determine the order of such statements during the course of the hearing.


Be it notified and published.



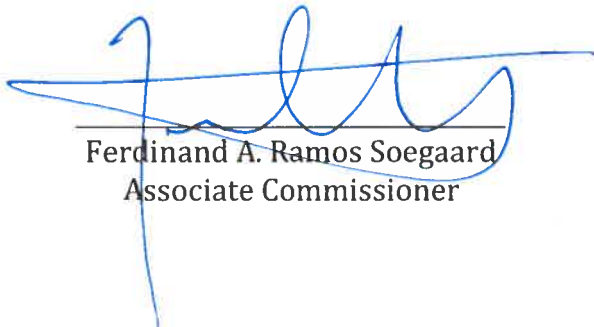
Edison Avilés Deliz  
Chairman



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 certify that the majority of the members of the Energy Bureau of the Puerto Rico Public Service Regulatory Board has so agreed on July 15, 2021. I also certify that on this date a copy of this Resolution was notified by electronic mail to: margarita.mercado@us.dlapiper.com; kbolanos@diazvaz.law, jmarrero@diazvaz.law, contratistas@jrsp.pr.gov, hriviera@jrsp.pr.gov, manuelgabrielfernandez@gmail.com, ramonluisnieves@rlnlegal.com; ccf@tcm.law. I also certify that today, July 15, 2021, I have proceeded with filing the Resolution issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today July 15, 2021.

  
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Sonia Seda Gaztambide  
Clerk



**EXHIBIT A**  
**SCHEDULE FOR EVIDENTIARY HEARING**  
**CASE NO. CEPR-AP-2018-0004**

**Session 1: Morning of July 19, 2021**

**Date and Time:** Monday, July 19, 2021; 9:00 a.m. – 12:00 noon

**Witness:** Margot Everett (Guidehouse on behalf of LUMA)

**Issues:** Cost of service study methods and data sources; implementation of unbundling tariffs

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**Session 2: Afternoon of July 19, 2021**

**Date and Time:** Monday, July 19, 2021; 1:00 p.m. – 4:00 p.m.

**Witnesses:** Ashley Engbloom (LUMA); Brian Walshe (LUMA)

**Issues:** Status of PREPA generating units and data collection capabilities

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**Session 3: Afternoon of July 20, 2021**

**Date and Time:** Tuesday, July 20, 2021; 1:30 p.m. – 4:30 p.m.

**Witnesses:** Gerardo Cosme Núñez (Independent Consumer Protection Office); Yandia Pérez (Puerto Rico Manufacturer's Association)

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**Session 4: Afternoon of July 21, 2021**  
**Follow-up / Residual Topics**

**Date and Time:** Wednesday, July 21, 2021; 1:30 p.m. – 4:30 p.m.

**Witnesses:** to be determined

