

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

NEPR

Received:

Aug 30, 2021

11:41 PM

IN RE:

IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY'S 10
YEAR INFRASTRUCTURE PLAN-
DECEMBER 2020

CASE NO. NEPR-MI-2021-0002

SUBJECT Request for Clarification of a Portion
of the Energy Bureau's Resolution and Order
entered on August 20, 2021 and Submission of
Updated List of Projects and Twenty-Nine Scopes
of Work

**MOTION REQUESTING CLARIFICATION OF A PORTION OF THE ENERGY
BUREAU'S RESOLUTION AND ORDER ENTERED ON AUGUST 20, 2021 AND
SUBMITTING UPDATED LIST OF TRANSMISSION AND DISTRIBUTION
PROJECTS AND TWENTY-NINE SCOPES OF WORK**

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC¹, and LUMA Energy ServCo, LLC², (jointly referred to as "LUMA"), through the undersigned legal counsel and respectfully submit the following:

A. Introduction

The purpose of this Motion is to (i) request clarification from this honorable Puerto Rico Energy Bureau ("Energy Bureau") of the Resolution and Orden entered by the Energy Bureau in this proceeding on August 20, 2021 (the "August 20 Order") regarding the transmission and distribution ("T&D") projects presented by LUMA that are to be submitted for federal funding to the Federal Emergency Management Agency ("FEMA") and the Puerto Rico Central Office for

¹ Register No. 439372.

² Register No. 439373.

Recovery, Reconstruction and Resiliency (“COR-3”) under the 10 Year Infrastructure Plan³ and (2) present to the Energy Bureau an updated list of T&D projects to be submitted by LUMA to FEMA and COR-3 and associated scopes of work (“SOWs”), as further explained below.

B. Relevant Procedural Background

On April 14, 2021, the Puerto Rico Electric Power Authority (“PREPA”) filed with the Energy Bureau a list of projects under the categories of transmission, distribution, and substations that would be submitted by PREPA to FEMA and the COR-3 for approval in connection with the 10 Year Infrastructure Plan. *See* PREPA’s *Motion in Compliance with Resolution and Order Entered on March 26, 2021* (“April 14 Motion”).⁴

On June 8, 2021, this Energy Bureau issued a Resolution and Order (“June 8 Order”) approving sixty-five (65) projects that PREPA had submitted for consideration in the April 14 Motion and requesting LUMA to provide a list of remaining projects to be submitted to FEMA and/or COR-3 requiring approval by the Energy Bureau. *See* June 8 Order at page 1.

On June 15, 2021, LUMA filed with the Energy Bureau a motion discussing matters related to timing for the submittal to the Energy Bureau of the T&D projects to be proposed by LUMA to FEMA and/or COR-3 and requesting a Technical Workshop to discuss the process of submittal

³ This document is the revised 10 Year Infrastructure Plan submitted by the Puerto Rico Electric Power Authority (“PREPA”) to the Energy Bureau in March 2021 (*see Motion Submitting March 2021 Revised 10-Year Infrastructure Plan* filed by PREPA on March 19, 2021), which was subsequently updated in July 2021 (*see Joint Motion Submitting Updated 10-Year Infrastructure Work Plan* filed by PREPA and LUMA on July 6, 2021).

⁴ Thereafter, PREPA filed with this Energy Bureau the project files that had been submitted to FEMA and COR-3. *See Motion in Compliance with Resolution and Order issued on April 22, 2021* filed by PREPA on April 28, 2021 and May 4, 2021.

and approval of T&D projects and SOWs by the Energy Bureau. *See* LUMA’s *Motion in Compliance with June 8th Resolution and Order and Request for Technical Workshop*.

On July 2, 2021, the Energy Bureau issued a Resolution and Order (the “July 2 Order”) requiring LUMA to file a list of the remaining projects that require Energy Bureau approval and will be submitted to FEMA and COR-3 and any updates or revisions to the revised 10-Year Infrastructure Plan. *See* July 2 Order at page 3.⁵ An update of the 10-Year Infrastructure Plan and a 90-day work plan were filed with the Energy Bureau by PREPA and LUMA on July 6, 2021. *See Joint Motion Submitting Updated 10-Year Infrastructure Work Plan*.

On July 8, 2021, LUMA filed with this Energy Bureau a motion submitting an itemized list of T&D projects to be submitted for federal funding to FEMA and the COR-3 under the 10 Year Infrastructure Plan, included in Exhibit 1 to that Motion, and the SOWs for twenty-eight (28) T&D projects for this Energy Bureau’s timely review and approval prior to submittal to COR-3 and/or FEMA, as per this Energy Bureau’s Resolution and Order of March 26, 2021 in the referenced proceeding⁶ (the “March 26 Order”), included in Exhibit 2 to that Motion. *See Motion Submitting List of Projects and Twenty-Eight Scopes of Work* filed on July 8, 2021 (“July 8 Motion”) at pages 3-4.

⁵ In the July 2 Order, this Energy Bureau also scheduled the Technical Conference requested by LUMA for July 12, 2021, which conference was held on that date and wherein LUMA appeared and gave a presentation regarding the process of review and approval of the federally funded T&D projects. LUMA thereafter filed with the Energy Bureau, on July 15, 2021, a motion submitting a corrected version of the presentation provided by LUMA during such Technical Conference and requesting the Energy Bureau to approve the process for the review and approval of federally funded T&D projects proposed by LUMA during the Technical Conference. This Energy Bureau has not ruled on this motion as of this date.

⁶ In the March 26 Order, this Energy Bureau requested that PREPA submit to the Energy Bureau the specific projects to be funded with FEMA funds or any other federal funds at least thirty (30) calendar days prior to its submittal to COR-3, FEMA or any other federal agency. *See* March 26 Motion at pages 18-19. As indicated in this Energy Bureau’s August 20 Order, this directive applies to both PREPA and LUMA. *See* August 20 Order at page 3.

On July 9, 2021, LUMA filed an amended list of projects, in the form of a revised July 8 Exhibit 1. *See* LUMA’s *Motion Submitting Amended List of Projects* filed on July 9, 2021 (“July 9 Motion”).

On August 20, 2021, the Energy Bureau issued the August 20 Order in the referenced proceeding and approved the SOWs for twenty-eight (28) T&D projects as requested in the July 8 Motion submitted by LUMA.

C. August 20 Order and Request for Clarification

In the August 20 Order, this Energy Bureau discusses the T&D projects that were presented by LUMA to this Energy Bureau in the July 8 Motion, as revised by the July 9 Motion. The Energy Bureau specifically indicates that “[u]pon review of the July 8 Motion, the Energy Bureau **DETERMINES** that the projects presented are necessary to improve the reliability of the system. Therefore, the Energy Bureau **APPROVES** the projects in Attachment A to [the August 20 Resolution]”. *See* August 20 Order at pages 2-3. The Attachment A contains a list of 28 SOWs which were submitted by LUMA for approval by the Energy Bureau in the July 8 Motion, as revised by the July 9 Motion. The Energy Bureau also indicates that “[t]hese projects were approved based on the information provided by LUMA [... and] should the scope of the project change, LUMA shall immediately seek the Energy Bureau’s approval of such changes.” *Id.* at page 3.

With respect to the projects in Attachment A, the August 20 Order further provides, in the second paragraph of page 3, the following:

The Energy Bureau **ORDERS** PREPA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in Attachment A, which shall contain the costs obligated for each project, **within ten (10) days of receipt of such approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each project approved in

the Attachment A, **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.”

(Emphasis in the original.)

LUMA would like to seek clarification from this Energy Bureau regarding the above quoted text in the second paragraph of page 3 of the August 20 Order. This text contains three orders addressed to PREPA. However, these three orders pertain only to the projects in Attachment A, and the projects in Attachment A are the T&D projects that were submitted by LUMA to the Energy Bureau with the July 8 Motion, as amended via the July 9 Motion. Therefore, it appears that the mentioned orders should have been addressed to LUMA, rather than PREPA. Considering the foregoing, for purposes of clarity of the record, LUMA respectfully requests this Energy Bureau to issue a clarification or correction of the mentioned provision of the August 20 Order so that it is clear that the orders therein are directed at LUMA and not PREPA.

In the August 20 Order, this Energy Bureau also directs LUMA to revise and correct the Project Identification number of three (3) of the twenty (28) SOWs submitted which have the same Project Identification number. *Id.* at page 2. LUMA submits that the internal project identification numbers for the three (3) SOWs indicated in the August 20 Order are the following: for Distribution Feeders- Carolina Short Term Group 2 it is 10010; (ii) for Distribution Feeders – Mayaguez Short Term Group 2 it is 10139; and (iii) for Distribution Feeders- Caguas Short Term Group 7 it is 10151. LUMA would like to clarify that these project identification numbers were used for internal LUMA purposes and these specific numbers will not be assigned to SOWs for FEMA purposes in the future. Upon acceptance by FEMA, the projects will be assigned FEMA project numbers.

D. Submittal of Updated List of T&D Projects and Twenty-Nine Scopes of Work

LUMA has now completed the planning phase and project definition for twenty-nine (29) projects to be submitted by LUMA to FEMA and COR-3 under the 10 Year Infrastructure Plan, and hereby submits to this Energy Bureau an Updated Project List as **Exhibit 1** of this Motion. Exhibit 1 provides the Current LUMA Project List in column G, which contains a total of one hundred and forty (140) projects, including sixty-five (65) projects already approved by the Energy Bureau, twenty-nine (29) projects submitted to the Energy Bureau for approval as part of this motion, and forty-six (46) projects that will require future approval from the Energy Bureau. Of the one hundred and thirty-nine (139) projects included in the Previously Filed LUMA Project List in column E of Exhibit 1 and submitted to the Bureau as part of the July 9 Motion, seven (7) projects have been consolidated with other SOWs as part of this filing, and eight (8) new projects have been added.

LUMA also hereby submits to the Energy Bureau twenty-nine (29) SOWs for T&D projects for this Energy Bureau's review and approval prior to submittal to COR-3 and FEMA, as **Exhibit 2** of this Motion. *See* March 26 Order at pages 18-19.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned and: (i) issue a **clarification** that the orders in the second paragraph of page 3 of its August 20 Order are directed at LUMA instead of PREPA; (ii) **accept** the updated list of T&D projects submitted as **Exhibit 1** to this Motion; and (iii) approve the twenty-nine (29) SOWs for T&D projects submitted as **Exhibit 2** to this Motion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 30th day of August, 2021.

I hereby certify that I filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to the attorneys for PREPA, Joannely Marrero-Cruz, jmarrero@diazvaz.law and Katiuska Bolaños-Lugo, kbolanos@diazvaz.law.



DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969
Tel. 787-945-9107
Fax 939-697-6147

/s/Laura T. Rozas
Laura T. Rozas
RUA Núm. 10,398
laura.rozas@us.dlapiper.com

Exhibit 1

Excel Spreadsheet with Updated List of Projects Submitted via Sharefile

Exhibit 2

29 SOWs submitted via Sharefile