

**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: Request for Modification of Fiscal Year 2022 Budget.

RESOLUTION AND ORDER

I. Introduction:

On July 16, 2021, LUMA Energy, LLC as Management Co., and LUMA Energy ServCo, LLC as ServCo (collectively, "LUMA") filed with the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau"), a document titled *Request for Modification of Fiscal Year 2022 Budget* ("Modification Request").¹ In the Modification Request, LUMA expresses the need to revise the Fiscal Year 2022 Approved Budget² to conform it to the Fiscal Oversight and Management Board's ("FOMB") Amended Puerto Rico Electric Power Authority ("PREPA") Budget for Fiscal Year 2022, as certified by the FOMB on June 30, 2021.³ LUMA stresses that the resulting impacts do not result in increased rates.⁴ LUMA requests that the Energy Bureau approves a revised FY 2022 Budget in accordance with the revisions identified and explained in the Modification Request.⁵

II. Background:

On February 24, 2021, LUMA filed before the Energy Bureau a document titled *Petition for Approval of Initial Budgets and Related Terms of Service* ("Initial Budgets

¹ See, *In Re: Review of LUMA's Initial Budgets, Case No. NEPR-MI-2021-0004*, Request for Modification of Approved Budget for Fiscal Year 2022, July 16, 2021.

² *Id.* p. 3.

³ Modification Request, p.3, ¶5.

⁴ Modification Request, p. 3., ¶7.

⁵ *Id.*, p. 4.



Petition”)⁶, under Act 57-2014⁷, as amended by Act 17-2019⁸; and pursuant to LUMA’s obligations under Section 4.2 (e) of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“OMA”), dated June 22, 2020, executed by and among the Puerto Rico Electric Power Authority (“PREPA”), the Puerto Rico Public-Private Partnerships Authority (“P3 Authority”) and LUMA.

On May 31, 2021, the Energy Bureau issued a Resolution and Order (“May 31 Resolution”)⁹ through which it approved LUMA’s Initial Budgets Petition, corresponding to the budget for Fiscal Year 2022 (“FY22”). The Energy Bureau also directed LUMA to comply with several reporting requirements.

On June 8, 2021, LUMA filed with the Energy Bureau a document titled *Request for Clarification or Amendment of May 31st Resolution and Order Approving LUMA’s Initial Budgets* (“Amendment Request”)¹⁰. In the Amendment Request, LUMA asked the Energy Bureau to amend the May 31 Resolution to include approval of LUMA’s proposed budget for June 2021 (“June 2021 Budget”), as proposed by LUMA in the Initial Budgets Petition.¹¹

On June 14, 2021, the Energy Bureau issued a Resolution and Order (“June 14 Resolution”)¹² through which it directed LUMA to conform its spending during the month of June 2021, to the remaining balance of PREPA’s certified budget for Fiscal Year 2021. The Energy Bureau directed LUMA that all remaining monies for FY2021 be spent prudently and emphasized that with this determination, the Energy Bureau did not, explicitly, or implicitly, yield its jurisdiction and regulatory powers over the LUMA and PREPA budgets.

On June 21, 2021, LUMA filed with the Energy Bureau a document titled *Request for Clarification and/or Reconsideration of May 31st Resolution and Order Approving LUMA’s Initial Budgets* (“Reconsideration Request”)¹³. In the Reconsideration Request, LUMA asked

⁶ See *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, Petition for Approval of Initial Budgets and Related terms of Service, February 24, 2021.

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

⁸ Known as the *Puerto Rico Energy Public Policy Act*.

⁹ See, Resolution and Order, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, May 31, 2021.

¹⁰ See, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, Request for Clarification or Amendment of May 31st Resolution and Order Approving LUMA’s Initial Budgets, June 8, 2021.

¹¹ See Amendment Request, p. 4.

¹² See, Resolution and Order, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, June 14, 2021.

¹³ See, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, *Request for Clarification and/or Reconsideration of May 31st Resolution and Order Approving LUMA’s Initial Budgets*, June 21, 2021.



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the Energy Bureau to amend the May 31 Resolution to clarify or reconsider some of the Energy Bureau's reporting requirements. LUMA also asserted that certain reporting requirements were not consistent with procedures applicable to PREPA or LUMA in the OMA and with other reporting and compliance requirements.¹⁴ On July 16, 2021, the Energy Bureau issued a Resolution and Order ("July 16 Resolution")¹⁵, through which it approved in part and denied in part, LUMA's Reconsideration Request.

III. LUMA's Modification Request:

In its Modification Request, LUMA explains that in its Initial Budgets Petition, it set forth the key assumptions, upon which it based its Initial Budgets. One of the key assumptions upon which LUMA asserts it relied, was that Title III related costs were based on estimates provided in the 2020 PREPA Fiscal Plan and that PREPA was expected to exit Title III by December 31, 2021. LUMA also explained that bankruptcy and advisor costs utilized in the Initial Budgets were confirmed with the entity and were consistent with the amounts certified by FOMB in the 2020 PREPA Fiscal Plan, unless updated by entities. LUMA further explained that the Initial Budgets were prepared in a point in time and "they cannot reasonably contemplate further information that may arise in the future. . ."¹⁶

LUMA explained that the Initial Budgets included methodologies used in the 2020 PREPA Fiscal Plan, as certified by the FOMB for forecasts of load, fuel, purchased power, Contribution in Lieu of Taxes (CILT) and subsidies. LUMA explained that in its Initial Budgets "[f]orecasts were updated based on updated actual load data for the period between June 2020 and development of the forecasts in December 2020. LUMA notes that specifically, load, Fuel & Purchased Power, CILT, and Subsidies forecasts [were] compiled using the same process, macroeconomic and generation assumptions as the last fiscal plan and reflect the Modified Action Plan as approved by PREB on August 24, 2020, in the Final Resolution and Order on the IRP, reflecting subsequent delays in renewable procurement."¹⁷

LUMA states that on July 2, 2021, it moved to apprise the Energy Bureau it would be necessary for LUMA to request revisions to the Budget for Fiscal Year 2022 approved on May 31, 2021 ("FY 2022 Approved Budget"), to conform it to the base rate revenue requirement set in PREPA's 2021 Fiscal Plan and Budget for the Year 2022, as certified by the FOMB.¹⁸ LUMA explains that the impact on the FY 2022 Approved Budget is an increase in the base rate revenue requirement limit. LUMA asserts that rates are not subject to

¹⁴ See Reconsideration Request, p. 3.

¹⁵ See, Resolution and Order, *In Re*: Review of LUMA's Initial Budgets, Case No. NEPR-MI-2021-0004, July 16, 2021.

¹⁶ See Modification Request, p. 2, ¶3

¹⁷ *Id.*, ¶4

¹⁸ *Id.* p. 3, ¶5.



increase nor is there a need to revise the base rate requirement or the rate structure set by the Energy Bureau in the Resolution and Order issued by the Energy Bureau in Case CEPR-AP-2015-0001 (“2017 Rate Order”).¹⁹

LUMA cites these changed circumstances as necessitating the requested revisions to the FY 2022 Approved Budget: (1) revised macro-economic assumptions resulting in increased PREPA projected sales for Fiscal Year 2022 and increases in fuel and purchased power, CILT, subsidies, and bad debts; (2) a change in the PREPA Title III Exit assumption of June 30, 2022; and (3) additional budgeted expenditures at PREPA Legacy and GenCo. In its Modification Request, LUMA analyzes these changes and outlines their impact on the FY 2022 Approved Budget. LUMA emphasizes that it is not applying for an increase to operating expenditures, nor Capital – Non-federally Funded and Capital – Federally Funded costs.²⁰

LUMA bases its reliance upon the June 30, 2021, FOMB Revised Certified Budget for Fiscal Year 2022 upon the following:

“While PREPA is within Title III, FOMB oversight is defined in the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) federal law.”

LUMA alludes to PROMESA Section 201(a) which states:

“...the Oversight Board shall deliver a notice to the Governor providing a schedule for the process of development, submission, approval and certification of Fiscal Plans” and “...revisions must be subject to subsequent approval and certification by the Oversight Board”

and states that PROMESA therefore requires that all government budgets, including PREPA’s, match FOMB’s certified fiscal plans.²¹

The inconsistencies identified by LUMA, between the FY 2022 Initial Budget approved by the Energy Bureau and the FOMB Revised Certified Budget for Fiscal Year 2022, necessitating the Modification Request are enumerated and discussed in Exhibit A.²² According to LUMA, these result from:

- Updated macro-economic assumptions resulting in increased PREPA projected sales for Fiscal Year 2022, and increases in fuel and purchased power, CILT and subsidies, and bad debts,

¹⁹ *Id.* p. 3, ¶8.

²⁰ *Id.* pp. 3-4, ¶9.

²¹ *Id.*, Exh. A, p. 1.

²² *Id.* Exh. A, p.1.



- PREPA Title III exit assumption of June 30, 2022, and
- Additional budgeted expenses at PREPA Legacy and GenCo.

LUMA categorizes the changes into four groups:²³

1. **Updated Fuel and Purchased Power forecast** – this forecast is adjusted quarterly based on actual costs through the FCA and PPCA clauses as presented in NEPR-MI-2020-0001.
2. **Forecasted costs directly linked to updated macro-economic assumptions** – higher forecasted sales resulted in an increase in bad debt expenses.
3. **Costs from delayed Title III Exit** – these costs reflect a Title III Exit of June 2022 instead of December 2021.
4. **Increased PREPA Legacy and Generation costs** – these costs are a result of increased costs forecasted by PREPA.

LUMA then presents an analysis of these three categories “to assist the Bureau’s review and approval.”²⁴

1. Revised Macro-Economic Assumptions
2. PREPA Title III Exit Assumption
3. Expenditures Update

IV. Determination of Completeness

As with any other proceeding, the Energy Bureau reviewed the Modification Request to make a completeness determination to properly support the evaluation of LUMA’s request. Upon such review, the Energy Bureau found that the Modification Request lacked an in-depth discussion of key matters, supporting data, analysis, and assessments for the Energy Bureau to make an adequate evaluation. Therefore, the Energy Bureau **DETERMINES** that the Modification Request is incomplete.

V. Conclusion

The Energy Bureau **ORDERS** LUMA, on or before September 17, 2021, to (i) provide the information identified in Attachment A of this Resolution and Order; (ii) modify the Modification Request; and (iii) supplement its answers if additional information becomes available or if submitted information changes.

²³ *Id.*, Exh. A, p. 2.

²⁴ *Id.*, Exh. A, p. 3.




The Energy Bureau may propound follow-up or additional requirements of information, if necessary.

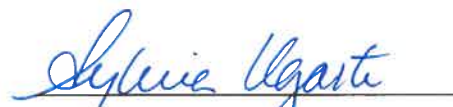
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Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 8, 2021. Associate Commissioner Ángel R. Rivera de la Cruz concurred with the result without a written opinion. I also certify that September 9, 2021 a copy of this Resolution was notified by electronic mail to: margarita.mercado@us.dlapiper.com; jmarrero@diazvaz.law and kbolanos@diazvaz.law. I also certify that today, September 9, 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 September 9, 2021.


Sonia Seda Gaztambide
Clerk



Attachment A²⁵

1. In LUMA's Modification Request of the approved Initial Budgets, it presents an updated energy demand forecast for Fiscal Year 2022 of 16,673 GWh, compared to energy demand forecast in LUMA's original Initial Budgets filing of 15,865 GWh. As discussed in LUMA's filings, it is relying upon energy demand forecasts prepared by PREPA and/or FOMB, using macro-economic assumptions developed by FOMB. The revised energy demand forecast is approximately 5 percent higher than the forecast approved in the Initial Budgets.
 - a. Describe the steps LUMA has taken to independently assess, verify and validate the revised energy demand forecast, and associated workpapers from any quantitative analyses completed by LUMA in completing such assessment, verification, or validation.
 - b. Describe LUMA's load forecasting methodology, assumptions development, and load forecasting model, and to the extent that LUMA has developed an independent energy demand forecast, please provide results from such forecast and a comparison with the proposed revised energy demand forecast.
 - c. Provide actual PREPA/LUMA peak demand and energy consumption profiles, by month, for fiscal year 2021.
2. In LUMA's Modification Request of the approved Initial Budgets, LUMA states that with a proposed higher energy demand forecast, base rate revenue is \$60 million higher, which is partially offset by increased expenditures of \$39 million. Based on that, LUMA concludes there is no need to change base rates. LUMA further states that while the Generation Budget is higher than the level in the approved Initial Budgets, the increase is due primarily to "increased estimates of pension liabilities and increased employee benefits for PREPA Generation. LUMA states "[t]here are no changes to LUMA activities, or the expenditures forecast for Fiscal Year 2022 impacting operating expenditures and capital budgets."
 - a. Notwithstanding LUMA's representations, which are unsupported by any detailed analysis or exhibits, the FOMB updated budget includes an increase in estimated PREPA GenCo pension costs of \$2.7 million, and total labor costs of \$11.6 million. The FOMB updated budget also includes an increase in GenCo non-labor operating costs of an additional \$14 million, for a total increase in GenCo non-fuel operating costs of \$25.6 million. That increase is offset by a decrease in Shared Services costs of \$22.3 million, so total non-fuel Generation Budget is \$3.3 million higher. Please explain why increased PREPA Legacy costs in the FOMB budget and incorporated into LUMA's requested changes to the Initial Budget, do not result in lower Shared Services costs assigned to LUMA.

²⁵ All information responses should be provided in searchable PDF, DOC or EXCEL (with all formulas intact) files.



- b. Provide (1) a description of the reasoning behind the increased PREPA GenCo pension costs of \$2.7 million, and (2) whether the additional cost increases 401k contributions of active LUMA employees, if not, describe how these additional pension costs will be allocated.
 - c. The updated FOMB Budget includes estimated Shared Services costs of \$55.8 million, compared to LUMA estimated Shared Services costs in the Initial Budgets of \$78.1 million. Please provide a detailed listing of services that will be provided by LUMA, compared to services that will be provided by PREPA Legacy employees, and reconcile the discrepancy between the FOMB and LUMA proposed budgets.
 - d. The updated FOMB Budget includes an expenditure of \$10.4 million for Security, which appears to include physical security at PREPA generation facilities. Please clarify whether PREPA Legacy or LUMA will be providing physical security at PREPA generation facilities and reconcile any discrepancy between the FOMB budget and LUMA's proposed revised Initial Budgets.
3. The Modification Request, Exhibit A, p. 1, LUMA references PREPA Legacy and Generation, and Additional Budget Expenditures. Identify the components of each, quantify the Energy Bureau approved and proposed modified amounts and cite where this corresponds to the FOMB certified budget.
4. The Modification Request, Exhibit A, page 2, the Revised FY2022 Initial Budget of Fuel and Purchased Power is specified to be \$1,968 million comprised of revised component values for Fuel and Purchased Power of \$1,400 million and \$567 million respectively.²⁶ The previously approved FY2022 fuel and purchased power budget is \$1,566 million, comprised of \$767 million and \$799 million respectively,²⁷ Please explain the significant variance between the revised and previously approved fuel and purchased power values.
5. The Modification Request, Exhibit A, p. 4, LUMA states: "As LUMA was not party to Title III exit conversations between FOMB and PREPA, only once the FOMB Certified 2021 PREPA Fiscal Plan was made publicly available, was the date assumption moved to June 30, 2022, by the FOMB of PREPA Title III exit." Explain specifically how the June 30, 2022 date was identified by LUMA as the appropriate date to utilize for PREPA Title III exit.
6. The Modification Request, Exhibit A, p. 5, LUMA cites for FOMB Advisor Costs a revised figure of \$24 million based on FOMB updated advisor costs for full year activities and for LUMA Fees, \$115 million based on full year of interim period compliant to the T&D OMA, which specifies a \$115 million fixed fee (2020 Dollars).

²⁶ Modification Request, Exhibit B, p. 3. The \$1,968 million figure rounds the actual FY2022 Budgeted Expense of \$1,967, 808 million.

²⁷ Modification Request, Exhibit A, p. 2.



Provide backup rationale for the updated FOMB advisor costs and for the variances identified for both updated FOMB advisor costs and LUMA fees.

7. The Modification Request, Exhibit A, p. 6, LUMA states: "The \$16 million additional expenditures are mainly a result of increased estimates of pension liabilities and increased employee benefits for PREPA Generation. These changes were made as a result of discussions between PREPA and FOMB. In the Modification Request, Exhibit C, the Revised Table 5.6 states that Generation budget includes Shared Services provided by LUMA to GenCo. Increase mainly consists of increased benefits for PREPA Generation." (1) Quantify pension liabilities, increased employee benefits, shared services, and other components with specificity, (2) identify and quantify changes to each, upon which modification request is based, and provide supporting documentation. Also cite where referenced in the FOMB Certified Budget.
8. The Modification Request, Exhibit C, Table 5.6, Revised, the revised Load Reduction Due to Efficiencies (kWh) is specified to be (89,889,439) while the approved Load Reduction Due to Efficiencies is specified to be (406,749,115), resulting in a corresponding variance of 316,859,675. Explain the significant change and where this is referenced in the FOMB Certified Budget.

