

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

NEPR Received: Sep 10, 2021 6:30 PM
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IN RE:

IN RE: IMPLEMENTATION OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY INTEGRATED RESOURCE
PLAN AND MODIFIED ACTION PLAN

CASE NO. NEPR-MI-2020-0012
SUBJECT: Request for Clarification of a Portion
of Energy Bureau's Resolution and Order of July
23, 2021

**JOINT MOTION REQUESTING CLARIFICATION OF A PORTION OF THE
ENERGY BUREAU'S RESOLUTION AND ORDER OF JULY 23, 2021**

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy ServCo, LLC ("LUMA") and the Puerto Rico Electric Power Authority ("PREPA"), through the undersigned legal counsel and respectfully submit and request the following:

On July 23, 2021, this Energy Bureau issued a Resolution and Order ("July 23 Order") in the instant proceeding ordering LUMA and PREPA to conduct certain activities required under this Energy Bureau's Final Resolution and Order approving the Integrated Resources Plan and Modified Action Plan¹ ("August 24 IRP Order"). Specifically, in the July 23 Order, this Energy Bureau indicates that the August 24 Order requires PREPA to incorporate information on an offshore wind study (hereinafter, the "Wind Study") in the next Integrated Resources Plan ("IRP") review cycle and lists the specific action items related to such Wind Study. See July 23 Order at page 1.

¹ Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In Re Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001, August 24, 2020.

In the July 23 Order, this Energy Bureau further indicates that, to ensure the aforementioned action items are timely completed, it is ordering PREPA and LUMA to: (i) file on or before September 15, 2021 a Gantt Chart (meeting the requirements specified therein) with the timeline for completion of the Wind Study and gathering of the information required in the August 24 Order; (ii) attend a Virtual Technical Conference on September 21, 2021 to make a presentation on the steps to achieve timely compliance with the relevant parts of the August 24 Order; (iii) file on or before September 17, 2021 a PDF copy of the presentation to be made during the Virtual Technical Conference; and (iv) ensure PREPA and LUMA representatives and relevant consultants attend the Virtual Technical Conference and are prepared to answer questions from the Energy Bureau staff and consultants. *Id.* at page 2.

Soon after the Energy Bureau entered the July 23 Order, PREPA contacted LUMA to discuss how the parties were going to work together to comply with the Energy Bureau's mandates and requirements detailed in the July 23 Order. LUMA informed that, pursuant to the provisions of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement executed among PREPA, LUMA, LUMA Energy, LLC and the Puerto Rico Public Private Partnerships Authority dated as of June 22, 2020 (the "T&D OMA"), LUMA is the entity with the responsibility of executing and implementing the required action items related to the Wind Study.

LUMA respectfully submits that, for the following reasons, LUMA is the entity that has the responsibility of implementing the required activities listed above related to the Wind Study. Thus, a clarification is requested to state that LUMA is the entity tasked and responsible with complying with the July 23 Order.

The requirements pertaining to the Wind Study appear in Part V of the August 24 IRP Order titled “Preparing for the Next IRP Cycle”. *See* August 24 Order at page 285. In the introduction of this Part, this Energy Bureau indicated that the resource planning process for the IRP must continue to improve and that this Part “summarizes the specific action items and internal process improvements for the next IRP.” *See id.*, ¶ 911. Therefore, the action items related to the Wind Study are part of the resource planning process for the next IRP preparation and review cycle.

Pursuant to the Puerto Rico T&D OMA, LUMA is responsible for conducting resource planning and preparing the next IRP.

Under the T&D OMA, LUMA (and LUMA Energy, LLC, both referred to as “Operator” under the T&D OMA) was contracted to “(i) provide management, operation, maintenance, repair, restoration and replacement and other related services for the [transmission and distribution system [“T&D System”]], in each case that are customary and appropriate for a utility transmission and distribution system service provider, [...] and (ii) establish policies, programs and procedures with respect thereto” ((i) and (ii), collectively, the “O&M Services”). *See* T&D OMA Section 5.1.²

The O&M Services include resource planning and preparation and implementation of required components of the IRP. Specifically, Section 5.6 of the OMA provides that, as part of

² The OMA further provides that, except for those rights and responsibilities reserved for PREPA and the Puerto Rico Public Private Partnerships Authority or otherwise expressly provided in the OMA, LUMA “shall (A) be entitled to exercise all of the rights and perform the responsibilities of [PREPA] in providing the O&M Services, and (B) have the autonomy and responsibility to operate and maintain the T&D System and establish the related plans, policies, procedures and programs with respect thereto as provided in [the OMA].” OMA, Section 5.1. Moreover, the OMA provides that LUMA shall function as agent of [PREPA] and PREPA “irrevocably authorizes [LUMA] to (i) represent [PREPA] before [the Energy Bureau] with respect to any matter related to the performance of any O&M Services provided by [LUMA] under [the

the O&M Services “[f]rom time to time, or as otherwise required by [applicable law as defined in the OMA] or ordered by [the Energy Bureau], Operator, as agent for [PREPA], shall prepare a proposed Integrated Resource Plan for review and approval by [the Energy Bureau].” Section I(A) of Annex I of the OMA also provides that, under the O&M Services’ scope of services (“Scope of Services”), Operator is responsible for, among other things, the “preparation and implementation of required components of the Integrated Resource Plan, while prioritizing expansion and replacement projects that improve the safe, reliable and economic dispatch of the T&D System’s connected generating units; [...]” This Annex also provides in its Section I(G) that as part of the Scope of Services, “Operator shall be responsible for (1) preparing, presenting, [and] defending current or future Integrated Resource Plans, rate cases or other regulatory or legal matters as they relate to the [T&D OMA], as [PREPA’s] representative before the [Energy Bureau] and any other local, state or federal government agencies”.

In addition, Section 5.3(a) of the T&D OMA provides, in pertinent part, that Operator shall “prepare analyses and forecasts to determine the need for generation-related capital projects, if applicable, [...], including the need for [PREPA] to enter into new Generation Supply Contracts³”. (Footnote added.) Section 5.13 also provides that, as part of Operator’s generation-related services, Operator is required to, among other things:

OMA]” and “(ii) prepare all related filings and other submissions before [the Energy Bureau]” among other functions. *Id.* at Section 5.6 (a).

³ A term that refers to any contract between PREPA and an independent power producer relating to the sale and purchase of power and electricity, including power purchase agreements. *See id.* at Section 1.1, page 17.

- (i) prepare risk assessments and analyses in support of Resource Adequacy⁴ and Generation Project⁵ or Generation Supply Contract procurement prioritization and planning, which shall take into account the Integrated Resource Plan and [applicable law] (and which assessments and analyses [the Energy Bureau] may request from time to time); [and]
 - (ii) prepare long and short-range transmission and distribution planning analyses and forecasts to determine the need for Generation Project or Generation Supply Contract procurement which shall take into account the Integrated Resource Plan to the extent applicable (and which analyses and forecasts [the Energy Bureau] may request from time to time) [...]
- (Footnotes added.)

Moreover, Schedule 1 of Annex I of the OMA provides that as part of the System Operating Principles:

The Operator will be responsible for short and long-term supply and demand forecasting, reliability planning studies, the economic and technical assessment of new projects, deactivation studies for generating facilities and other assets, and other studies and evaluations that identify and address the reliability needs of the electricity supply system, and the current and future state of the Puerto Rico electricity supply system.

Based on the above T&D OMA provisions, LUMA is responsible for preparing, presenting, and defending the current and future IRPs as PREPA’s representative before the Energy Bureau and any other local, state or federal government agencies and implementing the required components of the IRP. In addition, LUMA exercises the functions with respect to transmission and distribution planning analyses and forecasts to determine the need for new generation projects, the economic and technical assessment of new projects, and studies regarding the current and future state of the Puerto Rico electricity supply system, among others.

⁴ A term that refers to “the procurement obligations with regards to electric capacity, energy and ancillary services of load serving entities.” *See id.* at Section 1.1, page 27.

⁵ A term that refers to, in pertinent part, “any and all projects or transactions with respect to any function, service or facility of Owner related to the generation of [power and electricity]”. *See id.* at Section 1.1, page 17.

The Wind Study is within LUMA's responsibilities of conducting planning analyses and forecasts to determine the need for new generation projects, the economic and technical assessment of new projects, and studies regarding the current and future state of the Puerto Rico electricity supply system. The Wind Study is also a component of the current IRP associated with LUMA's O&M Services, and forms part of the preparation of the next IRP, which is also the responsibility of LUMA under the T&D OMA.

PREPA agrees that, under the OMA, the above-listed responsibilities are LUMA's. However, since PREPA is the owner of the assets and remains committed to cooperate in all aspects of the current and future generation services, it has made itself available to cooperate and work together with LUMA in all the stages of the preparation and submission of the Wind Study.

LUMA respectfully submits that the preparation of the Wind Study is fully the responsibility of LUMA under the T&D OMA as part of the O&M Services. As such, LUMA respectfully requests this honorable Energy Bureau to clarify the July 23 Order to indicate that the requirements related to the Wind Study set forth therein are to be implemented by LUMA.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned and issue a **clarification** that the requirements related to the Wind Study set forth in the July 23 Order are to be implemented by LUMA.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 10th day of September, 2021.

We hereby certify that this motion was filed using the electronic filing system of this Energy Bureau.

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