

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

NEPR

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IN RE:

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

CASE NO. NEPR-MI-2020-0012

**SUBJECT: Informative Motion on Status of Activities
Related to Next IRP Cycle, Request for Extension to File
Documents, and Request to Schedule Technical
Conference**

**INFORMATIVE MOTION ON STATUS OF ACTIVITIES RELATED TO NEXT IRP
CYCLE, REQUEST FOR EXTENSION TO FILE DOCUMENTS, AND REQUEST TO
SCHEDULE TECHNICAL CONFERENCE**

TO THE PUERTO RICO ENERGY BUREAU:

COMES NOW LUMA Energy ServCo, LLC (“LUMA”), through the undersigned legal counsel, and respectfully submits the following:

1. On August 24, 2020, this honorable Puerto Rico Energy Bureau of the Public Service Regulatory Board (the “Energy Bureau”), issued the Final Resolution and Order in Case CEPR-AP-2018-0001 (the “August 24th Resolution”) regarding the Puerto Rico Electric Power Authority’s (“PREPA”) Integrated Resource Plan (“IRP”). In the August 24th Resolution, the Energy Bureau approved in part and rejected in part PREPA’s proposed IRP (the “Approved IRP”) and ordered the adoption and implementation of a modified Action Plan as set forth therein (the “Modified Action Plan”). *See* August 24th Resolution, Parts I to IV, VI and VII.

2. The August 24th Resolution also included a Part titled “Preparing for the Next IRP Cycle”, containing action items and internal process improvements to be implemented by PREPA for the next IRP. *See id.*, at Part V.

3. As part of the internal process improvements, in Part V of the August 24th Resolution, the Energy Bureau “orders PREPA to submit, no later than a year from the notification date of [the August 24th Resolution], a detailed report describing how PREPA will improve its resource planning process” (for purposes of this writing, the “Internal IRP Process Review Report”). *See id.* at Section V, Section B, ¶ 921. The Internal IRP Process Review Report is required to contain the information listed in the August 24th Resolution including: the steps that “PREPA intends to take to address all deficiencies in PREPA’s Proposed IRP and the Proposed Action Plan identified in [the August 24th Resolution]”; certain specific information regarding the PREPA executive managers or executives taking those steps and the schedule for taking such steps; the modeling framework to be used in the next IRP; and a description of the organizational areas with responsibilities in development of the next IRP, the professional development efforts to ensure PREPA’s personnel are sufficiently educated and experienced on applicable public policy requirements, and how PREPA will improve recordkeeping practices- all as more specifically described therein. *See id.*

4. In addition, as part of the internal process improvements, the Energy Bureau also orders PREPA to comply with the following requirements applicable to the selection of the technical consultant to be engaged by PREPA for IRP-related services (for purposes of this writing, the “IRP Consultant Contracting Process”):

- a. No later than one (1) year from the notification date of [the August 24th Resolution], PREPA shall submit for the Energy Bureau’s review and approval a draft Request for Qualification (“RFQ”) for IRP consulting services. Such draft RFQ shall set forth the minimum qualification requirements for providing IRP-related consulting services;
- b. The Energy Bureau may require PREPA to submit a modified draft RFQ, as necessary and shall issue a determination, among other things, (i) approving the

- final draft of the RFQ; and (ii) providing guidance and direction to PREPA as to when it must issue the RFQ;
- c. PREPA shall receive the responses from interested consultants and qualify the respondents based on the requirements contained in the approved RFQ;
 - d. PREPA shall submit to the Energy Bureau a pool of potential consultants, accompanied by a certification from a responsible PREPA executive that each member of the pool satisfies the requirements of the RFQ. PREPA shall also provide to the Energy Bureau copies of any documents relied upon by PREPA in determining such certification;
 - e. Upon a determination by the Energy Bureau that the members of the pool satisfy the RFQ requirements, PREPA shall submit to the Energy Bureau, for its review and approval, a draft contract for the rendering of IRP-related consulting, which shall include a detailed scope of the services covered by the contract;
 - f. Upon the Energy Bureau's approval of the draft contract, PREPA shall require proposals from the qualified consultants and commence negotiations with the qualified consultants;
 - g. While PREPA will have discretion to choose one or more consultants from the proposals received, PREPA is required file a report with the Energy Bureau regarding the negotiation process. PREPA shall demonstrate to the Energy Bureau's satisfaction the rationale of the selection process. Such report shall contain, for the Energy Bureau's approval, a final draft of the proposed contract and a detailed description of any deviations on the terms and conditions of the contract from the draft previously approved by the Energy Bureau and a redline version highlighting such deviations; and
 - h. PREPA shall execute the contract with the chosen technical consultant, after obtaining approval from the Energy Bureau.

See id. at ¶ 922.

5. On October 6, 2020, the Energy Bureau issued a Resolution and Order (the "October 6th Resolution") opening the instant docket to "manage the implementation phase of the Approved IRP and Modified Action Plan." *See* October 6th Resolution at p. 1.¹

¹ In the October 6th Resolution, the Energy Bureau also indicated that it "may open in the future additional dockets related to the implementation of the Approved IRP and Modified Action Plan, as necessary." *See id.*

6. On June 1, 2021, LUMA commenced operating PREPA’s transmission and distribution system and related assets pursuant to 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 “OMA”). Under the OMA, LUMA and LUMA Energy, LLC (both referred to as “Operator”) were contracted to “(i) provide management, operation, maintenance, repair, restoration and replacement and other related services for the 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* OMA Section 5.1.²

7. As part of the O&M Services, LUMA, as agent of PREPA, is responsible for “[f]rom time to time, or as otherwise required by [applicable law as defined in the OMA] or ordered by [the Energy Bureau], [...] prepare a proposed [IRP] for review and approval by [the Energy Bureau].” *See id.*, Section 5.6.³

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

³ Section I(A) of Annex I of the OMA also provides, in pertinent part, that the O&M Services include Operator being responsible for “preparing, presenting, [and] defending current or future [IRPs], [...], as [PREPA’s] representative before the [Energy Bureau] and any other local, state or federal government agencies”.

8. In accordance with the OMA, from the time LUMA commenced providing O&M Services on June 1, 2021, it has been working on assessing, prioritizing, and addressing multiple deficiencies and needs that have been identified across the T&D System.

9. The purpose of this Motion is to inform this Energy Bureau of the status of LUMA's efforts with respect to the process to prepare for the next IRP cycle and, in light of the circumstances described in this Motion, request additional time for LUMA to submit the Internal IRP Process Review Report required under Section V, Part A, of the August 24th Resolution and the initial submittal required under the IRP Consultant Contracting Process in Section V, Part B, of the August 24th Resolution. In addition, LUMA is also requesting this honorable Energy Bureau to schedule a Technical Conference to provide more details on the matters discussed in this Motion, discuss a proposed streamlined and more cost-effective process for the IRP Consultant Contracting Process, and discuss questions LUMA has regarding the implementation of the requirements applicable to the IRP preparation process.

10. LUMA has also been working on defining the processes, staffing, and consulting needs for the next IRP. Among other things, LUMA has been working with United States Department of Energy ("DOE") to define the tasks to be done by LUMA, DOE and/or external consultants for the next IRP. Specifically, LUMA has been in discussions with the DOE in connection with a study titled "PR100: Puerto Rico Grid Resilience and Transition to 100% Renewable Energy" (the "PR100 Study"), which the DOE is proposing to conduct and with respect to which it is currently developing a scope. The PR100 Study will involve various DOE National Labs and will be led by the National Renewable Energy Laboratory ("NREL"). The current draft scope for the PR100 study reviewed by LUMA has many requirements for input assumptions, forecasts, and analysis,

that are similar to requirements for the next IRP. Therefore, LUMA would like to incorporate the work conducted for the PR100 Study in the next IRP, if possible and feasible. This approach would result in significant contributions to the IRP and could result in significant cost savings associated with the preparation of the IRP.

11. In order to achieve the foregoing objective, LUMA has been working with the DOE to define and refine the scope and schedule of the PR100 Study to better align its assumptions and outputs with the needs and schedule of the next IRP. In the meantime, and until the DOE issues the final scope for this study and schedule for its implementation, LUMA will not know whether and to what extent it will be able to incorporate all or any part of the PR100 study in the next IRP. The final PR100 Study's scope and schedule will also help LUMA better define which portions of the next IRP will be based on work from the DOE, LUMA, or an outside consultant.

12. Based on the above, the determination on whether the PR100 Study will be used in whole or in part for the next IRP will affect the resource planning process to be implemented for the next IRP cycle, as well as the terms of engagement and qualifications of an external technical consultant to assist in the preparation of the next IRP. LUMA is actively coordinating with DOE to review tasks responsibilities and schedule to be incorporated in LUMA's IRP study process, RACI chart and Gantt chart.

13. In light of these information constraints and unavoidable delays, LUMA is respectfully requesting this Energy Bureau to provide LUMA until November 30, 2021 to present the IRP Internal Review Process Report required under Part V, Section A, of the August 24th Resolution. In addition, LUMA is respectfully requesting this Energy Bureau to provide LUMA until November 30, 2021 to present the first filing required under the IRP Consultant Contracting

Process set forth in Part V, Section A, of the August 24th Resolution, as may be modified based on the request to streamline this process in this Motion. LUMA respectfully submits that this additional time will result in LUMA providing more thorough and concrete submittals which will also result in a more efficient and productive process.

14. With respect to the IRP Consultant Contracting Process, LUMA would like to propose for this honorable Energy Bureau's consideration a streamlined process. The process under Part V, Section B, of the August 24th Resolution provides for at least four filings of documents with the Energy Bureau and the issuance of at least four approvals from the Energy Bureau. LUMA is proposing consolidating some of these steps without affecting the overall requirements and objectives of the original process, while making the process more time and cost-efficient for both LUMA and the Energy Bureau.

15. LUMA respectfully requests this Energy Bureau to schedule a Technical Conference with the purpose of: (a) providing this Energy Bureau more detailed information on the status of LUMA's efforts in connection with its preparation for the next IRP cycle, including the matters discussed in this Motion; (b) discussing LUMA's request for streamlining the IRP Consultant Contracting Process; (c) discussing pending questions LUMA has regarding the next IRP cycle requirements; (d) and answering questions from this Honorable Energy Bureau regarding these subjects. LUMA respectfully submits that this Technical Conference will assist in ensuring this Energy Bureau has all the information it deems necessary to make any determinations regarding the request in this Motion in a more time efficient manner.

WHEREFORE, LUMA respectfully requests the Energy Bureau to **take notice** of the aforementioned, grant LUMA until **November 30, 2021** to submit the report required under

Section V, Part A, of the Energy Bureau's Resolution and Order of August 24, 2021 issued in the case CEPR-AP-2018-0001 and until **November 30, 2021** to submit the first required filing in Section V, Part B, of such Resolution and Order, and schedule a Technical Conference to discuss the information and requests indicated in this Motion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 5th day of November 2021.

We hereby certify that we filed this notice and request using the electronic filing system of this Puerto Rico Energy Bureau and that courtesy copy of this notice and request was notified to PREPA counsel mvazquez@diazvaz.law and kbolanos@diazvaz.law.



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