

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

NEPR Received: Feb 18, 2022 5:38 PM
--

IN RE: REVIEW OF LUMA’S INITIAL BUDGETS

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Motion Submitting Responses In Compliance With The January 21 Order

**MOTION SUBMITTING RESPONSES IN COMPLIANCE
WITH THE JANUARY 21 ORDER**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority (PREPA), through its counsel of record, and respectfully submits and prays as follows:

1. On July 16, 2021, LUMA Energy, LLC (“LUMA”) filed with the Puerto Rico Energy Bureau of the Public Service Regulatory Board (“Energy Bureau”) a document titled *Request for Modification of Approved Budget for Fiscal Year 2022* (“Modification Request”) in which LUMA requests the Energy Bureau to modify its Initial Budgets for Fiscal Year 2022.¹ In the Modification Request, LUMA asserts the need to revise the fiscal year 2022 budget to conform it to the fiscal year 2022 budget for PREPA as certified by the Fiscal Oversight and Management Board for Puerto Rico (FOMB) on July 1, 2021.

2. On September 9, 2021, the Energy Bureau entered a *Resolution and Order* (“September 9 Order”) in which it determined that the Modification Request was incomplete because it lacked an in-depth discussion of key matters, supporting data, analysis, and assessments for the Energy Bureau to make an adequate evaluation. The Energy Bureau ordered LUMA to respond to several orders and requests of information.

¹ LUMA’s Initial Budgets were approved by the Energy Bureau on May 31, 2021.

3. On September 17, 2021, LUMA filed a document titled *Motion in Compliance with September 9th Order Submitting Revised Request for Modification of Approved Budget for Fiscal Year 2022 and Responses to Requests for Information* (“September 17 Motion”). In some of the responses to the requests for information propounded by the Energy Bureau in the September 9 Order, LUMA asserts that it is not able to provide further information on PREPA’s exit from Title III of the Puerto Rico Oversight, Management, and Economic Stability Act² and related topics, and that those requests should be directed to PREPA and/or the FOMB.

4. On January 21, 2021, the Energy Bureau entered a *Resolution and Order* by which it directed PREPA to respond on or before February 18, 2022, to the information requests in Attachment A of the September 9 Order that LUMA answered in the September 17 Motion that the response must be provided by PREPA.

5. In compliance with the January 21 Order, PREPA herein submits the responses to the information requests in Attachment A of the September 9 Order where LUMA, as its agent, indicates that the response must be provided by PREPA. Attachment A.

WHEREFORE, it is respectfully requested that the Energy Bureau find that PREPA has complied with the January 21 Order.

RESPECTFULLY SUBMITTED.

In San Juan Puerto Rico, this 18th day of February 2022.

² PROMESA is codified at 48 U.S.C. §§ *et seq.*

s/ Katuska Bolaños-Lugo
Katuska Bolaños-Lugo
TSPR No. 1888
kbolanos@diazvaz.law

DÍAZ & VÁZQUEZ LAW FIRM, P.S.C.
290 Jesús T. Piñero Ave.
Oriental Tower, Suite 803
San Juan, PR 00918
Tel. (787) 395-7133
Fax. (787) 497-9664

CERTIFICATE OF SERVICE

It is hereby certified that I have filed the foregoing with the Clerk of the Energy Bureau using the electronic filing system and also that I have served a copy upon to Margarita Mercado Echegaray, margarita.mercado@us.dlapiper.com.

In San Juan Puerto Rico, this 18th day of February 2022.

s/ Katuska Bolaños-Lugo
Katuska Bolaños-Lugo

Attachment A



GOBIERNO DE PUERTO RICO
AUTORIDAD DE ENERGÍA ELÉCTRICA

Attachment A

RFI-LUMA-MI-2021-0004-210909-PREB-002

In the Modification Request, LUMA [Energy LLC (LUMA)] states that due to a proposed higher energy demand forecast, base rate revenue is \$60M higher than in its approved Initial Budgets, which is partially offset by increased expenditures of \$39M and concludes there is no need to change base rates. LUMA also states that the higher Generation Budget than in the approved Initial Budgets, is primarily due to “increased estimates of pension liabilities and increased employee benefits for [the Puerto Rico Electric Power Authority (PREPA)] Generation.”

a. LUMA was asked to explain why increased PREPA Legacy costs in the Fiscal Oversight and Management Board for Puerto Rico (FOMB) budget and incorporated into LUMA’s requested changes to the Initial Budget do not result in lower shared Services costs assigned to LUMA. LUMA responded that it cannot provide additional information on changes to GenCo and PREPA Legacy costs made by PREPA per section 7.3(e)(ii) of the OMA, that it was not consulted on the change and that PREPA must provide a response.

b. LUMA was asked to provide the rationale for increased PREPA GenCo pension costs and whether the additional cost increases 401k contributions of active LUMA employees and if not, to describe how additional pension costs are allocated. LUMA responded by referencing its response in (a) above and asserting that PREPA must provide a response. LUMA also stated that the changes proposed for PREPA GenCo pension costs do not affect LUMA’s budgets.

PREPA Response to PREB-002 (a) and (b)

All final changes included in the revised FOMB certified FY2022 budget for PREPA were ultimately decided by FOMB, which has budget authority over PREPA under PROMESA. PREPA requested certain explanations from FOMB where relevant to the restructuring process. For example, PREPA did request to understand the FOMB’s change to employer pension contribution expense for FY2022, since PREPA, AAFAF, and their actuarial advisors are required by the fiscal plan to understand the pension plan liquidity status and impact of various reform options. See, 2021 PREPA Fiscal Plan¹ at p. 111.

Regarding other changes to the FY2022 budget made by FOMB, such as the changes to FOMB advisor costs and LUMA fees, PREPA does not have any further clarifying information or explanation to provide beyond that already provided by LUMA in its September 17th Motion². Regarding the increase in PREPA Legacy Costs, PREPA did not develop or propose the \$23

¹ 2021 Fiscal Plan for the Puerto Rico Electric Power Authority as certified by the Financial Oversight and Management Board for Puerto Rico (May 27, 2021), <https://drive.google.com/file/d/1dXFJldZpOIsAObMZDBd7T2P3j2xMPaal/view> (last visited Feb. 18, 2022).

² Attach. A-1, LUMA, *Motion in Compliance with September 9th Order Submitting Revised Request for Modification of Approved Budget for Fiscal Plan Year 2022 and Responses to Requests for Information* (Sept. 17, 2021) (“September 17 Motion”).



million for PREPA Legacy included by LUMA in its initial budgets, therefore PREPA cannot bridge the difference between that amount and the final amounts approved by FOMB.

The final budget certified by FOMB was based on the budget submitted by PREPA to FOMB, with FOMB adjustments to Christmas Bonus and Pension Benefits. Amounts for Christmas Bonuses were deleted by FOMB and Employer Pension Contributions were adjusted as described above and as shown below in the July 1, 2021, FOMB certified FY2022 budget for PREPA, currently in effect as of the date of this submittal.

\$ Thousand	FY22 Budget
C. HoldCo - Operations Expenses	
Labor	
Salaries & Wages	8,737
Marginal Benefits (excl. Healthcare, Pension and Ch. Bonus)	1,023
Christmas Bonus	-
Pension Benefits - Employer Contribution	5,937
Healthcare Expense	1,428
Overtime Pay	506
Overtime Benefits	58
Total HoldCo Labor Operating Expenses	17,690
Non-Labor / Other Operating Expenses	
Materials & Supplies	166
Transportation, Per Diem, and Mileage	242
Retiree Medical Benefits	11,800
Utilities & Rents	1
Communications Expenses	2
Professional & Technical Outsourced Services	4,144
Other Miscellaneous Expenses	1,825
PREPA Restructuring & Title III	38,722
FOMB Advisor Costs allocated to PREPA	24,400
P3 Authority Transaction Costs	4,750
Total HoldCo Non-Labor / Other Operating Expenses	86,050
Total HoldCo Operating Expenses	\$ 103,740

d. LUMA was asked to clarify whether PREPA Legacy or LUMA will be providing physical security at PREPA generation facilities and to reconcile any discrepancy between the FOMB budget and LUMA's proposed revised Initial Budgets.

LUMA responded similarly to (a) above and that PREPA must provide a response.



PREPA Response to PREB-002 (d)

As presented in the Excel worksheet "20210917-Motion-in-Compliance-with-September-9-Order-3" submitted by LUMA to PREB with the September 17 Motion, the cost for external security services was included under the PREPA Legacy / GenCo budgets. Also, included below is an excerpt with relevant highlights from the July 1, 2021, FOMB certified FY2022 budget for PREPA, currently in effect as of the date of this submittal.

B. GenCo - Operations & Maintenance Expenses**Labor**

Salaries & Wages	30,554
Marginal Benefits (excl. Healthcare, Pension and Ch. Bonus)	3,578
Christmas Bonus	-
Pension Benefits - Employer Contribution	20,763
Healthcare Expense	4,995
Overtime Pay	9,660
Overtime Benefits	1,092
GenCo Temporary Operating Positions	1,535
GenCo Emergency Operating Positions	3,364
GenCo Security Personnel	1,171
Total GenCo Labor Operating Expenses	76,711

Non-Labor / Other Operating

Materials & Supplies	18,000
Transportation, Per Diem, and Mileage	1,500
Security	10,444
Utilities & Rents	5,568
Professional & Technical Outsourced Services	5,000
Other Miscellaneous Expenses	12,000
Total GenCo Non-Labor / Other Operating Expenses	52,513

Shared Services Agreement Impact 55,800

Total GenCo Operating Expenses 185,023

Maintenance

Generation	106,389
Total GenCo Maintenance Projects Expense	106,389
Federal Funding Cost Share	-
Total GenCo Operating & Maintenance Expenses	\$ 291,412





GOBIERNO DE PUERTO RICO
AUTORIDAD DE ENERGÍA ELÉCTRICA

RFI-LUMA-MI-2021-0004-2 10909-PREB-003

In the Modification Request, Exhibit A, p. 1, LUMA references PREPA Legacy and Generation and Additional Budget Expenditures.

a. LUMA was asked to identify the components of each and quantify the Energy Bureau [of the Public Service Regulatory Board (“Energy Bureau”)] approved and proposed modified amounts and to cite where this corresponds to the FOMB certified budget. LUMA responded by providing a table listing fees and variances and citing corresponding components of the FOMB Certified Budget. It additionally responded as per RFI-LUMA-MI-2021-0004-210909-PREB-002 (a) above and that PREPA must provide a response.

PREPA Response to PREB-003 (a)

PREPA did not develop or propose the \$23 million for PREPA Legacy included by LUMA in its initial budgets, so PREPA cannot bridge the difference between that amount and the final amounts approved by FOMB.

The final HoldCo budget certified by FOMB was based on the proposed budget submitted by PREPA to FOMB, with FOMB adjustments to Christmas Bonus and Pension Benefits. Amounts for Christmas Bonuses were deleted by FOMB and Pension Contributions were adjusted in a similar manner as described for the GenCo Expenses budget.



\$ Thousand	FY22 Budget
<i>C. HoldCo - Operations Expenses</i>	
Labor	
Salaries & Wages	8,737
Marginal Benefits (excl. Healthcare, Pension and Ch. Bonus)	1,023
Christmas Bonus	-
Pension Benefits - Employer Contribution	5,937
Healthcare Expense	1,428
Overtime Pay	506
Overtime Benefits	58
Total HoldCo Labor Operating Expenses	17,690
 Non-Labor / Other Operating Expenses	
Materials & Supplies	166
Transportation, Per Diem, and Mileage	242
Retiree Medical Benefits	11,800
Utilities & Rents	1
Communications Expenses	2
Professional & Technical Outsourced Services	4,144
Other Miscellaneous Expenses	1,825
PREPA Restructuring & Title III	38,722
FOMB Advisor Costs allocated to PREPA	24,400
P3 Authority Transaction Costs	4,750
Total HoldCo Non-Labor / Other Operating Expenses	86,050
 Total HoldCo Operating Expenses	 \$ 103,740





GOBIERNO DE PUERTO RICO
AUTORIDAD DE ENERGÍA ELÉCTRICA

RFI-LUMA-MI-2021-0004-2 10909-PREB-004

In the Modification Request, LUMA presents revised component values of fuel and Purchased power that vary significantly from the PREB approved values.

a. LUMA was asked to explain the significant variance between the revised and approved fuel and purchased power values.

LUMA responded that it cannot provide additional information on changes to fuel costs made by PREPA per section 7.3(e) (ii) of the OMA, that the revised forecast was made without consultation and review by LUMA and that PREPA must provide a response.

PREPA Response to PREB-004 (a)

During the final months of FY2021, PREPA worked with FOMB in a similar cadence to all prior years in developing a revised budget and fiscal plan financial projection based on changes in market prices, system operations, and other factors. The fuel and purchased power forecast in the FY2022 certified budget reflects fuel pricing as of May 2021, which was significantly higher than the December 2020 pricing used in the LUMA initial budget filing. PREPA does not agree with LUMA's assertion "the revised forecast was made without consultation and review by LUMA" – PREPA worked with FOMB and LUMA throughout the fiscal plan and budget development process and provided both parties with numerous draft forecasts for review and comment.





GOBIERNO DE PUERTO RICO
AUTORIDAD DE ENERGÍA ELÉCTRICA

RFI-LUMA-MI-2021-0004-2 10909-PREB-007

In the Modification Request, LUMA cites \$16 M additional expenditures as mainly resulting from increased estimates of pension liabilities and increased employee benefits for PREPA Generation and these changes resulted from discussions between PREPA and FOMB, and elsewhere states that the Generation budget includes Shared Services, and the increase mainly consists of increased benefits for PREPA Generation.

a. LUMA was asked to quantify pension liabilities increased employee benefits, shared services, and other components and to identify and quantify changes to each upon which the modification request is based and provide supporting documentation. LUMA was also asked to cite where referenced in the FOMB Certified Budget.

LUMA responded that it cannot provide additional information on changes to the GenCo costs made by PREPA per section 7.3(e)(ii) of the OMA, that the revised forecast was made without consultation and review by LUMA and that PREPA must provide a response.

PREPA Response to PREB-007 (a)

PREPA will refer the Energy Bureau to its response to PREB-002 regarding the changes made to employer pension contribution and other components. Regarding shared services, PREPA does not have any further clarifying information or explanation to provide beyond that already provided by LUMA in its September 17 Motion and responses.

