

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

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

CASE NO.: NEPR-MI-2021-0002

SUBJECT: Resolution and Order for the
Motion to Submit Updated List of Projects
and LUMA January 24 Three Scopes of
Work.

RESOLUTION AND ORDER

I. Introduction

On September 22, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("September 22 Resolution") through which it approved several projects presented by LUMA¹ that are to be submitted for federal funding approval to the Federal Emergency Management Agency ("FEMA") and the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3").

On October 4, 2021, LUMA filed before the Energy Bureau a document titled *Motion Submitting Updated List of Transmission and Distribution Projects and Thirty-Eight Scopes of Work* ("October 4 Motion"). As Exhibit 1 to the October 4 Motion, LUMA included an updated project list, which contain the current LUMA Transmission and Distribution ("T&D") projects and their status. Further, LUMA included as Exhibit 2 to the October 4 Motion thirty-eight Scopes of Work ("SOW") for T&D projects for the Energy Bureau's review and approval.

On October 18, 2021, the Energy Bureau issued a Resolution and Order ("October 18 Resolution") through which it approved several projects presented by LUMA² that are to be submitted for federal funding approval to the FEMA and the COR3.

On January 24, 2022, LUMA filed before the Energy Bureau a document titled *Motion Submitting Updated List of Transmission and Distribution Projects and Three Scopes of Work* ("January 24 Motion"). As Exhibit 1 to the January 24 Motion, LUMA included an updated project list, which contain the current LUMA Transmission and Distribution ("T&D") projects and their status. Further, LUMA included as Exhibit 2 the FEMA Project Scope of Work for the Three proposed Projects.

On February 2, 2022, LUMA filed a document titled *Motion to Substitute Exhibit 2 Submitted to the Energy Bureau on January 24, 2022, Request Confidentiality of Portions of Such Exhibit 2, and Submit Supporting Memorandum of Law* ("February 2 Motion"). LUMA states that by inadvertence, the January 24 Motion Exhibit 2 was submitted in an unredacted form.³ LUMA requested to the Energy Bureau to remove from the record the Exhibit 2 of the January 24 Motion, substituting it with an updated version under seal of confidentiality. LUMA also submitted a redacted version of the Exhibit 2 of the January 24 Motion.

II. LUMA's Request for Confidential Information Designation and Treatment ("February 2 Motion")

LUMA states that Exhibit 2 of the January 24 Motions contains confidential information on the form of critical energy infrastructure information or critical electric infrastructure

¹ LUMA Energy, LLC, and LUMA Energy ServCo, LLC (collectively, "LUMA").

² October 18 Resolution, Attachment A describes the approved 18 SOWs totaling a Class 5 estimate of \$652.58 MM.

³ February 2 Motion, p. 2.



information (“CEII”) that garners protection from public disclosure pursuant to federal statutes and regulations, *see e.g.*, 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113(2020).⁴

Table 1 below details the list of the information for which LUMA requested confidential designation and treatment:

Table 1: LUMA’s Request for Confidential Information Designation and Treatment

| Document | Date of Submission | Pages in which Confidential Information is Found, if applicable | Summary of Legal Basis for Confidentiality Protection, if applicable |
|--|---|--|---|
| Exhibit 1 (in substitution of Exhibit 2 submitted on January 24, 2022) | February 2, 2022 (in substitution of version submitted on January 24, 2022) | <p>Fourth Page (Page 4 of Cybersecurity SOW):</p> <p>In the table on the top of the page, the text in the third, fourth and fifth rows of the second column (each with one line of text)</p> <p>The first and second paragraphs of the section titled “Introduction” (each with five (5) and eight (8) lines of text, respectively)</p> | <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> |
| | | <p>Fifth Page (Page 5 of Cybersecurity SOW):</p> <p>In the table on the top of the page, the text in all seven the rows in the first column under the header “Name” (with nine (9) lines of text)</p> <p>The sentence under the section titled “Facilities Description” (two (2) lines of text)</p> <p>The text inside the block in the bottom of the page titled “Scope of Work Description (e.g., Plan for Repair)” (eighteen (18) lines of text)</p> <p>Sixth Page (Page 6 of the Cybersecurity SOW):</p> <p>The text inside the first block, (six (6) lines)</p> <p>The text inside the second block, under the title “Scope” (thirty-four (34) lines of text)</p> | <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> |
| | | <p>Seventh Page (Page 7 of the Cybersecurity SOW):</p> <p>In the block on top of the page titled “Type of Project”, the text inside the</p> | <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> |

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⁴ February 2 Motion, p. 2.

| Document | Date of Submission | Pages in which Confidential Information is Found, if applicable | Summary of Legal Basis for Confidentiality Protection, if applicable |
|----------|--------------------|--|---|
| | | <p>second and third rows (one line of text in the second row and four (4) lines of text in the third row)</p> <p>Eight Page (Page 8 of the Cybersecurity SOW):</p> <p>In the block on the top of this page titled "Industry Standards", the text inside the first row (three (3) lines of text)</p> <p>The text in the third block on this page, titled "406 Mitigation Opportunity Scope of Work" (eight (8) lines of text)</p> <p>Thirteenth Page (Page 4 of IT/OT SOW):</p> <p>In the table on top of the page, the text in the third, fourth and fifth rows under the second column (each with one line of text)</p> <p>In the table on the bottom of the page titled "Facilities List", the text in the first and second rows of the first column (under the heading "Name") (with eight (8) lines of text) and the text in first row of the second column (under the heading "Number") (with one line of text)</p> | <p>C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> |
| | | <p>Fourteenth Page (Page 5 of the IT/OT SOW):</p> <p>The text under the section titled "Facilities Description" (with twenty- six (26) lines of text)</p> <p>The text in paragraphs numbered 1 and 2 in the Section titled "Project Scope"</p> <p>Fifteenth Page (Page 6 of the IT/OT SOW):</p> <p>The text in the first bullet and items number 3, 4, and 5 (the first twenty lines from top to bottom of this page)</p> <p>The text in item 7 (two lines)</p> | <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> |

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| Document | Date of Submission | Pages in which Confidential Information is Found, if applicable | Summary of Legal Basis for Confidentiality Protection, if applicable |
|----------|--------------------|--|---|
| | | <p>The text in the first bullet in item number 8, and the (6) additional lines of text below it (a total seven (7) lines)</p> <p>The text in items number 1 and 2 under "Type of Project" (five lines)</p> <p>Sixteenth Page (Page 7 of the IT/OT SOW):</p> <p>The text in items b and 3 on the top of the page (two lines)</p> <p>The text in the second row of the block near the top of the page (one line)</p> <p>The text in the first three paragraphs below the block on the top of the page (fourteen (14) lines)</p> <p>Eighteenth Page (Page 9 of the IT/OT SOW):</p> <p>In the table under the section titled "Attachments", (i) under the heading of the first column: the text in the second line of the first row; and under the heading of the second column: the text (one line) and the figure/link in the first row and the text (one line) and figure in the third row following "Location Maps and Site Picture"</p> | <p>C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> <p>Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674</p> |

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Act 57-2014⁵ establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.⁶ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information provided that "the Energy Bureau, after the appropriate evaluation, believes such information should be

⁵ Puerto Rico Energy Transformation and RELIEF Act, as amended ("Act 57-2014").

⁶ Section 6.15 of Act 57-2014.



protected”.⁷ In such case, the Energy Bureau “shall grant such protection **in a manner that least affects the public interest, transparency,** and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”⁸

Upon review of LUMA’s arguments and the law, the Energy Bureau **GRANTS** confidential designation and treatment to the information described in Table 1 above, for the reasons stated by LUMA, since it is considered CEII, pursuant to Article 6.15 of Act 57-2014. The Energy Bureau **TAKES NOTICE** that LUMA submitted a revised redacted (*i.e.*, public) version of the documents described in Table 1.

III. Evaluation of the February 2 Motion

Through the February 2 Motion, LUMA submitted three (3) Project SOWs, which include the following projects: Cybersecurity Program Implementation; Field Area Network (FAN) IT/OT Telecom; and Substation Isla Grande 1101. These three (3) SOWs’, two of them, the Cybersecurity Implementation Program, and the Field Area Network (FAN), are Projects associated with Information Technology and Communications, subjects of great importance in view of a resilient and robust Transmission and Distribution (“T&D”) system infrastructure and operation. The Third SOW, Substation Isla Grande 1101, is related to works associated with the effective repurposing of the Isla Grande substation, which is no longer in operations. As part of the SOWs, LUMA included Class 5 Cost Estimates which detail costs of materials, labor and equipment, engineering, permitting, management, and contingencies for each project. As per the SOWs, these Class 5 cost estimates can deviate between -50% to +100% of the final project cost. Except for the SOW of the Substation Isla Grande 1101, the other two SOWs refer to highly technical subjects associated with cybersecurity and FAN, estimates that are difficult to establish.

As part of the information provided, LUMA described the establishment of a cybersecurity program and its purpose of protecting key organizational assets. Improving cybersecurity is a critical part of hardening and mitigating hazards to the T&D system and for the service continuity. A Field Area Network (FAN) will provide connectivity to several applications necessary to support advanced grid services. The LUMA facilities to be utilized and serviced by the FAN include substations, towers, poles, data centers, and office buildings, dams, hydro-electric facilities, remote technical offices, and commercial offices, located all over the island. Finally, the SOW for Isla Grande 1101 is a direct removal of the substation and its components. The Isla Grande substation site will be re-used to install a new 13.2kV to 4.16kV voltage converter (step down transformer).

Upon review of the February 2 Motion, the Energy Bureau **DETERMINES** that the projects presented are necessary to improve the reliability and resiliency of the system. Therefore, the Energy Bureau **APPROVES** the projects in Attachment A to this Resolution and Order. The Energy Bureau notes this approval represents **\$ 355,100,000.00** based on the Class 5 Cost Estimates submitted by LUMA through the February 2 Motion. (See Table 2)

Table 2. Approved SOW’s by the Energy Bureau

| PREB R&O Dated | Approval (Million dollars) |
|--------------------|----------------------------|
| June 8, 2021 | \$ 1,240.77 |
| August 20, 2021 | \$ 1,789.58 |
| September 8, 2021 | \$ 1,376.97 |
| September 22, 2021 | \$ 3,885.17 |
| September 28, 2021 | \$ 80.81 |
| October 14, 2021 | \$ 117.47 |

⁷ *Id.*

⁸ *Id.* (Emphasis added).



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| PREB R&O Dated | Approval (Million dollars) |
|-------------------|----------------------------|
| October 18, 2021 | \$ 652.58 |
| December 1, 2021 | \$ 18.26 |
| December 20, 2021 | \$ 5.19 |
| January 5, 2022 | \$ 253.78 |
| February 10, 2022 | \$ 3.71 |
| February 18, 2022 | \$ 0.91 |
| February 24, 2022 | \$ 0.78 |
| March 8, 2022 | \$ (0.51) |
| This R&O | \$ 355.10 |
| Total | \$ 9,780.55 |

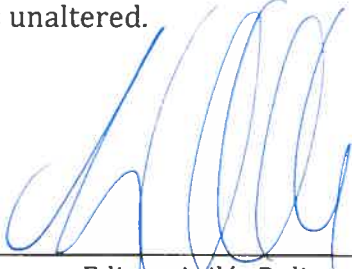
IV. Conclusion

The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize their approval process. The Energy Bureau approved these projects based upon the information provided by LUMA. Should the scope of the project change, LUMA **SHALL** immediately seek the Energy Bureau's approval of such changes.

The Energy Bureau **ORDERS** LUMA 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 in attachment A, **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

The directive established in the March 26 Resolution regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

Be it notified and published



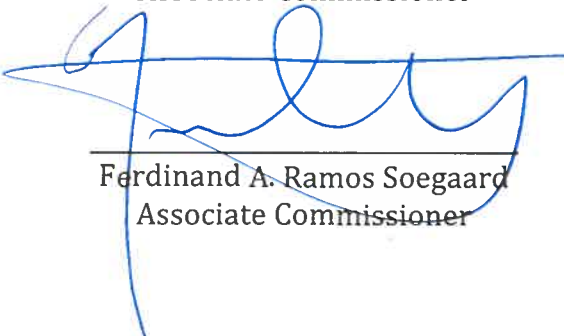
Edison Avilés Deliz
Chairman



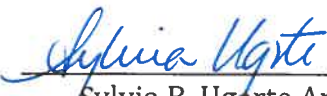
Angel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



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 March 15, 2022. I also certify that on March 15, 2022 a copy of this Resolution and Order was notified by electronic mail to the following: laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com, kbolanos@diazvaz.law; mvazquez@diazvaz.law. I also certify that today, March 15, 2022, 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 March 15, 2022.



Sonia Seda Gaztambide
Clerk



**Attachment A
Projects Approved by the Energy Bureau**

| Facility | Project Name | Proposed Scope of Work | Presented Estimate |
|-----------------|--|--|--------------------------------|
| PR | Cybersecurity Implementation Program | Development an implementation of a modern and capable cybersecurity program to achieve cyber resiliency for PREPA's and LUMA's critical infrastructure and operations. | \$ 24,500,000.00 |
| PR | Field Area Network (FAN) IT/OT Telecom | The FAN will provide communication services for field devices and applications. It will provide connectivity to several applications and systems that require connections to support advanced grid services. | \$ 330,000,000.00 |
| San Juan | Substation Isla Grande 1101 | Several works in the substation facility which is no longer functional. | \$ 600,000.00 |
| TOTAL | | | <u>\$355,100,000.00</u> |

