

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

NEPR

Received:

Mar 21, 2022

7:43 PM

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 and Request for
Approval of RFQ/RFP for IRP Consultant Contracting
Process**

**INFORMATIVE MOTION AND REQUEST FOR APPROVAL OF RFQ/RFP FOR IRP
CONSULTANT CONTRACTING PROCESS**

TO THE PUERTO RICO ENERGY BUREAU:

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

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

2. On November 5, 2021, LUMA informed the Energy Bureau of the status of LUMA’s activities to meet the requirements for the procurement of the technical consultant to be engaged for IRP-related services under Section V(B)(2) of the August 24th Resolution (“IRP Consultant Contracting Process”), among others. *See* LUMA’s *Informative Motion on Status of Activities*

¹ The term Approved IRP and Modified Action Plan refers to the Puerto Rico Electric Power Authority’s (“PREPA”) Integrated Resource Plan (“IRP”) as approved in part and rejected in part by the Energy Bureau by Final Resolution and order of August 24, 2020 in Case CEPR-AP-2018-0001, *In Re: Puerto Rico Electric Power Authority Integrated Resource Plan* (“August 24th Resolution”), and the modified action plan established by the Energy Bureau in the August 24th Resolution. *See id.*

Related to Next IRP Cycle, Request for Extension to File Documents, and Request to Schedule Technical Conference of that date.

3. On November 30, 2021, LUMA informed the Energy Bureau on the timeline to file with the Energy Bureau the first submittal required under the IRP Consultant Contracting Process, in the form of a single document combining a proposed Request for Qualifications (“RFQ”) and a Request for Proposals (“RFP”) and requested the Energy Bureau to grant LUMA until December 17, 2021, to submit this document. *See LUMA’s Informative Motion on Timeline to Submit the Report on Resource Planning for the Next IRP Cycle and the Draft RFQ and RFP for IRP Consultant and Request for Additional Time* of that date.

4. After other procedural events, on December 15, 2021, this Energy Bureau issued a Resolution and Order (the “December 15th Resolution and Order”) granting LUMA until December 17, 2021 to submit the proposed RFQ and RFP, and scheduling a Technical Conference for January 25, 2022 at 2:00 p.m.

5. On December 17, 2021, LUMA filed with the Energy Bureau the proposed RFQ and RFP with a first draft of the proposed contract to engage the IRP consultant (together the “RFQ/RFP”) (*see* Exhibit 3 of LUMA’s *Motion to Submit Report on Resource Planning Process for Next IRP Cycle and Draft RFQ/RFP for IRP Consultant and Request for Confidential Treatment* of that date (“December 17th Motion”))², and described a proposed streamlined IRP Consultant Contracting Process (the “Streamlined IRP Consultant Contracting Process”), which would reduce the steps and shorten the timeframe for the Energy Bureau to review and approve

² LUMA requested that Exhibit 3 be maintained under seal of confidentiality (*see id.* at page 6) and subsequently, on December 27, 2021, filed with the Energy Bureau, in support of such request, a *Memorandum of Law in Support of Request for Confidential Treatment of Draft RFQ/RFP for IRP Consultant and Draft Contract*.

the procurement documents and steps required under Section V(B)(2) of the August 24th Resolution (*see* December 17th Motion at pages 2-6).

6. On January 25, 2022, the Energy Bureau held the Technical Conference, wherein LUMA gave a presentation regarding, among others, the IRP development process and status, the Streamlined IRP Consultant Contracting Process, and LUMA's planned IRP Schedule ("Planned IRP Schedule"). *See* LUMA's presentation attached as Exhibit 1 to LUMA's *Motion to Submit LUMA's Presentation for Technical Conference Scheduled for January 25, 2022*, filed with the Energy Bureau on January 20, 2022 (the "Presentation"). The Planned IRP Schedule lists several tasks and their associated completion dates: (1) the IRP Consultant Contracting Process by March 25, 2022; (2) the forecasts for load, energy efficiency, distributed energy resources and electric vehicles by July 29, 2022; (3) the definition of scenarios and metrics by July 22, 2022; (4) the assessment of generation options by June, 26, 2023; (5) the T&D deliverability assessment by June 26, 2023; (6) the Resource Portfolio Scoring by June 6, 2023; (7) the study report by August 11, 2023; and (8) the filing of the IRP with the Energy Bureau by August 23, 2023. *See id.*, slide 8.

7. LUMA also indicated in its Presentation that, in order to preserve the Planned IRP Schedule, it needed to proceed with the process of selecting the IRP technical consultant as soon as possible, recognizing the short time frame available for completing the required steps to prepare the IRP.

8. Following the comments by Associate Commissioner Ángel Rivera in the Technical Conference,³ LUMA confirmed that the deadline to file the next IRP with the Energy Bureau is January 3, 2024, as computed pursuant to the provisions of the Resolution and Order issued by the

³ Commissioner Ángel Rivera indicated during the Technical Conference that the deadline to file the IRP should be computed based on the Energy Bureau's directives on the subject on a Resolution and Order issued by the Energy Bureau in 2018 in Case CEPR-AP-2018-0001, *In Re: Puerto Rico Electric Power Authority Integrated Resource Plan*.

Energy Bureau on March 15, 2018, in Case CEPR-AP-2018-0001, *In Re: Puerto Rico Electric Power Authority Integrated Resource Plan* (the “March 15 Resolution and Order”). See March 15 Resolution and Order at pages 1-3.⁴

9. LUMA respectfully informs that, notwithstanding the revised deadline to file the IRP indicated herein, the timeframe to prepare and complete the IRP is still very limited. As of this date, LUMA has not received comments from this honorable Energy Bureau to the RFQ/RFP document submitted by LUMA on December 17, 2021. Therefore, the process to procure the IRP consultant has not commenced and cannot be completed by the March 25th deadline in the Planned IRP Schedule. As a result, despite the proposed streamlining of the process to review and approve the procurement steps, the milestones in LUMA’s Planned IRP Schedule following the engagement of the consultant (tasks 3 to 6 outlined in paragraph 6 above) will likely require postponing by at least sixty (60) days or more, depending on when LUMA receives approvals for the RFQ/RFP and the documents requiring approval in the IRP Consultant Contracting Process. The delays in these milestones have already reduced the time available to complete the IRP and create added risk to LUMA’s ability to meet the IRP filing deadline of January 3, 2024.

⁴ In the March 15 Resolution and Order, the Energy Bureau determined that the date from which the three-year period provided in Act 83 of May 2, 1941, as amended, and Act 57-2014, as amended, for reviewing an existing IRP is to be computed “shall be the date on which the then-existing IRP entered into full force and effect (i.e., the date on which it became legally binding and enforceable)”. See *id.* at page 2. In this case, the Approved IRP and Modified Action Plan was approved on August 24, 2020, as per the August 24th Resolution. On September 23, 2020, the Energy Bureau issued a Resolution and Order taking notice of Requests for Reconsideration of the August 24th Resolution filed by five different entities and indicating that it would evaluate these in accordance with Section 3.15 of the Uniform Administrative Procedures Act of the Government of Puerto Rico, Act 38-2017, as amended (“Act 38”), and Section 11.01 of Regulation 8543 on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures of December 18, 2014. On December 2, 2020, the Energy Bureau issued a Resolution and Order (the “December 2 Resolution and Order”) resolving all the Requests for Reconsideration and affirming the August 24th Resolution in its entirety, except for the matters noted in the December 2 Resolution and Order. The deadline to request judicial review of the December 2 Resolution and Order, based on the thirty-day term provided under Section 4.2 of Act 38, was January 2, 2021. Since no requests for judicial review were filed by January 2, 2021, the August 24th Resolution became final on January 3, 2021. Therefore, the deadline to file the next IRP is January 3, 2024.

10. During the January 25, 2022 Technical Conference, LUMA also informed the Energy Bureau that the PR100 Study, being conducted by the U.S. Department of Energy (“DOE”), would contribute elements to the IRP. However, LUMA indicated that the extent of this contribution would depend on the PR100 Study’s final scope and schedule, and that this study may not complete the preliminary findings in sufficient time to include the PR100 output in the IRP, and still meet the IRP filing deadline.

11. In a comment during the Technical Conference, the Energy Bureau’s consultant, present at the Technical Conference, suggested that LUMA should fully utilize the results of the DOE onshore and offshore wind study, and the Energy Bureau’s energy efficiency baseline and potential study, which is planned to be conducted by a consultant contracted by the Energy Bureau. The consultant further suggested that LUMA should let those processes occur and should not be in any hurry to perform the LUMA IRP study process that the DOE and Energy Bureau studies are doing.

12. LUMA respectfully submits that it plans to use any useful information that comes from the DOE’s onshore and offshore wind study and the Energy Bureau’s, energy efficiency baseline and potential study that LUMA receives in sufficient time to incorporate into the IRP analysis. However, LUMA must still meet the January deadline for filing its IRP, regardless of the potential for information that may be gained from these studies.

13. For the above reasons, LUMA respectfully requests that this honorable Energy Bureau approve the RFQ/RFP submitted to this Energy Bureau in LUMA’s December 17th Motion and consider establishing an expedited schedule for the review by the Energy Bureau of subsequent filings related to this procurement process to enable LUMA to move forward on the IRP tasks with sufficient time to complete the IRP, in a thorough manner. LUMA has created the IRP project

schedule milestones with the intent of avoiding requests for filing extensions as has been the case in prior IRP filings.

WHEREFORE, LUMA respectfully requests the Energy Bureau to **take notice** of the aforementioned, **proceed with the approval** of the draft RFQ/RFP submitted by LUMA on December 17th, 2021, and consider establishing an expedited schedule for review and approval of subsequent filings related to the IRP Consultant Contracting Process.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 21st day of March 2022.

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.



DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969
Tel. 787-945-9107
Fax 939-697-6147

/s/ Margarita Mercado Echegaray
Margarita Mercado Echegaray
RUA NÚM. 16,266
margarita.mercado@us.dlapiper.com

/s/ Laura T. Rozas
Laura T. Rozas
RUA Núm. 10,398
laura.rozas@us.dlapiper.com