

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

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

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Submittal of Report on Resource Planning Process for Next IRP cycle and Drat RFQ/RFP for IRP Consultant and Request for Confidential Treatment

RESOLUTION AND ORDER

I. INTRODUCTION & PROCEDURAL BACKGROUND

On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued the IRP Order¹, regarding the Integrated Resource Plan (“IRP”) of PREPA. The IRP Order included a Section titled “Preparing for the Next IRP Cycle”, containing action items and internal process improvements to be implemented by the Puerto Rico Electric Power Authority (“PREPA”) for the next IRP.² The action items included specific technical elements pertaining to how the IRP considered energy efficiency, distributed generation and storage, load forecasting, wind resources, resource need assessment, transmission and distribution and a Modified Action Plan.³

On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnerships Authority, LUMA ENERGY, LLC as ManagementCo, and LUMA ENERGY SERVCO, LLC as ServCo (collectively, “LUMA”) entered into an Operation and Maintenance Agreement (“OMA”) under which LUMA will manage PREPA’s transmission and distribution system (“T&D System”). As part of the OMA 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].”⁴

On October 6, 2020, the Energy Bureau issued a Resolution and Order (“October 6 Resolution”) opening the instant docket to manage the implementation phase of the Approved IRP and Modified Action Plan.⁵

On November 5, 2021, LUMA submitted a document titled *Informative Motion on Status of Activities Related to Next IRP Cycle, Request for Extension to File Documents and Request to Schedule Technical Conference* (“November 5 Request”), informing the Energy Bureau of the status of LUMA’s efforts regarding the process to prepare for the next IRP cycle and requesting until November 30, 2021 to submit: (a) the Internal IRP Process Review Report required under Section V(B)(1); and (b) the first submittal required under the IRP Consultant Contracting Process under Section V(B)(2). LUMA also requested the Energy Bureau to schedule a Technical Conference with the purpose of: (a) providing the Energy Bureau more detailed information on the status of LUMA’s efforts with its preparation for the next IRP cycle, including the matters discussed in the November 5 Request; b) discussing LUMA’s request for streamlining the IRP Consulting Contracting process; c) discussing

¹ Final Resolution and Order on the Puerto Rico Electric Power Authority’s Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 (“IRP Order”).

² IRP Order, pp. 285-289, ¶ 912-922.

³ IRP Order, pp. 285-287, ¶ 913-919.

⁴ Section 1(G) of Annex I of the OMA also provides, in pertinent part, that the O&M Services being responsible for “preparing, presenting, [and] defending current or future [IRP’s], [...], representative before the Energy Bureau) and any other local, state, or federal government agencies”.

⁵ See October 6 Resolution, p. 1.



pending questions LUMA has regarding the next IRP cycle requirements; d) and answering questions from the Energy Bureau regarding these subjects.

On November 30, 2021, LUMA filed a document titled *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* ("November 30 Request"). In the November 30 Request, LUMA informs that it has prepared preliminary drafts of the Internal IRP Process Review Report required under Section V(B)(1) and the Request for Proposal required under Section V(B)(2) of the IRP Order, but such preliminary drafts were not ready for the Energy Bureau's Review and approval. Therefore, LUMA requested until December 17, 2021 to file such documents.⁶

On December 15, 2021 the Energy Bureau issued a Resolution and Order granting LUMA's November 5 and November 30 requests. The Energy Bureau Resolution and Order included scheduling a technical conference for January 25, 2022.

On December 17, 2021 LUMA submitted a *Motion to Submit Report On Resource Planning Process For Next IRP Cycle And Draft RFQ/RFP for IRP Consultant And Requests For Confidential Treatment* ("December 17 Motion"). LUMA included in its December 17 Motion the following three attachments: Exhibit 1, IRP Process Report; Exhibit 2, Diagrams Comparing IRP Consultant Contracting Process under August 24th Resolution with the Streamlined Process, and Exhibit 3, Draft RFQ/RFP (submitted under Seal of Confidentiality). On December 27, 2021 LUMA submitted a *Memorandum of Law in Support of Request for Confidential Treatment of Draft RFQ/RFP for IRP Consultant and Draft Contract* ("Confidentiality Request"). LUMA states that Exhibit 3 filed with the December 17 Motion contains commercially-sensitive documents and drafts that must be kept confidential to protect future competitive procurement process. LUMA argues that a disclosure will adversely impact the integrity of the procurement process. LUMA request confidential treatment to the documents under Act 80-2011⁷

On January 20, 2022 LUMA submitted a *Motion To Submit LUMA's Presentation for Technical Conference Scheduled for January 25, 2022* and its presentation for the Technical Conference, to be held on January 25, 2022. Attached was Exhibit 1, Presentation for the January 25th Technical Conference.

On January 25, 2022 a Technical Conference was held at which LUMA presented a slide deck with information on the next IRP development status, the development process overview, and the review and approval process of an RFQ and a contract for the IRP technical consultant. LUMA answered questions from the Energy Bureau.

On March 21, 2022 LUMA submitted an *Informative Motion and Request for Approval of RFQ/RFP for IRP Consultant Contracting Process* ("March 21 Motion"). LUMA noted that the "timeline to prepare and complete the IRP is still very limited"⁸ even with an IRP filing date of January 2024.

II. DISCUSSION AND FINDINGS

In the December 17 Motion, LUMA included as Exhibit 1 an "Integrated Resource Plan Process Report" which describes LUMA's overall approach and potential timeline for the RFP process.

⁶ November 30 Request, p. 6.

⁷ Known as Protection for Commercial and Industrial Trade Secrets Act, June 3, 2011 ("Act 80-2011").


⁸ March 21 Motion, p. 4, ¶9





The December 17 Motion presumed an IRP filing date of August 2023, with a start date of January 2022 that coincided with issuance of an RFQ/RFP for technical consultants.⁹ This constitutes a roughly 20-month period for contracting, development, and eventual submittal of an IRP to the Energy Bureau. The “Key Milestone” chart indicated a March 2022 to August 2023 “Develop IRP” interval, or roughly 17 months for work after LUMA’s contractor selection has been approved by the Energy Bureau.¹⁰

The December 17 Motion included an IRP Team listing, and an IRP Modeling Framework that included representation of the primary software tools considered for the IRP modeling.¹¹ Those tools as listed included a reference to “Production – ProMod and TBD”.¹² It also described LUMA’s Stakeholder Involvement approach, including its involvement with the Department of Energy in its preparation of a Puerto Rico 100% Renewable Energy Study (“PR100”).¹³

Exhibit 2 to the December 17 Motion included a diagram for considering a streamlined contractor contracting process, that includes combining certain steps outlined in the IRP Order. Exhibit 3, submitted under Seal of Confidentiality, was a draft RFQ/RFP for contracting the IRP technical consultant.

 The January 25, 2022 Technical Conference presentation contained similar material as included in the December 17 Motion, Exhibit 1, with additional slides on IRP Process Overview, and including a Summary and Next Steps slide indicating “to preserve the project schedule, we need to proceed with process of soliciting proposals from technical consultants as soon as possible”.¹⁴


 In the March 21 Motion LUMA notes they intend to “use 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”, but LUMA also notes it “must still meet the January deadline for filing its IRP, regardless of the potential for information that may be gained from these studies”.¹⁵

The approved IRP was conducted by PREPA, with extensive analysis and support from its technical consultant, Siemens. Regulation 9021¹⁶ states that PREPA shall submit for approval an IRP. Based on the terms of the OMA and LUMA’s responsibilities to operate the T&D system, the Energy Bureau **DETERMINES** that LUMA shall follow Regulation 9021 in its development of an IRP and **ORDERS** LUMA to do so under the tenets of the Regulation.

Under the OMA and the Energy Bureau’s determination, LUMA will prepare the next IRP for Puerto Rico. The Energy Bureau **EXPECTS** that LUMA and LUMA’s technical consultant, once selected, will describe at the outset of the IRP process how the specific technical elements in the IRP Order and referenced above will be addressed. The Energy Bureau **NOTES** that Exhibit 3 from the December 17 Motion, the draft RFQ/RFP/Contract for a technical consultant, includes reference to - generally and in some instances specifically - these elements. The Energy Bureau **ANTICIPATES** technical discussions with LUMA and its

⁹ December 17 Motion, Exhibit 1, slide 2, Key Milestones.

¹⁰ December 17 Motion, Exhibit 1, slide 2.

¹¹ December 17 Motion, Exhibit 1, slide 4-5.

¹² December 17 Motion, Exhibit 1, slide 5.

¹³ December 17 Motion, Exhibit 1, slide 6.

¹⁴ January 25, 2022 Presentation, slide 14.

¹⁵ March 21 Motion, page 5.


¹⁶ Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority, April 24, 2018.





selected contractor, once determined, will focus in part on the planned treatment of these elements, both before and as part of the formal pre-IRP process.¹⁷

The PR100 process has recently commenced.¹⁸ The analysis will likely include determinations on onshore and offshore wind performance and cost parameters, inputs that will be critical to LUMA's IRP work even if the DOE PR100 study is not complete before LUMA's modeling work. It will also include transmission and potentially distribution system analysis that will also be useful for the IRP. The Energy Bureau has begun helping to better establish energy efficiency as a cost-effective resource for Puerto Rico.¹⁹ PREPA and the Energy Bureau continue to implement renewable energy and battery storage procurement pursuant to the August 2020 IRP Order. These activities will affect the data and assumptions considered by LUMA as part of the IRP process. The Energy Bureau **DIRECTS** LUMA to continue to carefully follow the progress made in each three area and utilize the most recently available information arising from these processes to inform its IRP modeling.

During discussion at the January 25, 2022 Technical Conference, the Energy Bureau noted that based on the December 2, 2020 issuance of the Final Resolution on Recommendations²⁰ pertaining to the IRP Order, and the appropriate 30-day period of time for appeal of that Order, the obligation for filing an IRP three years from the date of approval of the most recent IRP results in an obliged filing date of an IRP by LUMA during early January, 2024.²¹

 Based on the IRP Regulation 9021 but also considering the complexities involved with finalizing a formal IRP filing during the late December / early January timeframe, and in consideration of i) the ongoing PR100 process, ii) commencement of an energy efficiency framework establishment in Puerto Rico, and iii) ongoing procurement processes for battery energy storage and renewable resources; and LUMA's concern of preserving sufficient project scheduling time; the Energy Bureau **DETERMINES** that LUMA shall file an IRP by no later than March 1, 2024. Based on this end date, rather than an August 2023 IRP filing date contained in LUMA's December 17 Motion, the Energy Bureau **DIRECTS** LUMA to update its milestone schedules as necessary during its ongoing process for securing an IRP technical consultant, and in setting out any related timelines for IRP analysis efforts.


 Section 3.01 of the IRP Regulation 9021 specifies an IRP pre-filing process no less than two years after approval of the most recent IRP. The Energy Bureau thus **ANTICIPATES** scheduling an initial technical conference in March 2023 to gather information regarding the methodologies and contents contemplated by LUMA for its 2024 IRP. The Energy Bureau **EXPECTS** that LUMA and its technical consultant will spend the period preceding this pre-IRP initial technical conference conducting preliminary activities to best position LUMA to continue with rigorous analysis under the IRP modeling framework during the period from March 2023 through to its filing date in March 2024.

LUMA's modeling framework is condensed into a single slide in its December 17 Motion. It specifically references use of the ProMod modeling system for "production" modeling.

¹⁷ Section 3.01 of Regulation 9021 sets out an IRP Prefiling Process (Phase 1), that indicates that no less than two years after the approval of the most recent IRP, the Energy Bureau may schedule technical conferences to gather information regarding LUMA's methodologies and contents of the new IRP.

¹⁸ A kickoff meeting for the PR100 process was held on February 16, and an Advisory Group meeting was held on March 31, 2022.

¹⁹ Regulation for Energy Efficiency 9367 was published on Mach 25, 2022. Available at: <http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/9367ING.pdf> Last verified April 20, 2022.

²⁰ Final Resolution on Reconsiderations, *In Re. Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, Ruling on Motions for Reconsideration of the Final Resolution and Order on the Puerto Rico Electric Power authority's Integrated Resource Plan, December 2, 2020.


²¹ Regulation 9021, *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, Section 2.05 E.



Regulation 9021 requires capacity expansion modeling²² and resource plan development can include production cost modeling, but the regulation does not specify which modeling software package to use. LUMA and its technical consultant have discretion, but not unlimited discretion, in the choice of supply modeling software to use.


The Energy Bureau and other stakeholders may undertake modeling during the IRP process, and the PR100 Study is also likely to undertake both capacity expansion and production cost modeling. The Energy Bureau **DIRECTS** LUMA to incorporate into its contracting details for a technical consultant the understanding that all data, assumptions, algorithms, constraints, objectives and related processes and procedures involved in the modeling of the Puerto Rico electric system must be fully transparent, and access to such details must be made available to all stakeholders, in analytically friendly form (such as with Excel files) pursuant to Regulation 9021 at Section 2.02 F) 2) and as necessary based on further direction from the Energy Bureau.


The Energy Bureau **APPROVES** LUMA's plan to consolidate technical consultant contracting issues as described in its January 25, 2022 Technical Conference presentation,²³ and as described in its December 17 Motion.²⁴

 The Energy Bureau **APPROVES** the draft RFQ/RFP for use by LUMA in contracting for a technical consultant. The Energy Bureau also **REMINDS** LUMA that much of the detail associated with specifying the analytical methodologies and IRP content such as scenario specification and details around the forms of transmission and distribution analysis will be guided in part by ongoing technical conferences initiated either by LUMA or the Energy Bureau before the pre-IRP phase that commences in March 2023, and after the pre-IRP phase as required by the Energy Bureau.

 **III. CONCLUSION**

The Energy Bureau **APPROVES** the requests of LUMA to streamline the contracting process for an IRP technical consultant and approves LUMA's use of a draft RFQ/RFP/contract form.

 The Energy Bureau **DIRECTS** LUMA to file status updates on the technical consultant contracting process and the early stages of IRP preparation on July 1, 2022, and October 1 2022.

 Act 57-2014²⁵ 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.²⁶ 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 protected".²⁷ 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.**"²⁸

²² Regulation 9021, Section 2.03, H) 1) a) i.

²³ LUMA, Technical Conference presentation, January 25, 2022. Slides 12 and 13.

²⁴ December 17 Motion, pages 3-6.

²⁵ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

²⁶ Section 6.15 of Act 57-2014.

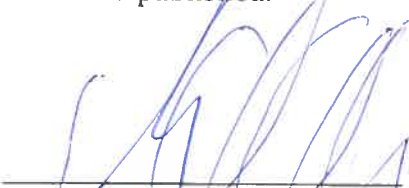
²⁷ *Id.*

²⁸ *Id.* (Emphasis added).

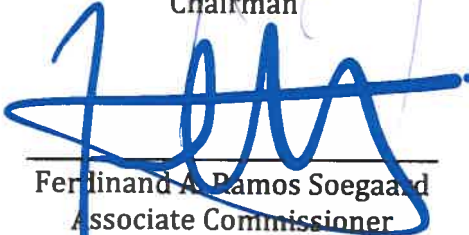


Upon review of LUMA's arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to Exhibit 3 of the December 17 Motion, pursuant to the provisions of Article 6.15 of Act 57-2014 and Act 80-2011.

Be it notified and published.



Edison Avilés Deliz
Chairman



Ferdinand A. Ramos Soegaard
Associate Commissioner



Lillian Mateo Santos
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 April 22, 2022. Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. I also certify that on April 22, 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; and mvazquez@diazvaz.law and 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 April 22, 2022.



Sonia Seda Gaztambide
Clerk

