

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

**IN RE: REVIEW OF LUMA'S INITIAL  
BUDGETS**

**CASE NO.:** NEPR-MI-2021-0004

**SUBJECT:** Requirement of Information

**RESOLUTION AND ORDER**

On February 24, 2021, LUMA ENERGY, LLC as ManagementCo, and LUMA ENERGY SERVC0, LLC as ServCo (collectively, "LUMA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Petition for Approval of Initial Budgets and Related Terms of Service* ("Initial Budgets Petition"),<sup>1</sup> under Act 57-2014,<sup>2</sup> as amended by Act 17-2019,<sup>3</sup> and pursuant to LUMA's obligations under Section 4.2 (e) of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("OMA"), dated June 22, 2020, executed by and among the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") and LUMA.

On April 22, 2021, LUMA filed with the Energy Bureau a document titled *Motion Submitting PREPA's Generation Budget in Compliance with Order*<sup>4</sup> in which LUMA submitted the Generation Budget, prepared by PREPA.

On May 31, 2021, the Energy Bureau issued a Resolution and Order ("May 31 Resolution"),<sup>5</sup> through which it approved LUMA's Initial Budgets, corresponding to the budget for Fiscal Year 2022 ("FY22"). The Energy Bureau also directed LUMA to comply with several conditions and filing requirements.

On June 21, 2021, LUMA filed with the Energy Bureau a document titled *Request for Clarification and/or Reconsideration of May 31<sup>st</sup> Resolution and Order Approving LUMA's initial Budgets* ("Reconsideration Request").<sup>6</sup> In the Reconsideration Request, LUMA requested the Energy Bureau to amend the May 31 Resolution to clarify or reconsider some of the Energy Bureau's reporting requirements. LUMA also asserted that certain reporting requirements were not consistent with procedures applicable to PREPA or LUMA in the OMA and with other reporting and compliance requirements.<sup>7</sup>

On July 16, 2021, the Energy Bureau issued a Resolution and Order ("July 16 Resolution"), through which it approved in part and denied in part, LUMA's Reconsideration Request.

One condition for which modification was requested by LUMA required that:

<sup>1</sup> See, *Petition for Approval of Initial Budgets and Related Terms of Service, In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, February 24, 2021 ("Initial Budgets Petition").

<sup>2</sup> *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>3</sup> *The Puerto Rico Energy Public Policy Act*.

<sup>4</sup> See, *Motion Submitting PREPA's Generation Budget in Compliance with Order, In re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, April 22, 2021 ("April 22 Compliance Motion").

<sup>5</sup> See, *Resolution and Order, In re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, May 31, 2021 ("May 31 Resolution").

<sup>6</sup> See, *Request for Clarification and/or Reconsideration of May 31<sup>st</sup> Resolution and Order Approving LUMA's Initial Budgets, In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, June 21, 2021 ("Reconsideration Request").

<sup>7</sup> *Id.*, p. 3.



Not later than October 31, 2021, LUMA shall submit to the Energy Bureau the Fiscal Year 2023 proposed budgets following the annual budget examination process delineated in the 2017 Rate Order. The filing requirements will be specified by the Energy Bureau in a future Resolution and Order.”<sup>8</sup>

LUMA requested that the filing date be moved to May 16, 2022. The Energy Bureau determined that the due date for the filing would be changed pursuant to LUMA’s request. The Energy Bureau established April 1, 2022 as the new due date for filing the Annual Budgets.<sup>9</sup>

On July 16, 2021, LUMA filed with the Energy Bureau, a document titled *Request for Modification of Approved Budget for Fiscal Year 2022* (“Modification Request”).<sup>10</sup> In the Modification Request, LUMA expressed the need to revise the Fiscal Year 2022 Approved Budget to conform it to the Fiscal Oversight and Management Board’s (“FOMB”) Amended Puerto Rico Electric Power Authority (“PREPA”) Budget for Fiscal Year 2022, as certified by the FOMB on June 30, 2021. LUMA stressed that the resulting impacts would not result in increased rates.<sup>11</sup> LUMA requested that the Energy Bureau approve a revised FY 2022 Budget in accordance with the revisions identified in the Modification Request.

On September 9, 2021, the Energy Bureau issued a Resolution and Order (“September 9 Resolution”), through which it directed LUMA to (i) provide the information identified in Attachment A of the Resolution and Order, relative to the Modification Request; (ii) modify the Modification Request; and (iii) supplement its answers if additional information becomes available or if submitted information changes.<sup>12</sup>

On September 17, 2021, LUMA filed with the Energy Bureau, a document titled *Motion in Compliance with September 9<sup>th</sup> Order Submitting Revised Request for Modification of Approved Budget for Fiscal Year 2022 and Responses to Requests for Information* (“September 17 Motion”), in which LUMA responded to the Requirements of Information in the Energy Bureau’s September 9 Resolution and provided a revised Modification Request.

On January 21, 2022, the Energy Bureau issued a Resolution and Order (“January 21 Resolution”), through which it directed LUMA to undertake an independent assessment and evaluation of the revised energy demand forecast it relies upon in its Modification Request.<sup>13</sup>

On May 19, 2022, the Energy Bureau issued a Resolution and Order (“May 19 Resolution”), through which it advised LUMA that approval of the Modification Request would not be considered until the independent assessment of the load forecast was received and evaluated by the Energy Bureau.<sup>14</sup> The Energy Bureau ordered LUMA to, on or before 12:00 p.m., on May 26, 2022 to submit this independent assessment.

On May 26, 2022, LUMA filed with the Energy Bureau, a document titled *Motion Submitting Response to Specific Request for Information in Compliance with Resolution and Order dated*

<sup>8</sup> May 31 Resolution, p. 37, ¶5.

<sup>9</sup> July 16 Resolution, p. 3.

<sup>10</sup> See, Request for Modification of Approved Budget for Fiscal Year 2022, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, July 16, 2021 (“Modification Request”).

<sup>11</sup> *Id.*, p. 3, ¶7.

<sup>12</sup> September 9 Resolution, p.9.

<sup>13</sup> See, Evaluation of LUMA’s September 17, 2021 Motion in Compliance, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, January 21, 2021 (“January 21 Resolution”), p.5

<sup>14</sup> See, Fiscal Year 2023 Annual Budget Review: Requirement of Information and Establishing a Procedural Schedule, *In Re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, May 19, 2021 (“May 19 Resolution”), p.9.



May 19, 2022 (“May 26 Motion”), in which LUMA responded to the Requirements of Information in the Energy Bureau’s May 19 Resolution.

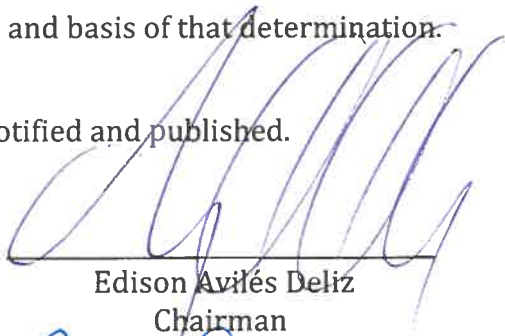
On June 6, 2022, LUMA filed with the Energy Bureau, a document titled, *Motion Submitting Fiscal Year 2022 Budget Amendment* (“Amendment Request”).<sup>15</sup> In the Amendment Request, LUMA requests that the Energy Bureau review and approve certain changes in LUMA’s executed and remaining expenditures for FY 2022. LUMA requests that it be authorized to reallocate \$47 million from its non-federally funded Capital Budget to its Operating Budget to provide for higher than anticipated labor expenditures for FY 2022 and to reallocate \$29 million between Improvement Portfolios, moving costs to the Enabling Improvement Portfolio for increases in spending within the Health, Safety, Environment and Quality (HSEQ) and Technical Training Improvement Program. In addition, LUMA seeks to reflect updated data and changed assumptions regarding PREPA’s expected Exit from Title III and the FOMB certification of PREPA’s FY 2022 Budget.

More Specifically, LUMA asserts that when it developed its Initial Budget in 2020, it did not anticipate the substantial gap that existed in safety and technical skills and qualifications in the existing workforce and the consequent increases spending that would be necessary to ensure safety and the necessary job skills in its workforce. In addition, LUMA asserts that increased labor expenditures were necessary to address the unexpected and significant backlog of uncompleted work it encountered at commencement. LUMA explains that underspending in the non-federal capital budget was primarily due to underspending in the Distribution Automation program, the Substation Improvement portfolio, and Enabling Improvement portfolio.

Regarding the amendment intended to reflect updated data and changed assumptions, LUMA cites the necessity to reflect the changes that occurred after its development of the Initial Budget in 2020 and development of the fiscal plan in 2021, based on more current data and macro-economic factors provided by AAFAF, most notably the changed assumption regarding PREPA’s exit from Title III and the budgetary changes that resulted. The Energy Bureau requires the information specified to evaluate LUMA’s Modification/Amendment request of the budgets for Fiscal Year 2022.

The Energy Bureau **DETERMINES** that LUMA did not provide the independent assessment of the revised energy forecast it relies upon in its Modification Request as ordered on January 21 and May 19, 2022, but instead, in the May 26 Motion, described how the load projections were assembled to include in the FOMB Certified 2021 Fiscal Plan for PREPA. The Energy Bureau **ORDERS** LUMA to, on or before, **June 27, 2022**, remedy this deficiency by responding to the request for information (A.2) and by submitting the independent assessment of the revised energy forecast (A.1) it relies upon in its Modification Request as specified in Attachment A of this Resolution and Order, and advise the Energy Bureau of the results and basis of that determination.

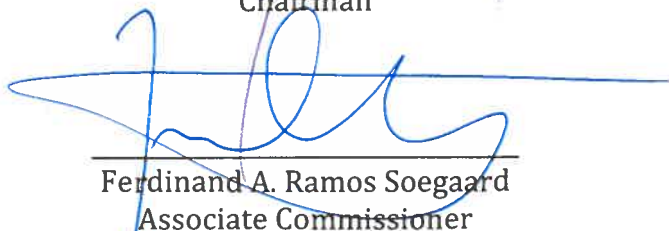
Be it notified and published.



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Chairman



Lillian Mateo Santos  
Associate Commissioner



Ferdinand A. Ramos Soegaard  
Associate Commissioner



Sylvia B. Ugarte Araujo  
Associate Commissioner

<sup>15</sup> See, Motion Submitting Fiscal Year 2022 Budget Amendment, *In Re: Review of LUMA’s Initial Budget*, Case No. NEPR-MI-2021-0004, June 6, 2022 (“Amendment Request”).



## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on June 22, 2022. Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. I also certify that on June 22, 2022 a copy of this Resolution and Order was notified by electronic mail to the following: [ana.rodriquezrivera@us.dlapiper.com](mailto:ana.rodriquezrivera@us.dlapiper.com); [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law) and [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law). I also certify that today, June 22, 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 June 22, 2022.

  
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Sonia Seda Gaztambide  
Clerk



## Attachment A Requirement of Information

### 1. Independent Assessment of the Load Projections that LUMA relies upon in its Modification Request to the Initial Budgets

In its Modification Request, LUMA included updated load projections and represented those load projections were part of the FOMB Revised Certified Budget Plan for FY 2022 for PREPA.<sup>16</sup>

As of June 1, 2021, having secured approvals and/or conditional approvals from the Energy Bureau of key utility plans as part of the OMA Front-End-Transition, LUMA is responsible for operating the electric transmission and distribution systems. Among its duties, LUMA is charged with directing the flow of energy to ensure the balance between load/supply and with maintaining system stability. As transmission operator, LUMA must follow its transmission planning criteria which conform to established transmission planning standards.<sup>17</sup> The long-term load forecasts used in transmission planning analysis are developed by the system operator. The long-term load forecasts include annual gross and net energy, and seasonal gross and net peak demand. The accurate projection of load is a crucial factor in:

- Determining resource adequacy requirements;
- Evaluating reliability and economic performance of the electric power system under various conditions;
- Planning needed transmission improvements; and
- Coordinating maintenance and planned outages of generation and transmission infrastructure assets.

It is expected that LUMA, following industry best practices, reviews yearly, the long-term load forecasts and underlying methodologies, inputs and assumptions used in developing those forecasts. The Energy Bureau notes that the FOMB Certified 2021 Fiscal Plan, in its Exhibit 38, depicts load projections that include reductions from Distributed Generation and Energy Efficiency. In its independent assessment, LUMA must also validate those projections. Load forecasting is a system operator core function. The entity that would be responsible for seeking approvals from the Energy Bureau for any transmission improvements is the regulated utility and not the FOMB.

- a. Submit the independent assessment of the revised energy forecast upon which LUMA relies in its Modification Request and report the results and basis of that determination to the Energy Bureau.

### 2. LUMA's Amendment Request

- a. The recently filed Budget Amendment Request seeks to reallocate \$47 million within the approved FY 2022 budget from its non-federally funded capital budget to the Operating Budget to address higher than anticipated labor expenditures for FY 2022. It is noted that this results from unexpected substantial gaps in safety, and

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<sup>16</sup> Modification Request, Exhibit A, p.1.

<sup>17</sup> See, Resolution and Order, *In re: Review of T&D Operator's System Operation Principles*, Case No. NEPR-MI-2021-0001, May 31, 2021 ("SOP May 31 Resolution"), Attachment A.



technical skills and qualifications within the existing workforce and addresses the significant backlog of work that remained upon commencement. LUMA states that the revised amendment is primarily drawing funds from Distribution, Substation, and Enabling improvement portfolios, which are forecast to be under budget for FY 2022. LUMA states that much of this work has been deferred or reallocated as adjustments are made to overall capital plans.<sup>18</sup>

- i. What effect will the reallocation of funds have on the individual portfolio programs from which the funds are taken?
  - ii. What effect will the reallocation have on the proposed FY 2023 Annual Budget and subsequent budgets?
  - iii. What activities will be deferred and for how long?
  - iv. How were activities to be deferred decided upon?
- b. In the gap assessment during the Front-End Transition (FET), LUMA identified a substantial need to bring the workforce to an acceptable level regarding trained and qualified employees.
- i. Explain why LUMA, during the FET, did not become aware of the deficiencies it now points to as justification for the FY 2022 Budget Amendment.
  - ii. Is LUMA confident that all unaccounted-for additional challenges and expenses have now been identified?
- c. In the Amendment Request, LUMA cites a significant investment in intensive onboarding and safety and technical skills training to address the substantial gap it identified.<sup>19</sup>
- i. Describe how LUMA identified and obtained the skilled workers it onboarded to offset the identified shortfall.
  - ii. Identify any incentives offered to prospective candidates for hiring as skilled workers, for example, housing assistance, per-diem payments, etc.
  - iii. Has an analysis been performed to determine whether it is more cost effective to develop the skills necessary in existing employees as compared to hiring employees with the skills or capabilities being sought?
- d. LUMA notes in its Amendment Request that to increase spending in Health, Safety, Environment and Quality (HSEQ) and Technical Training Improvement Program, it seeks to reallocate \$29 million between Improvement Portfolios, moving costs to the Enabling Improvement Portfolio.<sup>20</sup>
- i. Please explain why the other programs in the portfolio, in particular, Substations, Control Center and Buildings, with 17% and 18% reductions respectively, are able to have fewer funds allocated to them for FY 2022 because of the amendment.
  - ii. Will there be any diminution in the time frames or goals in those programs?
  - iii. If no, will this result in an increase in the FY 2023 or subsequent budgets?
  - iv. What type of training and HSEQ equipment or programs are being provided with the increased funds?

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<sup>18</sup> Amendment Request, p. 4.

<sup>19</sup> Amendment Request, p. 3.

<sup>20</sup> Amendment Request, p. 5.

