

**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: Determination on LUMA's Fiscal
Year 2022 Budget Amendment Petition.

RESOLUTION AND ORDER

I. Introduction and Background

On February 24, 2021, LUMA ENERGY, LLC as ManagementCo, and LUMA ENERGY SERVCO, 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"),¹ under Act 57-2014,² as amended by Act 17-2019,³ 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 (April 22 Compliance Motion)*⁴ 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"),⁵ 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 July 16, 2021, LUMA filed with the Energy Bureau, a document titled *Request for Modification of Approved Budget for Fiscal Year 2022* ("Modification Request").⁶ In the Modification Request, LUMA expressed the need to revise the Fiscal Year 2022 Approved Budget to conform it to the Amended Puerto Rico Electric Power Authority Budget for Fiscal Year 2022, as certified by the Fiscal Oversight and Management Board's ("FOMB") on June 30, 2021. LUMA stressed that the resulting impacts would not result in increased rates.⁷ LUMA requested that the Energy Bureau approve a revised FY 2022 Budget in accordance with the revisions identified in the Modification Request.

¹ 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").

² *The Puerto Rico Energy Transformation and RELIEF Act*, as amended.

³ *The Puerto Rico Energy Public Policy Act*.

⁴ 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").


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


⁶ 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").


⁷ *Id.*, p. 3, ¶7.




On September 9, 2021, the Energy Bureau issued a Resolution and Order ("September 9 Resolution")⁸, 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.⁹

 On September 17, 2021, LUMA filed with the Energy Bureau, 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")¹⁰, in which LUMA responded to the Requirements of Information in the Energy Bureau's September 9 Resolution and provided a revised Modification Request.

 On November 15, 2021, LUMA filed with the Energy Bureau, a document titled *Motion to Submit Quarterly Report* ("FY 2022 Q1 Report"),¹¹ in which LUMA provided its first Quarterly Report of the 2022 Fiscal Year, for the quarter ending September 30, 2021, in compliance with the May 31 Resolution.

 On January 21, 2022, the Energy Bureau issued a Resolution and Order ("January 21 Resolution"),¹² 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.¹³

 On February 15, 2022, LUMA filed with the Energy Bureau, a document titled *Motion to Submit Quarterly Report* ("FY 2022 Q2 Report"),¹⁴ in which LUMA provided its second Quarterly Report of the 2022 Fiscal Year, for the quarter ending December 31, 2021, in compliance with the May 31 Resolution.

On April 2, 2022, LUMA filed with the Energy Bureau, a document titled *Submission of Annual Budgets for Fiscal Years 2023 through 2025* ("Annual Budget Request")¹⁵ through which it filed with the Energy Bureau for its review and approval LUMA's Fiscal Year 2023 Annual Budget including the Operating budget, the Capital Budget and LUMA's allocation of the Generation budget.

On April 14, 2022, LUMA filed with the Energy Bureau, a document titled *Motion in Compliance with Resolution and Order Dated April 11, 2022* ("Motion in Compliance")¹⁶ through which it submitted to the Energy Bureau the FY 2023 PREPA GenCo Proposed

⁸ See, Resolution and Order, *In re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, September 9, 2021 ("September 9 Resolution").

⁹ *Id.*, p.9.

¹⁰ See, 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, *In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, September 17, 2021 ("September 17 Motion").

¹¹ See, Motion to Submit Quarterly Report, *In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, November 15, 2021 ("FY 2022 Q1 Report").

¹² See, Resolution and Order, *In Re: Review of LUMA's Initial Budgets*, Case No. NEPR-MI-2021-0004, January 21, 2022 ("January 21 Resolution").

¹³ 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.

¹⁴ See, Motion to Submit Quarterly Report, *In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, February 15, 2022 ("FY 2022 Q2 Report").

¹⁵ See, Submission of Annual Budgets for Fiscal Years 2023 through 2025, Case No. NEPR-MI-2021-0004, April 2, 2022 ("Annual Budget Request").

¹⁶ See, Motion in Compliance with Resolution and Order Dated April 11, 2022, Case No. NEPR-MI-2021-0004, April 14, 2022 (Motion in Compliance).



Budget Expenses dated as of April 14, 2022 and FY 2023 GenCo Budget Proposal submitted to LUMA by PREPA that day.

On May 16, 2022, LUMA filed with the Energy Bureau, a document titled *Motion to Submit Quarterly Report* ("FY 2022 Q3 Report"),¹⁷ in which LUMA provided its third Quarterly Report of the 2022 Fiscal Year, for the quarter ending March 31, 2022, in compliance with the May 31 Resolution.

On May 19, 2022, the Energy Bureau issued a Resolution and Order ("May 19 Resolution"),¹⁸ 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.¹⁹ The Energy Bureau ordered LUMA to, on or before 12:00 p.m., on May 26, 2022 to submit the 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 May 19, 2022* ("May 26 Motion"),²⁰ 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").²¹ 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, in accordance with the Modification Request.

On June 22, 2022, the Energy Bureau issued a Resolution and Order (June 22 Resolution),²² through which, it stated that LUMA had not independently assessed the revised energy forecast it relied upon in its Modification Request as ordered on January 21 Resolution and the May 19 Resolution and directed LUMA to respond to the attached Request of Information on or before June 27, 2022.

On July 6, 2022, LUMA filed with the Energy Bureau, a document titled, *Motion Submitting Responses in Compliance with Resolution and Order of June 22, 2022* (July 6 Motion)²³

¹⁷ See, Motion to Submit Quarterly Report, *In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, May 16, 2022 ("FY 2022 Q3 Report").

¹⁸ See, Resolution and Order, *In Re: Review of LUMA's Initial Budgets*, Case No. NEPR-MI-2021-0004, May 19, 2021 ("May 19 Resolution"),

¹⁹ *Id.*, p.9.

²⁰ See, Motion Submitting Response to Specific Request for Information in Compliance with Resolution and Order dated May 19, 2022, *In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, May 26, 2022 ("May 16 Motion").

²¹ 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").

²² See, Resolution and Order, *In re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, June 22, 2022 ("June 22 Resolution").

²³ See, Motion Submitting Responses in Compliance with Resolution and Order of June 22, 2022, *In Re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, July 6, 2022 ("July 6 Motion").



II. Amendment Request

LUMA states it is filing the Amendment Request under Section 7.3(e) of the OMA which provides that LUMA may amend the Operating Budget and Capital Budget for a Contract Year, provided that the proposed Amendment shall comply with the applicable Rate Order. LUMA explains that the Amendment Request includes and updates the budget amendment proposed in LUMA's Modification Request and references the Modification Request for supporting information. LUMA states that the proposed modifications do not result in increased customer base rates and do not result in an increase to LUMA's aggregate T&D Pass-Through and Capital Expenditures.²⁴

In the Amendment Request, LUMA requests authorization to reallocate \$47 million from its non-federally funded Capital budgets to its Operating budget to provide for higher than anticipated labor expenditures for FY 2022. In support of this request, LUMA cites the need to have trained and qualified essential utility workers, provide safety and operational training for the existing workforce, perform foundational activities to support advancing federally funded work and address the severe backlog of uncompleted work left at commencement of LUMA operations, which needed an increase to the Operating Budget. LUMA states it was not afforded access to begin performing skills level assessments until shortly before commencement of operations and, therefore, was unable to anticipate the substantial gap in safety and technical skills of the existing workforce. LUMA asserts that intensive onboarding and safety and technical skills training were necessary to bring work methods in line with Prudent Utility Practice. LUMA states that improved safety resulted and is demonstrated by a significant improvement of relevant OSHA safety metrics. LUMA asserts that the need for experienced skilled labor was higher in the first half of FY 2022 and decreased in the second half of FY 2022. In addition, LUMA cites the need of additional funding for foundational activities to advance federally funded work. LUMA states these activities include developing standards and specifications and meeting resiliency design standards, distribution planning, updating, and developing transmission models and advancing projects for FEMA approval.²⁵

LUMA states that the increased Operating Budget funds will be drawn from the Non-Federally funded Capital Budget, primarily from the Distribution, Substation, and Enabling Improvement Portfolios, which are forecast to be under budget for FY 2022. Funds are also allocated from all other Improvement Portfolios for a non-federal fund variance within the portfolio of 38%. LUMA explains that lower than anticipated Non-Federally funded Capital Expenditures in the Distribution improvement portfolio are primarily the result of lower than anticipated spending in the Distribution Automation program, which is seeking federal funding for equipment that will increase the portion of the program federally funded. LUMA also states it is awaiting receipt of equipment, delivery of which has been slower than anticipated due to foundational activities and the global supply chain. LUMA asserts this has resulted in some activities being deferred until FY 2023 as reflected in the FY 2023 Annual Budget. LUMA also asserts that underspending in the Non-Federally funded capital budget in the Substation Improvement Portfolio can be attributed to lower than anticipated Non-Federal funding in the Transmission Substation Rebuilds and Compliance and Studies programs for which additional federal funding related foundational activities were needed to support the Federally funded work planned within the portfolio. LUMA also cites as contributing to the delay, the lack of advancement by PREPA during the first five months of FY 2022 of the procurement process for FEMA compliant engineering services and the complexities of Federal procurement requirements and processes. LUMA asserts that underspending in the Enabling Improvement Portfolio results from lower than anticipated spending on the T&D Fleet Non-Federally funded capital, for which fleet units were rented instead of purchased to deploy the vehicles quickly and avoid the need for large capital expenditure associated with the number of vehicles needed due to the missing and inoperable fleet.²⁶

²⁴ Amendment Request, pp. 1 -2.

²⁵ *Id.*, Exhibit 1, pp. 3 - 4.

²⁶ *Id.*, Exhibit 1, p. 4.



LUMA proposes to reallocate \$29 million between Improvement Portfolios, moving costs to the Enabling Improvement Portfolio for increased spending within the Health, Safety, Environment and Quality (HSEQ) and Technical Improvement Program, in accord with the significant level of safety and technical training provided throughout FY 2022. These funds are designated to be drawn from all Improvement Portfolios except for Transmission, with a total variance within the Portfolio of 6%.²⁷

Other changes proposed by LUMA in the Amendment Request reflect those initially set forth in the Modification Request, resulting from updated assumptions regarding PREPA's exit from Title III and those set forth in the 2021 FOMB Certified Fiscal Plan. The 2021 FOMB Certified Fiscal Plan reflected updated macro-economic assumptions provided by the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF) and increased the base rate revenue forecast by approximately \$60 million. Increases in the Generation and other Budgets of \$44 million partially offset that increase. There was no increase in T&D expenditures. LUMA asserts that the revised FY 2022 total Non-Federally funded T&D and Generation base rate expenditures per kWh is \$0.0732/kWh which is less than the \$0.0746/kWh base rate limit approved by the Energy Bureau in the 2017 Rate Order.²⁸

LUMA states that the changes it proposes under the FOMB Certified 2021 Fiscal Plan result from changed assumptions based on data updated between the development of LUMA's Initial Budgets in Fall 2020 and the development of the Fiscal Plan in Spring 2021. Besides the updated macro-economic assumptions reflected in the FOMB Certified FY 2022 Budget, which resulted in the modified base rate level discussed above, the updated fiscal plan reflected an updated Title III exit date of June 30, 2022 as compared with the Title III exit date of December 31, 2021 utilized in the Initial Budgets. This resulted in changed Bankruptcy and Advisor costs and LUMA fees to reflect a full year in Title III. In addition, PREPA's HoldCo fees were increased.²⁹ As set forth in Schedule 5.3, LUMA Fees increased by \$16.621 million or 17%, Bankruptcy and Advisor Fees increased by \$4.4 million or 22% and PREPA HoldCo fees increased by \$13.052 million or 57%. Bad Debts increased by \$4.054 million or 7% to reflect the increased load forecast. As reflected in Table 5.1, Shared Services decreased by \$19.549 million or 25% to reflect services previously provided through the Shared Services Agreement but are now included in the Generation and PREPA HoldCo budgets.³⁰ As reflected in Table 5.6, the rates that result from the proposed Budget Amendment do not exceed the base rate revenues in the 2017 Rate Order.³¹

III. Discussion

Under OMA Section 7.3(e) Operator may, from time to time, propose to amend the approved Operating Budget and Capital Budget for a given Contract Year provided that such amendment shall be compliant with the applicable Rate Order. If, during a Contract Year, Operator becomes aware that T&D Pass-Through Expenditures or Generation Pass-Through Expenditures for such Contract Year are expected to exceed a budget for such Contract year, then, (i) with respect to the Operating Budget and Capital Budget, Operator shall promptly notify PREB and Administrator and prepare and submit to PREB a proposed amended Operating budget or Capital Budget for such Contract year, as the case may be, which amendment shall require and be subject to approval by PREB, and (ii) with respect to the Generation Budget, (x) Operator shall notify PREB, Administrator and Owner and (y) Owner shall, as promptly as practical, prepare and submit to PREB a proposed amended Generation Budget, which amendment shall require and be subject to approval by PREB.

The Energy Bureau highlights the expectation, under the OMA that the Operator shall *promptly* notify the Energy Bureau upon becoming aware that the T&D Pass Through

²⁷ *Id.*, Exhibit 1, p. 5.

²⁸ *Id.*, Exhibit 1, p. 2.

²⁹ *Id.*, Exhibit 1, p.

³⁰ *Id.*, Exhibit 1, p. 5.

³¹ *Id.*, Exhibit 1, p. 17.



expenditures in the Operating Budget are expected to exceed the budget for that Contact Year. LUMA filed its Amendment Request on June 6, 2022, only 24 days before the start of FY 2023 Contract year. The justifications proffered by LUMA for the budget re-allocations described in the Amendment Request reach back to the earliest periods of FY 2022. LUMA's FY 2022 Q1 Report shows a variance between Q1 Budget and Q1 Actual in T&D Total Operating Labor Expenditures of \$26.4 million or 57%.³² The FY 2022 Q2 Report shows a variance between Q2 Budget and Q2 Actual in the T&D Total Operating Labor Expenditures of \$21.8 million or 42%³³ and the FY 2022 Q3 Report shows a variance between Q3 Budget and Q3 Actual in the T&D Total Operating Labor Expenditures of \$21.8 million or 42%.³⁴ This leaves only \$2.5 million for Q4 labor Expenditures remaining when comparing the Total Actual Budget Expenditures of \$209.8 for the first three quarters of FY 2022 and the PREB total approved amount of \$212.3 million. We recognize the decrease in quarterly Labor over-expenditures for the three quarters as noted by LUMA and the possibility of available funding from other components of the budget as provided by the OMA, however, with only \$2.5 million in approved budgeted Labor remaining for Q4, it is reasonable to expect LUMA to have known in Q3, if not before, that an amendment would be necessary and to have notified the Energy Bureau. A delayed amendment petition places LUMA at risk of the Energy Bureau not allowing the requested reallocation of expenditures.

The Energy Bureau addressed LUMA's Modification Request in the September 9 Resolution. In the September 9 Resolution, the Energy Bureau determined that the Modification Request was incomplete and issued several Requirements of Information ("ROI"). Significant among these ROIs was the requirement that LUMA provide the updated energy forecast upon which it relied in its Modification Request. This requirement was repeated on January 21 Resolution and the May 19 Resolution again on the June 22 Resolution in the ROIs issued in response to LUMA's Amendment Request. LUMA was informed 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. On July 6, 2022 LUMA provided notice that an independent review of the current state of load forecasting activities had been submitted on June 30, 2022 in Docket NEPR-MI-2021-0001.³⁵ This independent review included a current state assessment and future methods recommendations. The current assessment shows that the FOMB is a current user of the annual forecasts developed by LUMA. It also shows that an adjusted annual energy forecast is generated that applies load modifiers to account for incremental consumption/production from electric vehicle consumption, distributed generation production, combined heat and power production, energy efficiency savings, and demand side management.

For Fiscal Year 2022, LUMA noted that in NEPR-MI-2020-0001, *Puerto Rico Electric Power Authority's Permanent Rate*, the Energy Bureau stated, "The Energy Bureau DETERMINES that the methodology used by LUMA to calculate the annual sales estimate is reasonable and consistent with the industry best practices,"³⁶ and "Similarly, the Energy Bureau DETERMINES that LUMA correctly calculated the sales estimate of 16,760,960,186 kWh using the methodology described above."³⁷ (Translated from the Spanish Resolution and Order.). LUMA asserts that the sales estimate is consistent with the Updated Load Forecast in its Modification Request.³⁸

³² FY 2022 Q1 Report, p, 12, Table 2-2.

³³ FY 2022 Q2 Report, p, 12, Table 2-2.

³⁴ FY 2022 Q3 Report, p, 14, Table 2-2.

³⁵ See, Motion Submitting "Regulatory Long-Term Load Forecast Review", *In re: Review of T&D Operator's System Operation Principles*, Case No.: NEPR-MI-2021-0001, filed on June 30, 2022.

³⁶ July 6 Motion, Exhibit 1, p. 6

³⁷ *Id.*, p.7

³⁸ *Id.*, pp. 6 - 7.



The Energy Bureau **DETERMINES** that the Updated Forecast submitted in Docket NEPR-MI-2020-0001³⁹ fulfills the requirements of the instant docket.

As an initial matter, the Energy Bureau notes that the Amendment Request **does not result in increased customer base rates and does not result in an increase to LUMA's aggregate expenditures. As such, a rate review proceeding is not needed.**

Regarding proposed changes in LUMA's executed and remaining planned expenditures, the Energy Bureau will first address the proposed redistribution of costs between the Operating Budget and the Capital Budget. LUMA proposes to reallocate \$47 million from the Non-Federally funded Capital Budget to the Operating Budget, mainly to address deficiencies it asserts it encountered upon commencing operations as Operator. LUMA asserts that the increased expenditures were necessary to accommodate the need for trained and qualified essential utility workers, to provide safety and operational training for the existing workforce, perform foundational activities to support advancing Federally Funded work and address the severe backlog of uncompleted work. LUMA justifies its inability to anticipate and plan for these deficiencies as mainly due to the limited access it was given during the Transition Period. LUMA asserts that lower than anticipated Non-Federally funded Capital expenditures occurred because Federal Funds are being sought for equipment to increase the portion of Federal Funding in certain programs, and that therefore, some activities are deferred until FY 2023. LUMA asserts that the slower than anticipated foundational activities and impact of the current global supply chain challenges have contributed to the delay. LUMA also cites the failure of PREPA to advance FEMA compliant engineering activities needed for the procurement process and the complex nature of the Federal procurement requirements and processes. In addition, LUMA relates that savings resulted from the leasing rather than purchase of fleet vehicles.⁴⁰ LUMA also states that \$29 million is being reallocated among Improvement Portfolios to increase funding in the HSEQ and Technical Training Improvement Program.

The Energy Bureau recognizes the importance of adequate training, safety, and qualified essential workers. In view of the inability of LUMA to fully discover the extent of the training and onboarding that would be required, the extent of unfulfilled work orders and the minimal work executed to facilitate federal funding before LUMA assumed operations as Operator, the Energy Bureau has no objection to the specified reallocation of funds among Improvement Portfolios to further these important goals. Notwithstanding the foregoing, the window for justifications based on lack of actual information is closed. The Energy Bureau **WARNS** LUMA that any future reallocation or redistribution of funds amongst budget programs or line items shall be timely anticipated and requested before the Energy Bureau. Furthermore, the Energy Bureau **ADMONISHES** LUMA and PREPA of the need for effective coordination.

The Distribution, Substation and Enabling Portfolios, from which the Non-Federally funded capital funds for re-allocation to the Operating Budget will be primarily drawn, must not be detrimentally affected as a result and System Remediation must continue apace. For this determination, the Energy Bureau reviewed the information provided in the three Quarterly Reports filed to date. In the Quarterly Reports, each of the component programs of the enumerated Portfolios is updated for that quarter. Each contains the FY 2022 budget, the budget for that individual quarter, the actual expenditure for that quarter, the variance from budget to actual and the percent each variance represents. By way of explanation, the Quarterly Report for each program briefly explains the Key Activities, the reasons for the Variance and the projected Timeline. LUMA justified the variances for the majority of the programs in the Distribution, Substation and Enabling portfolios, as unexpected, delayed, or complex work, in many instances related to federal funding. The Timelines generally represented that no variance was expected in achieving program milestones.

The Energy Bureau **CAUTIONS** LUMA that unexpected, delayed, or complex work **cannot be a generic excuse for delayed work.** In view, however, of LUMA's assertions that no

³⁹ See, *In Re: Puerto Rico Electric Power Authority's Permanent Rate*, Case No. NEPR-MI-2020-0001, Resolution and Order, June 29, 2021.

⁴⁰ Amendment Request, Exhibit 1, p. 4



variance is expected in achieving program milestones, the Energy Bureau **ACCEPTS** LUMA’s contention that the specified Portfolios are appropriate from which to transfer funds. Other Portfolios from which the Amendment Request specifies funds are reallocated to a lesser extent do not change this determination.

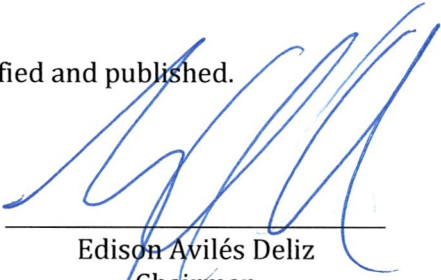
The final component of Energy Bureau review addresses the modification of costs based upon the updated data and assumptions utilized by the FOMB in certifying the FY 2022 PREPA Fiscal Plan and Budget. The Amendment Request subsumes the Modification Request, which LUMA explains⁴¹ is updated by the Amendment Request. In the Amendment Request, Table 5.1 specifies that the Total Generation Budget proposed for the June 6, 2022 Amendment is \$294.156 million while the Modification Request Cites Total GenCo Operating and Maintenance Expenses as \$291.412 million. For FY 2022, the Energy Bureau approved \$288.092 million for these Generation expenditures.⁴² The updated data and assumptions, upon which LUMA relies, relate to updated macro-economic factors and revised projection of PREPA’s exit from Title III. The updated load forecast that resulted from updated macro-economic assumptions and increased the revenue forecast by approximately \$60 million. LUMA asserts that within the Generation Budget, there was an increase in Operating and Capital Expenditures and a decrease in Shared Services. Bad debts were increased because of the increased load forecast. Bankruptcy and Advisor Costs and LUMA’s Fees increased to reflect the updated projection of PREPA’s exit from Title III by one year, to June 30, 2023 and the consequent increases in those costs.

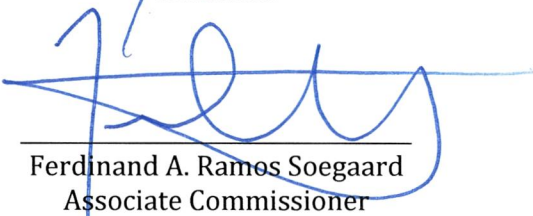
Because of the importance of adequate funding to support PREPA’s responsibilities, the Energy Bureau **FINDS** the increased generation budget amounts to be reasonable. In addition, the Energy Bureau recognizes the uncertainty associated with predicting when a decision in the Title III proceeding will be forthcoming and **FINDS** that costs related to this updated assumption are needed to move PREPA out of bankruptcy. Finally, the Energy Bureau **ACCEPTS** the updated macro-economic factors that the FOMB utilizes in its certification and LUMA’s submission of an Updated Load Forecast it developed.

IV. Conclusion

The Energy Bureau **APPROVES** LUMA’s proposed FY 2022 Budget Amendment Request which subsumes the Modification Request. The Energy Bureau **WARNS** PREPA and LUMA that noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to \$25,000.00 per day. The Energy Bureau **WARNS** LUMA and PREPA that any person who intentionally violates any provision of Act 57-2014, as amended, omits, disregards, or refuses to obey, observe, and comply with any rule or decision of the Energy Bureau shall be punished by a fine of not less than five hundred dollars (\$500) nor over five thousand dollars (\$5,000) at the discretion of the Energy Bureau and that if recurrence occurs, the established penalty shall increase to a fine of not less than ten thousand dollars (\$10,000) nor greater than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

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

⁴¹ *Id.*, Motion, Paragraph 4, p. 2.

⁴² May 31 Resolution.



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on August 2, 2022. I also certify that on August 3, 2022 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com; ana.rodriquezrivera@us.dlapiper.com; jmarrero@diazvaz.law and kbolanos@diazvaz.law. I also certify that today, August 3, 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 August 3, 2022.



Sonia Seda Gaztambide
Clerk

