

**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: Resolution regarding *Response to Resolution and Order of July 20, 2022, and Request for Technical Conference*, filed by LUMA Energy, LLC and LUMA Energy ServCo, LLC.

RESOLUTION

On June 13, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("June 13 Resolution") regarding the funding for Transmission System Network Upgrades allegedly required to incorporate the Tranche 1 selected resources to the Transmission and Distribution System ("T&D System"). In the June 13 Resolution, the Energy Bureau directed LUMA to proceed with the transmission system network upgrade projects needed to support the Tranche 1 selected resource and to fund these projects from the Non-Federally Funded Capital Budget while federal funding was being sought.

On June 22, 2022, LUMA Energy, LLC and LUMA Energy ServCo, LLC ("LUMA") filed a document titled *Urgent Motion Requesting Reconsideration of Energy Bureau's Resolution and Order of June 13, 2022 and Stay of All Directives Therein* ("June 22 Motion"). In the June 22 Motion, LUMA stated that utilizing funds from the Non-Federal Capital Improvements Budget to pay for network upgrades will cause it to forbear other planned capital expenditures in its System Remediation Plan ("SRP") and in the approved Initial Budgets.

On July 20, 2022, the Energy Bureau denied LUMA's June 22 Motion and reaffirmed its June 13 Resolution directing LUMA to proceed with the transmission system network upgrade projects needed to support the Tranche 1 selected resources once an Updated Study was available and to fund the projects from the Non-Federally Funded Capital Budget ("July 20 Resolution").

On August 15, 2022, LUMA filed before the Energy Bureau a document titled *Response to Resolution and Order of July 20, 2022, and Request for Technical Conference* ("August 15 Motion"). Through its August 15 Motion, LUMA stated that the Energy Bureau did not address the concerns raised by LUMA in its June 22 Motion regarding the alleged risks associated with following the Energy Bureau's approach to funding the Network Upgrades.¹ LUMA also discussed the alleged impacts the referenced determinations could have on customers and the T&D System under potential scenarios and provided further context regarding the next steps to be taken by LUMA.²

LUMA estimated that the cost of the Network Upgrades would be approximately \$71.2 million.³ However, LUMA stated this estimate could change with the new projects added to the analysis.⁴ LUMA stressed this sum approaches the total Non-Federally Funded Capital Budget in the Certified Fiscal Year ("FY") 2023 Budget of \$80 million.⁵ According to LUMA, the June 13 and July 20 Resolutions will require a fundamental change in LUMA's capital expenditures for FYs 2023 and 2024, including the reprioritization of Improvement Programs approved in the Initial Budgets and already included in LUMA's Certified FY 2023 Annual Budget, which are programs necessary to reasonably assure that LUMA is able to

¹ August 15 Motion, p. 2, ¶ 2.

² *Id.*

³ *Id.*, p. 18, ¶ 23.

⁴ *Id.*

⁵ *Id.*



carry out its responsibilities under the OMA,⁶ including increasing reliability and reducing outages affecting customers and the implementation of the SRP.⁷

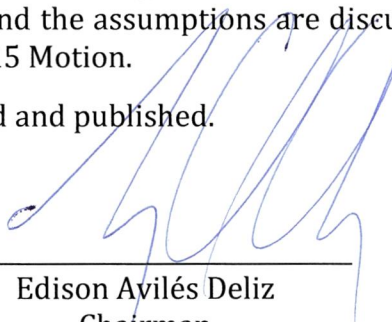
Additionally, LUMA argued that if the Non-Federally Funded Capital Budget was used for the Network Upgrades, and a Budget amendment was insufficient to address the funding shortfalls, a rate increase could be needed to generate additional revenues.⁸

LUMA also set forth the risk of disallowance of federal funds and the consequences that would arise thereof.⁹ Moreover, LUMA provided an analysis of three (3) scenarios (Federal Funding Analysis, Non-Federal Funding Analysis, and Non-Federally Funded Capital and Operations and Maintenance Funding Analysis) describing their implications in terms of impacts to customers and impacts to LUMA's long term investment plan.¹⁰

Finally, LUMA requested the Energy Bureau to schedule a Technical Conference to discuss the issues raised in the August 15 Motion as well as to share concrete proposals for the Energy Bureau's consideration that address the objectives of timely and effective procurement processes to meet Renewable Portfolio Standards ("RPS") and Integrated Resource Plan ("IRP") targets, allocation of costs to the parties that benefit from them, as well as equitable treatment and temporal distribution of the costs to the customers that will benefit from the renewable resources.¹¹


Due to the level of inaccuracy of Class V Cost Estimates and the assumptions used¹² to inform the System Impact & Facility Study Results, the Energy Bureau **DETERMINES** that it requires additional information and further analysis and cautious review regarding the cost estimates (for construction works and management work) before assessing alleged possible consequences as addressed in the August 15 Motion. Such consequences mentioned in the August 15 Motion are premature and speculative, taking into consideration that a more accurate cost estimate requires additional studies and the final determinations of the total projects that are to be executed in Tranche 1. Consequently, as there is no concrete or precise number at the moment pertaining the cost of Network Upgrades for Tranche 1, the Energy Bureau will **SET ASIDE** the August 15 Motion until a Class 3 estimate, as a minimum, is presented to the Energy Bureau. Once there is a more accurate cost Network Upgrades for Tranche 1 and the assumptions are discussed, the Energy Bureau will revisit and act upon the August 15 Motion.

Be it notified and published.



Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

⁶ *Transmission and Distribution System Operation and Maintenance Agreement ("OMA")*.

⁷ August 15 Motion, p. 18, ¶ 23.

⁸ *Id.*, p. 28, ¶ 36.

⁹ *Id.*, pp. 30 - 32, ¶¶ 39 - 44.

¹⁰ Exhibit 1 of the August 15 Motion.

¹¹ August 15 Motion, p. 2, ¶ 2, p. 36, ¶ 52.

¹² For instance: 1) the quantity and location of battery energy storage resources modeled in the System Impact Study; 2) the state of charge of battery energy storage resources in the System Impact Study during the time of maximum solar PV output; and 3) the level of curtailment of solar PV resources and the level of re-dispatch of existing fossil resources utilized when examining the impact of a transmission contingency event on key network facilities in the System Impact Study.



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on August 18, 2022. I also certify that on August 18, 2022 a copy of this Resolution 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. I also certify that today, August 18, 2022, I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today August 18, 2022.



Sonia Seda Gaztambide
Clerk

