

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

IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY'S 10- YEAR
INFRASTRUCTURE PLAN

CASE NO.: NEPR-MI-2021-0002

SUBJECT: July 29 and August 10, 2022, LUMA's
Motions and Request for Confidential
Designation and Treatment of Six Projects
Statement of Work ("SOWS").

RESOLUTION AND ORDER

I. Introduction

On March 26, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 26 Resolution") in the instant case, through which it ordered the Puerto Rico Electric Power Authority ("PREPA") to provide certain information related to the different projects under the categories of Transmission Line Projects, Transmission Substation Projects, and Distribution Substation Projects in the PREPA 10-Year Infrastructure Plan.¹ Also, the Energy Bureau ordered PREPA to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP") and Modified Action Plan.² To streamline the process, the Energy Bureau requested PREPA to submit the specific projects to the Energy Bureau at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3") and the Federal Emergency Management Agency ("FEMA").³

On August 20, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("August 20 Resolution"),⁴ through which it determined that the March 26 Resolution applies equally to LUMA.^{5,6}

On July 29, 2022, LUMA filed a document titled *Motion Submitting Four Scopes of Work and Updated List of Projects and Request for Confidentiality and Supporting Memorandum of Law* ("July 29 Motion"). As Exhibit I to the July 29 Motion, LUMA included the FEMA Project Scope of Work for four Projects named: i) *Transmission and Distribution Automation Program*; ii) *Costa Sur TC - Phase II*; iii) *Substation High Voltage Equipment Replacement*; and iv) *Bayamon TC - Phase II*. LUMA included as Exhibit 2, an updated project list, which contains a current list of the initial Statement of Works ("SOW"), assigned FEMA Accelerated Award Strategy (FAAST) numbers, and projects with approved FEMA funding obligation. As part of its filing, LUMA request confidential designation and treatment to the unredacted version of Exhibit 1.⁷

¹ Resolution and Order, *In re. Review of the Puerto Rico Electric Power Authority's 10- Year Infrastructure Plan*, Case No. NEPR-MI-2021-0002, March 26, 2021 ("March 26 Resolution").

² *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").

³ March 26 Resolution, pp. 14-15.

⁴ August 20, 2021, Resolution and Order, p. 3.

⁵ LUMA Energy, LLC, and LUMA Energy ServCo, LLC (collectively, "LUMA").

⁶ August 20 Resolution, p. 3.

⁷ July 29 Motion, pp. 2-3, ¶5.



On August 10, 2022, LUMA filed a document titled *Motion Submitting Two Scopes of Work and Updated List of Projects and Request for Confidentiality and Supporting Memorandum of Law* ("August 10 Motion"). As Exhibit I to the August 10 Motion, LUMA included the FEMA Project Scope of Work for two Projects named: i) *IT OT Technology Systems Repairs and ii) Aguirre TC BRKS Phase II*. LUMA also included as Exhibit 2 to the August 10 Motion an updated project list, which contains a current list of the initial SOWs, assigned FEMA Accelerated Award Strategy (FAAST) numbers, and projects with approved FEMA funding obligation. As part of its filing, LUMA request confidential designation and treatment of Exhibit 1.⁸

II. Evaluation of the July 29 and August 10 LUMA's Motions

Through the July 29 Motion, LUMA submitted four (4) SOWs, for i) *Transmission and Distribution Automation Program*; ii) *Costa Sur TC - Phase II*; iii) *Substation High Voltage Equipment Replacement*; and iv) *Bayamon TC - Phase II*. The work entails the installation of Intelligent Reclosers, Single Phase Reclosers, Fault Current Indicators, and cutout type single phase reclosers with the corresponding microprocessors controllers and monitoring, the reconstruction works for the Costa Sur TC switchyard which includes 230kV circuit breakers, generation units, autotransformers, 115kV circuit breakers, 38kV circuit breakers and power transformers, the replacement of damage circuit breakers and related elements in 115kV and 38 kV Substations throughout the Island, and similar to Costa Sur, the reconstruction works for the Bayamon TC switchyard includes 230/115kV power transformers, 115/38kV power transformers, OCBs replacement, installation of new 115kV breakers, evaluation of other MODs, DS, and GCBs.

Through the August 10 Motion, LUMA submitted two (2) SOWs, for i) *IT OT Technology Systems Repairs and ii) Aguirre TC BRKS Phase II* Improvement of IT OT Technology systems in Network & Communication Infrastructure, Server and Storage hardware, Operational Systems, Tools, and Technology and the restoration and repair of the 115kV Switchyard and the 230kV Switchyard, including replacement of transformers, emergency generation units, protection, control, and telecommunication equipment for Aguirre TC.

All six (6) SOWs, are projects aligned with the objective of repair, improve, and sustain the reliability, capacity, and resiliency of the Puerto Rico electrical system. These reconstruction efforts on the island need to be aligned with local and federal regulations, and actual codes and standards.

Upon review of the July 29 and August 10 Motions, the Energy Bureau **DETERMINES** that the projects presented for the i) *Transmission and Distribution Automation Program*; ii) *Costa Sur TC - Phase II*; iii) *Substation High Voltage Equipment Replacement*; and iv) *Bayamon TC - Phase II*, from July 29 Motion, and the v) *IT OT Technology Systems Repairs and vi) Aguirre TC BRKS Phase II*, from the August 10 Motion, are necessary to improve the reliability and resiliency of the system. Therefore, the Energy Bureau **APPROVES** the project in Attachment A to this Resolution and Order. The Energy Bureau notes this approval represents **\$554,802,000.00 (\$478,180,000.00 from July 29, \$76,622,000.00 from August 10)** based on the Class 5 Cost Estimates submitted by LUMA through the July 29 Motion and August 10 Motion.

III. LUMA's Request for Confidential Information Designation and Treatment of portions of Exhibit 1 of the July 29 Filing.

In the Request for Confidential Treatment, LUMA alleged that three (3) of the (4) four Projects SOWs, for *Transmission and Distribution Automation Program*; *Costa Sur TC - Phase II*; *Substation High Voltage Equipment Replacement*; and *Bayamon TC - Phase II* contained in **Exhibit 1** include: confidential information in the form of critical energy infrastructure information or critical electric infrastructure information ("CEII") that garners protection

⁸ August 10 Motion, pp. 2-3, ¶5.



from public disclosures pursuant to federal statutes and regulations;⁹ sensitive commercial information and trade secrets under Act 80-2011;¹⁰ and the Energy Bureau policy on management of confidential information,¹¹ that therefore is also protected under Puerto Rico law.¹² In addition, LUMA states that all four (4) SOWs include personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico’s legal framework on privacy emanating from the Puerto Rico Constitution. LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred portion of Exhibit 1. Table 1 below details the portions of the Exhibit 1 which LUMA requested confidential designation and treatment:

Table 1: PREPA’s Request for Confidential Information Designation and Treatment

Document	Date Filed	DESCRIPTION	Pages in which Confidential Information is Found	LEGAL BASIS
Exhibit 1	July 29, 2022	Transmission and Distribution Automation Program Installation of Intelligent Reclosers, Single Phase Reclosers and Fault Current Indicators	Page 1	Right to privacy (Const. ELA, Art. II, Sections 8, and 10)
Exhibit 1	July 29, 2022	Substation Project: Costa Sur TC-Phase II	Page 1 Page 5	Right to privacy (Const. ELA, Art. II, Sections 8, and 10) CII 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.
Exhibit 1	July 29, 2022	Substation High Voltage Equipment Replacement	Page 1 Page 5, 6 and 7	Right to privacy (Const. ELA, Art. II, Sections 8, and 10) CII 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.
Exhibit 1	July 29, 2022	Substation Bayamon TC - Phase II	Page 1 Page 5, 9 and 10	Right to privacy (Const. ELA, Art. II, Sections 8, and 10) CII 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.

IV. LUMA’s Request for Confidential Information Designation and Treatment of Exhibit 1 of the August 10 Filing.

In the Request for Confidential Treatment, LUMA alleged that the two (2) SOWs in Exhibit 1, *IT OT Technology Systems Reparations*, its *Excel spreadsheet attachment*, and *“Substation Project: Aguirre TC BRKS Phase II*, include: confidential information in the form of critical energy infrastructure information or critical electric infrastructure information (“CEII”) that garners protection from public disclosures pursuant to federal statutes and regulations;¹³ sensitive commercial information and trade secrets under Act 80-2011;¹⁴ and the Energy

⁹ 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).

¹⁰ Known as the *Law for the Protection of Commercial and Industrial Secrets of Puerto Rico*, as amended.

¹¹ See Resolution in Case No. CEPR- MI-2016-0009, issued on August 31, 2016.

¹² Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

¹³ 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).

¹⁴ Known as the *Law for the Protection of Commercial and Industrial Secrets of Puerto Rico*, as amended.



Bureau policy on management of confidential information,¹⁵ that therefore is also protected under Puerto Rico law.¹⁶ In addition, LUMA states that all two SOWs include personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico’s legal framework on privacy emanating from the Puerto Rico Constitution. LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred portions of Exhibit 1. Table 2 below details the portions of the Exhibit 1 which LUMA requested confidential designation and treatment:

Table 2: LUMA’s Request for Confidential Information Designation and Treatment of portions of Exhibit 1 of the August 10 Filing.

Document filed Confidentially	Name	Date Filed	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
Exhibit 1	IT OT Technology Systems Reparations	August 10, 2022	Page 1	Right to privacy (Const. ELA, Art. II, Sections 8, and 10
			Attachment- Excel spreadsheet	CII 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.
Exhibit 1	Substation Project Aguirre TC-Phase II	August 10, 2022	Page 1	Right to privacy (Const. ELA, Art. II, Sections 8, and 10
			Pages 5, 8 and 9	CII 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.

V. Energy Bureau Determination

The Energy Bureau **APPROVES** the projects in Attachment **A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize their approval process. The Energy Bureau approved these projects based upon the information provided by LUMA. Should the scope of the project change, LUMA **SHALL** immediately seek the Energy Bureau’s approval of such changes.

The Energy Bureau **ORDERS** LUMA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in Attachment A, which shall contain the costs obligated for each project, **within ten (10) days of receipt of such approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each project in attachment A, **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

The directive established in the March 26 Resolution regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

Act 57-2014¹⁷ 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.¹⁸ 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

¹⁵ See Resolution in Case No. CEPR- MI-2016-0009, issued on August 31, 20216.

¹⁶ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

¹⁷ *Id.*

¹⁸ Section 6.15 of Act 57-2014.



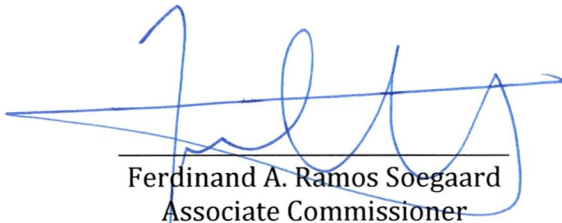
protected”.¹⁹ In such case, the Energy Bureau “shall grant such protection **in a manner that least affects the public interest, transparency**, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”²⁰

Upon review of LUMA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the portion of Exhibit 1 as described in Table 1 above; portions of Exhibit 1 as describe in Table 2 above, pursuant to the provisions of Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that LUMA already submitted a revised redacted (*i.e.*, public) version of Exhibit 1 as describe in Table 1 and Table 2.

The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014²¹ and applicable Energy Bureau’s regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it notified and published.


Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
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 August 25, 2022. Chairman Edison Avilés Deliz did not intervene. I also certify that on August 25, 2022 a copy of this Resolution was notified by electronic mail to the following: Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com, laura.rozas@us.dlapiper.com, kbolanos@diazvaz.law; mvazquez@diazvaz.law, jmarrero@diazvaz.law. I also certify that today, August 25, 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 25, 2022.


Sonia Seda Gaztambide
Clerk



¹⁹ *Id.*

²⁰ *Id.* (Emphasis added).

²¹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

Attachment A

Projects Approved by the Energy Bureau

July 29 Motion

Facility	Project Name	Proposed Scope of Work	Presented Estimate
PR	Transmission and Distribution Automation Program	Installation of Intelligent Reclosers, Single Phase Reclosers, Fault Current Indicators, and cutout type single phase reclosers. Corresponding microprocessors controllers and monitoring also included.	\$ 230,370,000.00
Costa Sur	Costa Sur TC - Phase II	Reconstruction works for the Costa Sur TC switchyard includes 230kV circuit breakers, generation units, autotransformers, 115kV circuit breakers, 38kV circuit breakers and power transformers.	\$ 101,110,000.00
PR	Substation High Voltage Equipment Replacement	Replacement of damage circuit breakers and related elements in 115kV and 38 kV Substations across the Island.	\$ 75,700,000.00
Bayamon	Bayamon TC - Phase II	Reconstruction works for the Bayamon TC switchyard includes 230/115kV power transformers, 115/38kV power transformers, OCBs replacement, installation of new 115kV breakers, evaluation of other MODs, DS, and GCBs.	\$ 71,000,000.00
TOTAL			<u>\$ 478,180,000.00</u>



Projects Approved by the Energy Bureau
August 10 Motion

Facility	Project Name	Proposed Scope of Work	Presented Estimate
PR	IT OT Technology Systems Reparations	Improvement of IT OT Technology systems in Network & Communication Infrastructure, Server and Storage hardware, Operational Systems, Tools, and Technology.	\$ 35,700,000.00
Aguirre	Aguirre TC BRKS - Phase II	Restore and Repair the 115kV Switchyard and the 230kV Switchyard, including replacement of transformers, emergency generation units, protection, control, and telecommunication equipment.	\$ 40,922,000.00
		TOTAL	\$ 76,622,000.00

TOTAL of July 29 and August 10 Motions = \$ 554,802,000.00

