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

IN RE: REVIEW OF THE PUERTO RICO ELECTRIC POWER AUTHORITY'S SYSTEM REMEDIATION PLAN	**CASE NO.:** NEPR-MI-2020-0019 **SUBJECT**: Resolution and Order regarding *Request to Align the Filing of the Quarterly Report for the Fourth Quarter of Each Fiscal Year ("Q4 Report") with Year-End Reporting Under the T&D OMA and to File Q4 Report on October 28, 2022*, filed by LUMA Energy, LLC and LUMA Energy ServCo, LLC.

RESOLUTION AND ORDER

On August 15, 2022, LUMA[1] filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Request to Align the Filing of the Quarterly Report for the Fourth Quarter of Each Fiscal Year ("Q4 Report") with Year-End Reporting Under the T&D OMA and to File Q4 Report on October 28, 2022* ("August 15 Motion"). Through the August 15 Motion, LUMA stated that it has submitted to date in the instant proceeding three quarterly reports for the Fiscal Year 2022 ("FY22") on the following dates: November 15, 2021 ("Q1 Report"); February 15, 2022 ("Q2 Report"); and May 16, 2022 ("Q3 Report").[2]

LUMA further indicated that previous quarterly reports were filed within 45 days after quarter-end, but given June 30, 2022 is the close of a fiscal year, year-end results will only be available 120 days after the end of the fiscal year.[3] According to LUMA, the activities to produce year-end financial results are more onerous and require additional time than quarter-end results.[4] LUMA argued that pursuant to the T&D OMA,[5] Annex I, Section VI(B) paragraph (4) it will submit to the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") the year-end financial report within 120 days after the end of FY22; on or before October 28, 2022.[6] LUMA cited "well established practice of reporting entities" in support of "producing year end results once available and with no quarter-end report made in addition to a year-end financial report."[7]

Accordingly, through the August 15 Motion, LUMA requested that the Energy Bureau modify its requirement for last quarter information and require this information be provided within a year-end financial report due 120 days after each fiscal year close, as the year-end financial results are unavailable until the financial close.[8]

LUMA has failed to demonstrate why it's more time consuming to produce FY22 Q4 Report than the prior three quarterly reports.

---

[1] LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA").

[2] August 15 Motion, p. 2, ¶ 4.

[3] *Id.*, p. 3, ¶ 6.

[4] *Id.*

[5] 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.

[6] August 15 Motion, p. 3, ¶ 6.

[7] *Id.*

[8] *Id.*, ¶ 7.

NEGOCIADO DE ENERGÍA DE PUERTO RICO
NEPR
JUNTA REGLAMENTADORA DE SERVICIO PÚBLICO

The Energy Bureau **REMINDS** LUMA that the Energy Bureau's authority to establish requirements to ensure compliance with public policy is neither determined nor restricted by the OMA[9] and **WARNS** LUMA of its disapproval of LUMA having waited until August 15, 2022 to file this Motion, the day the Q4 Report was due to be filed with the Energy Bureau.

In addition, the "well established practice of reporting entities" cited by LUMA is not persuasive. The content of the Securities and Exchange Commission's ("SEC") required 10-K form is not the same as that required of LUMA in its end of year budget filing. The year-end filing essentially requires LUMA to identify and compare actual expenditures for the Fiscal Year with Projected figures and to provide related information. It is also important to note that the 10-K form is required to be filed within 60-90 days after the end of the reporting period, depending on the nature of the filer, rather than 120 days thereafter as proposed by LUMA. The second reference provided by LUMA is no more persuasive. Although the FERC[10] regulation on Quarterly Financial Reporting and Revisions to Annual Reports may contemplate the filing of annual reports four (4) months after the closing of the year, quarterly reports are required after each quarter. This does not support LUMA's contention that the fourth quarterly report is not needed if an annual report is filed.

Consequently, the Energy Bureau **DENIES** LUMA's August 15 Motion and **ORDERS** LUMA to file the FY22 Q4 Report **on or before Wednesday, September 7, 2022**.

The Energy Bureau **WARNS** 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 twenty-five thousand dollars ($25,000.00) per day, in accordance with Art. 6.36 of Act 57-2014.[11]

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

NEGOCIADO DE ENERGÍA DE PUERTO RICO
NEPR
JUNTA REGLAMENTADORA DE SERVICIO PÚBLICO

[9] *See*, Section 20.17 of the OMA. The referenced Section states that no provision of the OMA shall be interpreted, construed, or deemed to limit, restrict, supersede, supplant, or otherwise affect, in each case in any way, the rights, responsibilities or authority granted to the Energy Bureau under Applicable Law with respect to the T&D System, Owner, or Operator.

[10] Federal Energy Regulation Commission.

[11] Known as *The Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on August 31, 2022. I also certify that on August 31, 2022, a copy of this Resolution and Order was notified by electronic mail to the following: kbolanos@diazvaz.law, jmarrero@diazvaz.law ana.rodriguezrivera@us.dlapiper.com and margarita.mercado@us.dlapiper.com. I also certify that today, August 31, 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 31, 2022.

Sonia Seda Gaztambide
Clerk

NEGOCIADO DE ENERGÍA DE PUERTO RICO
NEPR
JUNTA REGLAMENTADORA DE SERVICIO PÚBLICO