

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

NEPR

Received:

Aug 8, 2022

9:34 PM

IN RE: REVIEW OF LUMA'S
INITIAL BUDGETS

CASE NO. NEPR-MI-2021-0004

**SUBJECT: Motion Requesting Modification
of Procedural Calendar and Issuance of
Agenda for Virtual Technical Hearing**

**MOTION REQUESTING MODIFICATION OF PROCEDURAL CALENDAR AND
ISSUANCE OF AGENDA FOR VIRTUAL TECHNICAL HEARING**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC (“ManagementCo”), and LUMA Energy ServCo, LLC (“ServCo”), (jointly referred to as “LUMA”), and respectfully state and request the following:

1. On April 2, 2022 at 12:23am, LUMA submitted to this Honorable Puerto Rico Energy Bureau of the Public Service Regulatory Board, Annual Budgets for fiscal years 2023 through 2025 (“Annual Budgets”). The Annual Budgets included LUMA’s allocation of total spending limits to remain compliant with the 2017 Rate Order among the budgets and included a Generation Budget as provided by the Puerto Rico Electric Power Authority (“PREPA”) to LUMA on April 1, 2022.
2. LUMA submitted the Annual Budgets to the Puerto Rico Public-Private Partnerships Authority (“P3A”) in compliance with the *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* (“T&D OMA”).
3. On May 11, 2022, P3A notified LUMA that it had reviewed the proposed Annual Budgets and concluded that LUMA’s Fiscal Year 2023 Budget, including LUMA’s budget allocation is compliant with the 2017 Rate Order.

4. On May 19, 2022, this Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order (“May 19 Order”) whereby it scheduled a Virtual Technical Conference for June 10, 2022 and ordered LUMA to file the presentation to be used during said conference on or before June 7, 2022. This Energy Bureau stated that “[d]uring the Virtual Technical Conference, LUMA shall present and discuss thoroughly the proposed FY2023 Budgets. LUMA representatives and their consultants must be prepared to answer questions under oath from the Energy Bureau, its staff, and consultants, regarding its presentation and all aspects of the proposed FY2023 Annual Budgets.” *See*, May 19 Order at page 8. Through the May 19 Order, the Energy Bureau also issued approximately 116 requirements for information and established a procedural schedule in this proceeding.

5. In compliance with the May 19 Order, through separate filings dated May 26, June 3 and 7, 2022, LUMA and PREPA submitted their responses to the Energy Bureau’s Requirements for Information.¹

6. On June 7, 2022, this honorable Energy Bureau entered a Resolution and Order whereby it set the Agenda for the Virtual Technical Conference.

7. Upon filing its application, LUMA began preparing for the Virtual Technical Conference in compliance with this honorable Bureau’s directive to be prepared to “present and discuss thoroughly the proposed FY2023 Budgets” and have its “representatives and consultants...prepared to answer questions under oath from the Energy Bureau...regarding its presentation and all aspects of the proposed FY2023 Budgets.” LUMA employees and consultants appeared at the June 10 Virtual Technical Conference to offer testimony and were prepared, as

¹ The ROIs totaled 116 requirements, including subparts. LUMA responded to all of them, except for Requirements nos. A7, A8, A9, F1, F2, F3(A)-(C), F4, F5(A)-(E), F6(A)-(E), F7, F8, F9(A), F10(A)-(D) which were responded by PREPA.

instructed by this Energy Bureau, to answer the honorable Bureau's questions regarding the Annual Budgets for the period of 2023-2025.

8. On June 10, 2022, at the outset of the Virtual Technical Conference, the Energy Bureau issued a bench order postponing the conference to allow LUMA and PREPA the week to develop a budget proposal within the 2017 Rate Order or preparing for a rate amendment. The Energy Bureau provided that the Technical Conference would continue on June 17, 2022.²

9. On June 15, 2022, this Energy Bureau entered a Resolution and Order (the "June 15 Order") whereby it required LUMA to *certify* certain information in anticipation of the Virtual Technical Conference. Specifically, the Energy Bureau requested that LUMA certify that:

- (i) LUMA has concluded all the actions required by the Parties of the OMA to obtain a consolidated budget, including, but not limited to any budget dispute resolution available to the Parties.
- (ii) LUMA assures that the FY2023 consolidated Budget takes into consideration all savings LUMA has been able to achieve for such budget and such savings are made available to both the T&D Budget and the Generation Budget, which along with other measures, assures that a rate increase is not required.
- (iii) LUMA will use such consolidated budget, in full compliance and according to the OMA, during the June 17 Technical Conference.

10. The Energy Bureau further determined that "in the event that LUMA cannot provide such certification, **the June 17 Technical Conference and the June 24, 2022 Virtual Public Hearing are automatically postponed**, and as agreed by the Parties to the OMA, the Default Budget shall remain in effect until such time as the FY2023 consolidated Budget is submitted and approved by the Energy Bureau." *See*, June 15 Order at page 2.

² LUMA moved for reconsideration of the bench order and it was denied. This Energy Bureau soon thereafter closed the record and ended the proceedings. The parties were directed to file motions with any arguments or requests that they may have.

11. Immediately after the Energy Bureau’s Virtual Technical Conference was postponed, P3A coordinated a series of meetings and working sessions between LUMA, PREPA and the Financial Oversight and Management Board (“FOMB”) to discuss the path to a fully coordinated and compliant FY2023 Budget. In total, LUMA invested hundreds of hours during the weeks of June 13, 20, and 27, 2022 in collaborative and working sessions with the parties involved to come to a certified FY2023 Budget.³

12. Concurrent with such efforts, the FOMB conducted its annual fiscal plan and budget process under PROMESA, which began on February 9, 2022 and concluded on June 30, 2022, and required significant support from LUMA and PREPA.

13. On June 16, 2022, LUMA filed a *Motion to Inform Status of Negotiations Relating to Generation Budget and in Compliance with Order of June 15, 2022* whereby it objected the Energy Bureau’s demand for a certification not contemplated by the laws and regulations applicable to the approval of the proposed Annual Budgets nor by the T&D OMA. LUMA also informed the status of the efforts conducted with PREPA to reach an understanding with regards to the Generation Budget which, as of that date, had not resulted in an agreement as to the Generation Budget.

14. Consequently, the June 17th Technical Conference and the June 24th Public Hearing were automatically postponed.

15. As a result of the meetings and working sessions held by the FOMB, PREPA and LUMA and related efforts, on June 30, 2022, the FOMB issued a *Resolution Certifying the Fiscal Year 2023 Budget for PREPA* pursuant to Sections 202(c) of PROMESA (the “June 30th FOMB Resolution”). This Resolution certified the FY2023 Budget for PREPA including LUMA’s budgets.

³These efforts were in addition to activities undertaken by PREPA, P3A and FOMB that LUMA is not aware of or directly involved. LUMA understands that there were additional efforts to those listed here performed by other parties.

16. On July 13, 2022, LUMA filed a *Motion Submitting Fiscal Year 2023 Annual Budget as Approved by the Financial Oversight and Management Board for Puerto Rico* (the “Informative Motion”) whereby it submitted to this Energy Bureau the Fiscal Year 2023 Budget as certified by the FOMB.

17. LUMA included the FY2023 Budget as certified by the FOMB (“Certified Budget”) including projections for FY2023 to FY2025 and its accompanying updated schedules with its Informative Motion.

18. LUMA also informed this Energy Bureau that the Certified Budget does not represent modifications to LUMA’s Proposed T&D Budget as originally submitted to this honorable Energy Bureau. Specifically, LUMA’s T&D operational expenditures, non-federally funded capital, and federally funded capital for Fiscal Year 2023 Budget remained the same within the Certified Budget, as shown in Exhibit 2 of the Informative Motion. In addition, LUMA informed that in the Certified Budget, the FOMB revised its assumption for PREPA to exit Title III from December 31, 2023 to June 30, 2023 (which had an impact on Title III associated costs including Advisor costs and LUMA’s Service Fee in accordance requirements under the T&D OMA) and reduced Bad Debts.

19. Finally, LUMA requested that this Energy Bureau take notice of the Certified Annual Budget and maintain under seal of confidentiality specific portions identified in the Informative Motion.

20. On July 16, 2022, the Energy Bureau entered a Resolution and Order (the “July 16th Order”) whereby it took notice of the Certified Budget and stated that **it is within the revenue requirements of the 2017 Rate Order**. The Energy Bureau further determined *sua sponte* to open a review of the Certified Budget. As part of such process, the Energy Bureau ordered LUMA to

submit responses to certain requests included in the July 16th Order before July 29, 2022 at noon. The Energy Bureau also ordered PREPA to provide LUMA with any additional information necessary to comply with the Resolution and Order.

21. In compliance with the July 16th Order, and without it being construed as a waiver of any arguments in connection with future budgets submissions, on July 19th, 2022, LUMA submitted the information requested.

22. On July 29, 2022, this Energy Bureau entered a Resolution and Order whereby it established a Procedural Calendar in this proceeding. As per the Procedural Calendar, LUMA's presentation for the Virtual Technical Conference is due on August 12, 2022; a Virtual Technical Conference was scheduled for August 17, 2022; the filing of any revised or additional information required by the Energy Bureau during the Virtual Technical Conference would be due on August 22, 2022 and the Virtual Public Hearing and filing of comments by the General Public is scheduled for August 24, 2022.

23. Similar to the May 19th Order, as per the July 29th Order, LUMA representatives and their consultants must be prepared to answer questions under oath from the Energy Bureau, its staff, and consultants, regarding its presentation and all aspects of the Certified Budget.

24. LUMA hereby confirms that its available personnel and/or consultants will attend the Virtual Technical Conference scheduled for August 17, 2022.

25. To ensure that the LUMA staff attending the August 17th Virtual Technical Conference are best prepared to address any potential Energy Bureau questions or concerns, LUMA respectfully requests that the Energy Bureau confirm the following Agenda containing the topics --as previously proposed by the Bureau-- for discussion and the suggested time for each:

Time	Agenda
10am-10:45am	Presentation and introduction of the attendees
10:45am - 11:30am	Federally Funded Capital Expenditures - T&D
11:30am- 12:15pm	Non-Federally Funded Capital Expenditures - T&D
12:15pm-1:00pm	Lunch
1:00pm-1:45pm	<p>Operating Budgets — T&D</p> <p>(Including but not limited to: Control Center & Buildings, Enabling, and Support Services, Customer Experience, Distribution, Transmission, and Substations, Safety Programs and Employee’s Development.)</p> <p>Training Activities — Safety Program, Employee’s Development</p>
1:45pm-2:30pm	Generation Budget – Operating and Capital
2:30pm - 3:00pm	Holding Company's Budget
3:00pm - 3:30pm	Follow-Up Items

26. Further, LUMA respectfully requests that this Energy Bureau modify the Procedural Calendar to extend the term provided for the filing of additional information currently set for August 22, 2022 for an additional 9 days, that is, until August 31, 2022 to afford the parties in this proceeding at least 14 days from the date of the Virtual Technical Conference to gather and submit any additional or modified information requested by the Energy Bureau during the Virtual Technical Conference. It is respectfully alleged that 14 days is a reasonable timeframe considering the nature of the matters object of this proceeding and the technical nature of the information relevant to the same in addition to the fact that there are no time constraints applicable to the

proceeding at this juncture.⁴ To that end, LUMA also proposes that the honorable Energy Bureau postpones by a concomitant term, the Public Hearing and the Filing of Comments by the General Public in the event that LUMA's additional information is needed prior to such events.

27. As described above, LUMA has successfully invested considerable efforts and resources in connection with the Certified Budget and will comply with the Energy Bureau's directives to ensure a prompt review of the same by the Energy Bureau in benefit of the advancement of the recovery and transformation of the Puerto Rico T&D System without it being construed as a waiver of any arguments in connection with future budgets submissions.

WHEREFORE, LUMA respectfully requests that the honorable Bureau **take notice** of the aforementioned for all purposes, **confirm** the Agenda for the Virtual Technical conference as proposed herein and **modify** the Procedural Calendar to afford the parties at least 14 days to submit any additional or modified information requested during the Virtual Technical Conference and consequently modify the dates for the Virtual Public Hearing and Filing of Public Comments.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 8th day of August, 2022.

We hereby certify that this motion was filed using the electronic filing system of this Energy Bureau. We also certify that copy of this motion will be notified to the Puerto Rico Electric Power Authority, through its attorneys of record: jmarrero@diazvaz.law and kbolanos@diazvaz.law.

[signature in the page that follows]

⁴ The proposed term is similar to that afforded by the Energy Bureau for the submission of information in other dockets following a technical conference. *See, for example, In Re: Planes de Autoridad de Energía Eléctrica de Puerto Rico para Atender Emergencias*, Case No. NEPR-MI-2019-0006.



DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969
Tel. 787-945-9107
Fax 939-697-6147

/s/ Ana Margarita Rodríguez Rivera
Ana Margarita Rodríguez Rivera
RUA Núm. 16,195
ana.rodriguezrivera@us.dlapiper.com