

**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:** Resolution and Order regarding *Motion for Partial Reconsideration of Resolution and Order of August 26, 2022 and Proposing Alternative Schedule for Submission and Consideration of Financial Actuals*, filed by LUMA Energy, LLC and LUMA Energy ServCo, LLC.

**RESOLUTION AND ORDER**

On August 12, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("August 12 Resolution") through which it issued a Requirement of Information and established a Procedural Calendar and Agenda in this proceeding.

On August 15, 2022, LUMA<sup>1</sup> submitted before the Energy Bureau a document titled *Request to Align the Filing of Quarterly Report for 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 had 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").<sup>2</sup>

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.<sup>3</sup> According to LUMA, the activities to produce year-end financial results require additional time than quarter-end results.<sup>4</sup> LUMA argued that pursuant to the T&D OMA,<sup>5</sup> 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.<sup>6</sup> 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."<sup>7</sup>

Accordingly, through the August 15 Motion, LUMA requested that the Energy Bureau modify its requirement for last quarter information and require that this information be provided

<sup>1</sup> LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA").

<sup>2</sup> August 15 Motion, p. 2, ¶ 4.

<sup>3</sup> *Id.*, ¶ 5.

<sup>4</sup> *Id.*, pp. 2 -3, ¶¶ 5, 6.

<sup>5</sup> 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.

<sup>6</sup> August 15 Motion, p. 2, ¶ 5.

<sup>7</sup> *Id.*



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.<sup>8</sup>

On August 19, 2022, LUMA filed a document titled *Request for Modification of Procedural Calendar in Response to Resolution and Order Date August 12, 2022* ("August 19 Motion"). Through the August 19 Motion, LUMA expressed that, as anticipated in its August 15 Request, the year-end financial information for FY22 would not be available until 120 days after the close of the fiscal year which precludes the comparison of the allocations included in the FY23 Certified Budget with the actual expenditures for the full FY22 as requested by the Energy Bureau through the August 12 Resolution.<sup>9</sup> Thus, LUMA requested that the Energy Bureau proceed with the Procedural Calendar without the year-end financial information for FY22.<sup>10</sup>

On August 26, 2022, the Energy Bureau issued a Resolution and Order through which it denied LUMA's August 15 and 19 Motions and ordered LUMA to file the FY22 Q4 Report or on before Friday, September 2, 2022 ("August 26 Resolution"). Accordingly, the Energy Bureau reaffirmed its August 12 Resolution pertaining LUMA's requirement of information. On August 31, 2022, LUMA filed before the Energy Bureau a document titled *Motion for Partial Reconsideration of Resolution and Order of August 26, 2022 and Proposing Alternative Schedule for Submission and Consideration of Financial Actuals* ("August 31 Motion"). Through the August 31 Motion, LUMA requested the Energy Bureau to reconsider its August 26 Resolution as it pertains to the filing of the FY22 Q4 Report on or before Friday, September 2, 2022.<sup>11</sup> LUMA expressed that it was not in a position to produce a FY22 Q4 Report prior to producing full year financials given its current systems and processes.<sup>12</sup> LUMA further argued that producing an annual report inclusive of fourth quarter results was a common practice and stated that it would continue to work to submit said report on or before October 28, 2022.<sup>13</sup> Wherefore, LUMA requested the Energy Bureau to reconsider the portion of the August 26 Resolution that determines that consideration of the Q4 financial data is necessary to evaluate the Certified Budget; alter the schedule for submission of the Q4 Report; and authorize LUMA to submit its year-end actual financial information on or before October 28, 2022.<sup>14</sup>

After careful consideration, the Energy Bureau **DENIES** LUMA's August 31 Motion. Nevertheless, the Energy Bureau **GRANTS** LUMA until **Thursday, September 8, 2022**, to file the FY22 Q4 Report.

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.<sup>15</sup>

Be it notified and published.

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<sup>8</sup> *Id.*

<sup>9</sup> August 19 Motion, pp. 10 – 11, ¶ 41.

<sup>10</sup> *Id.*, p. 11.

<sup>11</sup> August 31 Motion, p. 7, ¶ 15.

<sup>12</sup> *Id.*, pp. 8 – 9, ¶¶ 17, 18.


<sup>13</sup> *Id.* pp. 9 – 10, ¶ 18.

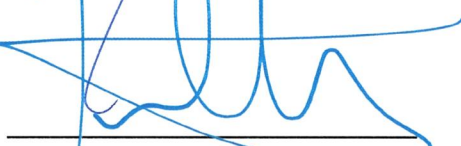
<sup>14</sup> *Id.* p. 10.

<sup>15</sup> Known as *The Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").






  
Edison Avilés Deliz  
Chairman

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

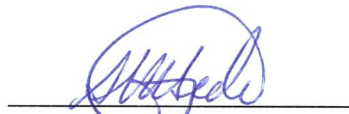
  
Lillian Mateo Santos  
Associate Commissioner

  
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 September 6, 2022. I also certify that on September 6, 2022, a copy of this Resolution and Order was notified by electronic mail to [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com), [ana.rodriguezrivera@us.dlapiper.com](mailto:ana.rodriguezrivera@us.dlapiper.com); [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law), [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law). I also certify that today, September 6, 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 September 6 1, 2022.

  
Sonia Seda Gaztambide  
Clerk

