

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

IN RE: THE PERFORMANCE OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY

CASE NO.: NEPR-MI-2019-0007

SUBJECT: Resolution regarding *Urgent Request for Additional Extension of Time to Comply with Resolution and Order of August 18, 2022 Due to Change in Circumstances*, filed by LUMA Energy, LLC and LUMA Energy ServCo, LLC; *Urgent Request for Extension of Time to Submit the Performance Metrics Report* and *Second Urgent Request for an Extension of Time to Submit the Performance Metrics Report*, filed by the Puerto Rico Electric Power Authority.

RESOLUTION AND ORDER

On August 18, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("August 18 Resolution") through which it evaluated LUMA's performance for the first 12 months of its operation contract, as well as the performance metrics provided by LUMA¹ and the Puerto Rico Electric Power Authority ("PREPA") for the period starting June 1, 2021 through May 31, 2022. Appendix A of the August 18 Resolution provides metric data pertaining LUMA's performance over the last 12 months detailed in graphs. Further, Attachment A and B summarizes all 583 metrics reported by LUMA and PREPA.

As noted in the August 18 Resolution, LUMA's and PREPA's performance regarding certain metrics has not improved when compared to the baseline previously determined by the Energy Bureau with PREPA's and LUMA's input. Through the August 18 Resolution, the Energy Bureau ordered LUMA and PREPA to each file, on or before September 1, 2022, a motion explaining, to the extent possible, the causes of their non-positive or negative performance and the corrective measures they will implement to improve their performance.

On August 24, 2022, the Energy Bureau issued a Resolution ("August 24 Resolution") through which it extended the August 18 Resolution analysis to include PREPA's performance since June 2019 for comparison purposes of reliability trends over a 36-month period and thus, directing PREPA to file on or before September 1, 2022, a motion explaining the causes of their non-positive or negative performance for the period from June 2019 to May 31, 2022.

On August 26, 2022, LUMA filed before the Energy Bureau a document titled *Request for Extension of Time to Comply with Resolution and Order of August 18, 2022* ("August 26 Motion"). Through the August 26 Motion, LUMA expressed that the recent orders issued by the Energy Bureau in several active proceedings, including the August 18 Resolution, establish concurrent deadlines and events that require participation by LUMA at complex and time-sensitive technical conferences, as well as technical filings that coincide in the last days of the months of August and during September 2022.²

According to LUMA, when overlapping submission and events are scheduled, the need for the procedural calendars and due dates to change on or close to a deadline increases, because the parties to proceedings are not able to fully deploy their time and efforts to fulfill their duties, and processes become less efficient.³ Further, LUMA proposed a planning and scheduling approach that involves parties and stakeholders in setting short, medium, and

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

² August 26 Motion, p. 2, ¶ 4.

³ *Id.*, p. 5, ¶ 6.



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long term agendas on the regulatory topics that will be addressed by the Energy Bureau each quarter, semester, or year.⁴ LUMA maintained that a scheduling proceeding would further the common goal of adopting reasonable timeframes to secure compliance with the energy public policy goals and related legal mandates.⁵ To that end, LUMA indicated it would submit before the Energy Bureau a proposal to open a scheduling docket where stakeholders and those entities that the Energy Bureau supervises and regulates, are able to engage in collaborative discussions with the Energy Bureau regarding schedules for active proceedings.⁶

Additionally, LUMA submitted that the time provided by the Energy Bureau to comply with the August 18 Resolution was unduly short.⁷ Given the aforementioned, LUMA requested until October 3, 2022, to file its submission in compliance with the portion of the August 18 Resolution that requires explanations on LUMA's performance and actions taken or to be taken to address specified performance areas that the Energy Bureau concluded were below the baselines set in this proceeding.⁸

Upon review of the August 26 Motion, on August 31, 2022, the Energy Bureau granted LUMA until September 20, 2022, to comply with the August 18 Resolution.

On August 31, 2022, PREPA filed before the Energy Bureau a document titled *Request for Extension of Time to Comply with the August 18 and 24 Orders* ("August 31 Motion"). Through the August 31 Motion, PREPA indicated that the majority of its employees that reported and accounted for the metrics for the referenced period are not the officers that report metrics currently.⁹ Wherefore, PREPA expressed that, for some metrics, its officers must identify those prior metrics, analyze them, and try to gather data to make an effort to comply with the August 18 and 24 Resolutions.¹⁰ PREPA further stated that the time allotted by the Energy Bureau through said Resolutions was insufficient to analyze the magnitude of what must be met to present its responses.¹¹ Additionally, PREPA submitted that the human resources constraint situation at PREPA was significant.¹² Given the aforementioned, PREPA requested an extension of time until October 6, 2022, to comply with the August 18 and 24 Resolutions.¹³

Upon review of the August 31 Motion, on September 1, 2022, the Energy Bureau granted PREPA until September 20, 2022, to comply with the August 18 and 24 Resolutions.

On September 16, 2022, LUMA filed before the Energy Bureau a document titled *Urgent Request for Additional Extension of Time to Comply with Resolution and Order of August 18, 2022 Due to Change in Circumstances* ("September 16 Motion"). Through the September 16 Motion, LUMA expressed that as a result of the imminent passage of Hurricane Fiona through Puerto Rico, it had activated its Emergency Operations Center ("LEOC"), in compliance with the Emergency Response Plan.¹⁴ LUMA further stated its personnel that was working on the responses to the August 18 Resolution had been asked to delay those tasks and participate in LEOC activities.¹⁵ According to LUMA, at this time, it is not possible to ascertain when the

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* pp. 5 – 6, ¶ 6.

⁷ *Id.*, p. 7, ¶ 9.

⁸ *Id.*, p. 9, ¶ 13.

⁹ August 31 Motion, p. 2, ¶ 5.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*, p. 3, ¶ 5.

¹⁴ September 16 Motion, p. 3, ¶ 10.

¹⁵ *Id.*, p. 4, ¶ 10.



deployment of personnel to the LEOC would conclude.¹⁶ Given that said personnel was also involved in important aspects of LUMA's operations and day-to-day activities, including the response to the emergency represented by the atmospheric conditions, and considering deliverables in other regulatory dockets, LUMA requested until September 30, 2022, to comply with the August 18 Resolution.¹⁷

On September 17, 2022, PREPA filed before the Energy Bureau a document titled *Urgent Request for Extension of Time to Submit the Performance Metrics Report* ("September 17 Motion"). Through the September 17 Motion, PREPA stated that current events, including appearances before the Energy Bureau and the United States Congress, as well as emergency preparedness efforts in light of the imminent strike of Hurricane Fiona had forced PREPA to pause the efforts that had been undertaken to prepare the metrics report and have a final version to be submitted on or before the September 20, 2022 deadline.¹⁸ Consequently, PREPA requested a ten-day extension, until September 30, 2022, in order to comply with the August 18 and 24 Resolutions.¹⁹ The requested extension was an estimate pending that no major disaster was declared following Hurricane Fiona and the following week was a regular work week.²⁰

On September 21, 2022, PREPA filed before the Energy Bureau a document titled *Second Urgent Request for an Extension of Time to Submit the Performance Metrics Report* ("September 21 Motion"). Through the September 21 Motion, PREPA informed that due to the damages caused by Hurricane Fiona, its employees from the Generation Directorate have been working to restore the electric power supply to energize the Island.²¹ PREPA further stated that power restoration efforts take priority over administrative and reporting efforts and thus requested an extension until October 14, 2022 to comply with the August 18 and 24 Resolutions.²²

Upon review of the September 16, 17, and 21 Motions, the Energy Bureau **ORDERS** LUMA and PREPA to comply with the August 18 and 24 Resolutions on or before **Friday, October 14, 2022**.

The Energy Bureau **WARNS** PREPA and LUMA that, noncompliance with the provisions of this Resolution and Order, may result in the imposition of fines pursuant to Article 6.36 of Act 57-2014.²³

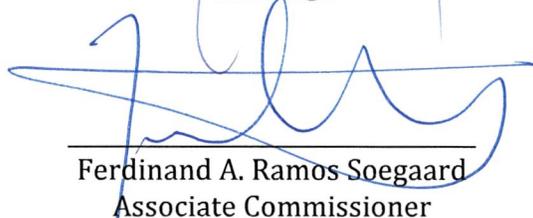
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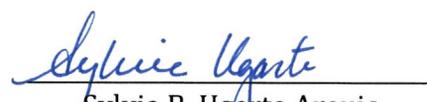
Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner

¹⁶ *Id.*

¹⁷ *Id.*, ¶ 12.

¹⁸ September 17 Motion, p. 3, ¶ 7.

¹⁹ *Id.*, ¶ 8.

²⁰ *Id.*

²¹ September 21 Motion, p. 3, ¶ 10.

²² *Id.*, p. 4, ¶ 11.

²³ *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 September 23, 2022. I also certify that on September 23, 2022, a copy of this Resolution and Order was notified by electronic mail to margarita.mercado@us.dlapiper.com, jmarrero@diazvaz.law, kbolanos@diazvaz.law, hrivera@jrsp.pr.gov. I also certify that today, September 23, 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 23, 2022.



Sonia Seda Gaztambide
Clerk

