

**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 – DECEMBER
2020

CASE NO.: NEPR-MI-2021-0002

SUBJECT: Resolution and Order on
Request to Amend PREPA's Integrated
Resource Plan

RESOLUTION AND ORDER

I. Relevant Factual Background

On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan in *In re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. CEPR-AP-2018-0001 ("IRP Final Resolution and Order"). Through the IRP Final Resolution and Order, the Energy Bureau approved in part and rejected in part the Puerto Rico Electric Power Authority's ("PREPA") proposed Integrated Resource Plan ("Approved IRP"). Furthermore, the Energy Bureau modified the Action Plan originally proposed by PREPA ("Modified Action Plan") and ordered the adoption and implementation of the Modified Action Plan set forth in the IRP Final Resolution and Order. Minor modifications and/or clarifications to the Approved IRP were introduced through a Resolution and Order on Reconsiderations issued on December 2, 2020, in the abovementioned case. The Approved IRP is final and firm.

On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnerships Authority ("P3A"), and LUMA¹ entered into an Operation and Maintenance Agreement ("OMA") under which PREPA transferred operational control of its transmission and distribution system ("T&D System") to LUMA. Accordingly, on June 1, 2021, LUMA took over the operation and maintenance of the T&D System.

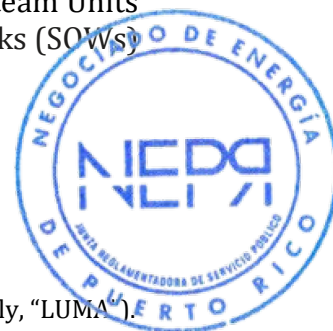
On October 11, 2022, PREPA filed a document titled *Request to Amend PREPA's Integrated Resource Plan* ("October 11 Motion"), through which it requested the Energy Bureau to grant leave to amend the Approved IRP and grant PREPA the authorization to convert Units 7, 8, 9 and 10 of the San Juan Power Plant (collectively, the "San Juan Steam Units") to dual fuel burning capacity with the added capability of burning natural gas.

On October 12, 2022, PREPA filed a document titled *Supplement to Request to Amend PREPA's Integrated Resource Plan* ("October 12 Motion") through which it restated the arguments set forth in the October 11 Motion and requested the Energy Bureau to: (i) note the schedule to convert the San Juan Steam Units; (ii) amend the Approved IRP and Modified Action Plan or grant dispensation of the Approved IRP and Modified Action Plan to allow Cambalache Power Plant Unit 1 to remain in operation; and (iii) grant PREPA leave to continue with the repair and maintenance of the San Juan Steam Units and Cambalache Power Plant Unit 1, granting leave to present Scope of Works (SOWs) 1016, 1021, 1022, 1027, 1028 and 6088 to COR3² and FEMA.³

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

² Central Office for Recovery, Reconstruction and Resiliency ("COR3").

³ Federal Emergency Management Agency ("FEMA").



II. Analysis

Through the October 11 Motion and the October 12 Motion, PREPA requests the Energy Bureau to grant certain amendments or dispensation regarding the Approved IRP. However, the Energy Bureau notes that such requests are inconsistent with the provisions of the OMA. Pursuant to the OMA, LUMA is the entity responsible for requesting any amendments to the Approved IRP, as well as for performing other duties in connection with the Approved IRP and future Integrated Resource Plans. That is, PREPA expressly delegated such task to LUMA.

Section 5.6(f) of the OMA provides, in pertinent part, that “[f]rom time to time, or as otherwise required by Applicable Law or ordered by [the Energy Bureau], Operator [*i.e.*, LUMA], as agent for Owner [*i.e.*, PREPA], shall prepare a proposed Integrated Resource Plan for review and approval by [the Energy Bureau].” Moreover, the System Planning Section of Schedule 1 (*System Operation Principles*) of Annex I (*Scope of Services*) to the OMA, establishes that “Operator will manage the new interconnection process and implement procedures as required for large and small generators, and will periodically update the Integrated Resource Plan, all of the aforementioned as required by the [Energy Bureau].” Similarly, Sections (G) and (H) of Annex I to the OMA provide, in pertinent part, the following in relation to future Integrated Resource Plans:

G. Planning, Environmental and Regulatory. Operator shall be responsible for (1) preparing, presenting, defending current or future Integrated Resource Plans, rate cases or other regulatory or legal matters as they relate to the [OMA], as the Owner’s representative before the [Energy Bureau] and any other local, state or federal government agencies, ... In performing these services and any other services under the [OMA], nothing shall require, or shall be construed as requiring, Operator to act as legal counsel to, or to provide legal advice or representation to, Owner.

H. Legal Services. Operator shall be responsible for (1) day-to-day legal responsibilities relating to the O&M Services, in coordination with Owner and Administrator in accordance with processes set forth in this Annex I (Scope of Services), and (2) preparing, presenting, defending current or future Integrated Resource Plan, rate cases, or other regulatory or legal matters as they relate to the Agreement, as the Owner’s representative before the [Energy Bureau] and any other local, state or federal government agencies, as well as preparing, presenting, and defending any non-compliance with local legislative requirements such as energy efficiency mandates. In performing these services and any other services under this Agreement, nothing shall require, or shall be construed as requiring, Operator to act as legal counsel to, or to provide legal advice or representation to, Owner.⁴

Consistent with the above, the Energy Bureau deems that, under the OMA’s provisions, LUMA is the entity charged with the responsibility to request amendments or waiver to the Approved IRP and carry out other tasks in connection thereto before the Energy Bureau.

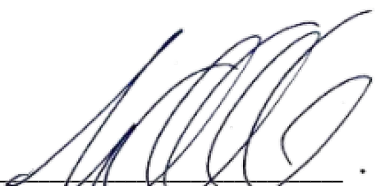
III. Conclusion

For all the foregoing reasons, the Energy Bureau will not consider the October 11 Motion nor the October 12 Motion. The Energy Bureau **RETURNS** the October 11 Motion and the October 12 Motion to PREPA and **REMINDS** PREPA that, in order to request amendments or waivers regarding the Approved IRP, it must comply with the provisions of the OMA.

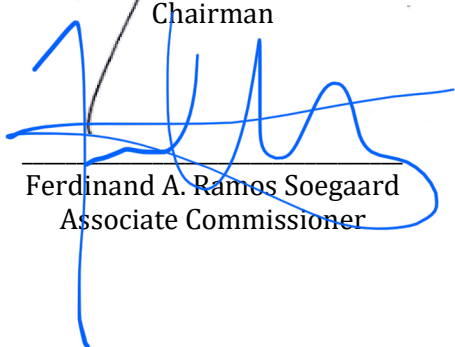
Be it notified and published.

⁴ (Emphasis added).





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 October 12, 2022. I also certify that on October 12, 2022, a copy of this Resolution and Order 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, October 12, 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 October 12, 2022.



Sonia Seda Gaztambide
Clerk

