

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

NEPR

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IN RE: REVIEW OF LUMA'S INITIAL  
BUDGETS

CASE NO. NEPR-MI-2021-0004

SUBJECT: Motion for Reconsideration of Resolution  
and Order of November 11, 2022, on LUMA's Fiscal  
Year 2022 Budget Amendment

**MOTION FOR RECONSIDERATION OF RESOLUTION AND ORDER OF  
NOVEMBER 11, 2022 ON LUMA'S FISCAL YEAR 2022 BUDGET AMENDMENT**

**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:

**I. Background**

On February 24, 2021, LUMA filed before the Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") its *Petition for Approval of Initial Budgets and Related Terms of Service* (the "Petition for Approval") under Act 57-2014, as amended, and pursuant to the *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* of June 22, 2020 (the "T&D OMA"). The Petition for Approval was filed based on the information available and known to LUMA at the time of the filing and on the assumptions of the 2020 PREPA Fiscal Plan certified by the Financial Oversight and Management Board for Puerto Rico ("FOMB"). On May 31, 2021, this honorable Energy Bureau issued and published a Resolution and Order approving LUMA's Initial Budgets ("May 31<sup>st</sup> Resolution and Order").

On July 16, 2021, LUMA requested a modification of the Approved Budgets for FY2022 to reflect updated assumptions resulting from the development of the annual fiscal plan and certification process by the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) in the Title III proceeding during Spring 2021 (“July Budget Modification Request”). The July Budget Modification Request reflected an updated load and revenue forecast with more recent consumption data, updated macro-economic data and assumptions including PREPA’s timing of Title III exit.

On June 6, 2022, LUMA filed a *Motion Submitting Fiscal Year 2022 Budget Amendment* along with a Revised Budget Amendment for Fiscal Year 2022 with the purpose to maintain a budget that accurately reflected changes in LUMA’s executed and remaining planned expenditures for FY2022 (the “June 2022 Amendment Request”). As expressed at the time, the revised amendment included modifications to reflect the updated 2021 Fiscal Plan assumptions in line with the July 16, 2021 application and a reallocation of budget between the Capital – Non-Federally Funded Budget and Operations Budget. The budget amendment proposed a reallocation to reflect higher than anticipated operating expenditures and lower than expected non-federally funded capital expenditures for FY2022. *See, Exhibit I of the Motion Submitting Fiscal Year 2022 Budget Amendment.*

On August 3, 2022, the Energy Bureau entered a Resolution and Order approving the June 22 Amendment and also the July Budget Modification Request, finding that the latter was subsumed in the June 2022 Amendment Request.

On October 28, 2022 and pursuant to Section 7.3(e) of the T&D OMA, LUMA provided notice to the Energy Bureau via transmittal (LUMA-PREB-T-00046) to inform them that LUMA would be filing a FY2022 Budget Amendment. LUMA explained that through the year-end

financial close, LUMA became aware that a reallocation of budget may be required between the Capital – Non-Federally Funded and Operating Budgets. The notice also outlined that LUMA’s spend for FY2022 remained within the 2017 Rate Order and overall FY2022 budget limits (“October 28<sup>th</sup> Budget Amendment Notice”).

In compliance with T&D OMA, Annex I, Section VI(B), paragraph 4, which requires that LUMA submit interim and unaudited financial statements within one hundred and twenty (“120”) days after the end of each fiscal year, on October 29, 2022, LUMA filed with this Energy Bureau a report on financial performance for FY2022, from July 1, 2021 through June 30, 2022. (“FY2022 Report on Financial Performance”). Three days later, on November 2, 2022, and pursuant to Section 7.3(e) of the T&D OMA, LUMA requested that the FY2022 Budget be amended to reallocate a surplus in LUMA’s Operating Budget to the Non-Federally Funded Capital Budget line items. The modification was a result of LUMA’s year-end closing adjustments and financial reviews. *See Motion Submitting Fiscal Year 2022 Budget Amendment*, filed on November 2, 2022 (“November 2<sup>nd</sup> Budget Amendment Petition”).

On November 11, 2022, this Energy Bureau issued a Resolution and Order with the title “Determination on LUMA’s Fiscal Year 2022 Budget Amendment Petition” (“November 11<sup>th</sup> Order”), whereby this Energy Bureau denied LUMA’s November 2<sup>nd</sup> Budget Amendment Petition. *See November 11<sup>th</sup> Order* at page 6. On page 5 of the November 11<sup>th</sup> Order, this Energy Bureau referenced that LUMA should timely anticipate and inform the Energy Bureau of the need to reallocate funds among programs within a particular budget. Further, the Energy Bureau stated that the November 2<sup>nd</sup> Budget Amendment Petition was filed 123 days after the close of FY2022.

LUMA hereby respectfully requests reconsideration of the November 11<sup>th</sup> Order and moves this Energy Bureau to approve the November 2<sup>nd</sup> Budget Amendment Petition, which, as

this Energy Bureau recognized in the November 11<sup>th</sup> Order, seeks to reallocate \$21 million from the approved Operating Budget for FY2022 to the Non-Federally Funded Capital Budget, and complies with the 2017 Rate Order as required by Section 7.3(a) of the T&D OMA.

## **II. Request for Reconsideration**

LUMA respectfully submits that both the October 28<sup>th</sup> Budget Amendment Notice and the November 2<sup>nd</sup> Budget Amendment Petition were filed promptly as LUMA was completing year-end closing activities and preparing the year-end report that was filed the following day on October 29, 2022 with this Energy Bureau. LUMA completed these tasks within the timeframe outlined in the T&D OMA, to wit, one hundred and twenty (“120”) days after the Fourth Quarter of FY2022 closed, and filed the November 2<sup>nd</sup> Budget Amendment Petition, three days following completion of the Annual Report. The November 2<sup>nd</sup> Budget Amendment Petition was filed after LUMA conclusively identified the need to request a Budget Amendment upon concluding analyses of year-end spending activities. That is, the October 28<sup>th</sup> Budget Amendment Notice and the subsequent November 2<sup>nd</sup> Budget Amendment Petition were provided when LUMA completed internal processes to identify reflects revenues and expenses. Prior to finalizing the Annual Report, LUMA did not have final numbers to determine the re-allocation and the need to request a year-end budget amendment.

As LUMA has explained in this proceeding, budgets are based on projections made by LUMA and its personnel with the information that is available at the time that the budget is designed and adopted. Budget preparation processes involve forecasting activities and assumptions made using information and conditions occurring at the time that the budgets are prepared and with the expertise and experience of subject-matter experts. *See* LUMA’s Annual Budgets, Section 2.2 (Key Assumptions and Basis of Annual Budgets) and Submission of Annual

Budgets for Fiscal Years 2023 Through 2025, Section VI (“Key Assumptions in the Annual Budgets”). Conversely, analyses to determine if a budget amendment is necessary after the fourth quarter of the fiscal year closes, demands availability of final financial data for the entire fiscal year. This requires that LUMA compile information from multiple financial systems, conduct requisite internal administrative review of financial information, and examine variances.

At the end of a year, the financial records are closed. This includes updating accrued amounts with invoiced amounts and performing closing activities which may result in posting certain transactions to different accounts within the budget. Closing activities include items such as: reconciliation of subledger and general ledger accounts, validation and recording of accruals for completed work that has not yet been invoiced by vendors; reconciliation and adjustment of clearing accounts; review of costs to ensure proper capitalization; and conducting additional checks and verification. Those activities, in turn, result in scenarios such as the one stated in the November 2<sup>nd</sup> Budget Amendment Petition, whereby the overall budget remains unchanged, but the allocation of certain budgets changed at year-end.

The November 2<sup>nd</sup> Budget Amendment Petition is the product of having concluded the referenced year-end and close processes that include adjustments to financials following the close of a fiscal year. As explained in the November 2<sup>nd</sup> Budget Amendment Petition “[y]ear-end closing adjustments impacted actual budget allocations in FY2022, and the Revised Amendment reflects these year-end adjustments.” *See* November 2<sup>nd</sup> Budget Amendment Petition, Exhibit 1 at pages 1 and 3. Thus, the timing of November 2<sup>nd</sup> Budget Amendment tracked year-end closing processes to determine if budget reallocations were necessary for FY2022.

LUMA continues to improve its financial systems, controls and reporting in line with remediation activities within the System Remediation Plan. However, given the significant

backlog of financial processing work that LUMA inherited on Service Commencement, the fact that LUMA gained access to financial systems on June 1, 2021, and considering that financial systems were in significantly worse condition than what was disclosed to LUMA during the Front End Transition Period, LUMA's first year of operations was focused on gaining control of the systems, eliminating the backlog, and starting to properly account for many financial and budget items.

The November 2<sup>nd</sup> Budget Amendment Petition entails a budget reallocation of \$21 million from the Operating Budgets to the Non-Federally Funded Capital Budget, as well as an increase to Generation Shared Services. *See* November 2<sup>nd</sup> Budget Amendment Petition, Exhibit 1 at pages 1 and 3. The reallocation from the Operating Budgets to the Non-Federally Funded Capital Budget arises from "efficiencies and cost saving measures implemented by LUMA that resulted in having lower operating expenditures versus the Amended FY2022 Budget as well as yearend closing activities." *Id.* at page 3 and Tables 1-1 and 1-2. The November 2<sup>nd</sup> Budget Amendment Petition does not result in an increase of rates paid by customers and is needed and reasonable to align the approved budget for FY2022 with year-end financial data and actual spending.

**WHEREFORE**, LUMA respectfully requests that the honorable Bureau **take notice** of the aforementioned for all purposes; **reconsider** the November 11<sup>th</sup> Order; and, on reconsideration, **approve** the November 2<sup>nd</sup> Budget Amendment Petition.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 23<sup>rd</sup> day of November, 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](mailto:jmarrero@diazvaz.law) and [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law).



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