

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

**IN RE:** Wheeling Implementation

**CASE NO.:** NEPR-MI-2023-0001

**SUBJECT:** Resolution and Order Initiating this Procedure.

**RESOLUTION AND ORDER**

**I. Introduction and Background**

On March 24, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Final Resolution and Order (“Final R&O”) in *In re: The Unbundling of the Assets of the Puerto Rico Electric Power Authority*, case number NEPR-AP-2018-0004. The Final R&O made the following six (6) key determinations:<sup>1</sup>

- Declined to endorse LUMA’s<sup>2</sup> and PREPA<sup>3</sup> consultant Guidehouse marginal cost of service study (“Guidehouse MCOSS”) and the specific analyses used as a part of the Guidehouse MCOSS;
- Established a simple unbundling framework to set a tariff rider for wheeling customers;
- Defined the key elements of a tariff rider for wheeling customers, including the rate structure and formula for a wheeling credit as well as provisions for a customer to return to the provider of last resort and metering requirements;
- Determined the types of generation that will be eligible to participate in wheeling initially;
- Set the high-level structures for hourly balancing charges and annual imbalance charges for retail electricity suppliers; and
- Laid out next steps to creating and approving a wheeling services agreement between retail electricity suppliers and LUMA.

The Final R&O also included Attachment B with questions to stakeholders related to developing a Wheeling Services Agreement, Wheeling Services Application Form, and Standard Retail Supply Agreement (“Attachment B”).<sup>4</sup>

On August 26, 2022, LUMA submitted a motion titled *Request Regarding the “Further Processes” Scheduled on the Wheeling Services Agreement, Request for an Agenda for the Technical Conference of September 23, and Submission of a Proposed Agenda*.<sup>5</sup> Through its motion, LUMA requested information on the planned “Other Processes” to develop and finalize a wheeling services agreement. LUMA recommended that the Energy Bureau open a new, non-adjudicative proceeding (“MI proceeding”) that would, “allow for more active participation by stakeholders and provide a more collaborative and cost-effective setting for LUMA and stakeholders to address and discuss key issues regarding the wheeling services agreement with this Energy Bureau and its consultants.”

<sup>1</sup> Final R&O, p. 2.

<sup>2</sup> LUMA Energy, LLC (“ManagementCo”) and LUMA Energy ServCo, LLC (“ServCo”) (jointly referred as “LUMA”).

<sup>3</sup> Puerto Rico Electric Power Authority (“PREPA”).

<sup>4</sup> On April 25, 2022, the Independent Consumer Protection Office (“ICPO”) and Circon Energy filed comments in response to Attachment B. On August 30, 2022, LUMA submitted responses to Attachment B.

<sup>5</sup> See, *In re: The Unbundling of the Assets of the Puerto Rico Power Authority*, Case No: NEPR-AP-2018-0004, *Request Regarding the “Further Processes” Scheduled on the Wheeling Services Agreement, Request for and Agenda for the Technical Conference of September 23, and Submission of a Proposed Agenda*, filed by LUMA on August 26, 2022, p.2.



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The Energy Bureau **INITIATES** this non-adjudicative docket to address the final steps to implement wheeling. Per Regulation 9374 <sup>6</sup> (“Wheeling Regulation”), the final implementation steps include review and approval of the following:<sup>7</sup>

- Wheeling services agreement between retail electricity suppliers and LUMA,
- Wheeling services agreement application form, and
- Nonrefundable fee to be paid by Retail Electricity Supplier.

Section 7.01 of the Wheeling Regulation also discusses the development of a standard retail supply agreement<sup>8</sup>. The Energy Bureau started engaging stakeholders on this agreement with the questions in Attachment B and will continue development through this docket. The Energy Bureau notes that the timeline for an approved standard agreement may take longer than the wheeling services agreement because of the limited information provided so far. Given this limitation, the Energy Bureau does not currently expect to delay implementing the wheeling tariff until a standard retail supply agreement is approved.

## II. Remaining Process to Implement Wheeling

On the remaining steps expected in this docket, the Final R&O stated the following, “The Energy Bureau intends to proceed expeditiously to determine the major policy elements of the standard wheeling services agreement and set a timeline for LUMA to file a draft wheeling services agreement and draft wheeling services agreement application form for review by the Energy Bureau.”<sup>9</sup>

Given this priority on launching the tariff, the Energy Bureau’s initial focus in this proceeding is establishing the wheeling services agreement, wheeling services agreement application form, and non-refundable fee. Once these elements are approved, customers can begin taking service under the wheeling tariff. The Energy Bureau expects an iterative process where these components are improved over time with the benefit of experience and other elements that take longer to develop, such as the standard retail supply agreement, are added when appropriate.

### A. WHEELING SERVICES AGREEMENT

At the outset, the Energy Bureau sets a timeline of March 30, 2023, for LUMA to file the draft wheeling services agreement (“WSA”). The draft submitted on this timeline shall include the requirements from Section 6.03 (A) of the Wheeling Regulation and incorporate the Energy Bureau’s past guidance on the components of this agreement. To support this timeline, the Energy Bureau is establishing these steps towards review and approval of the WSA:

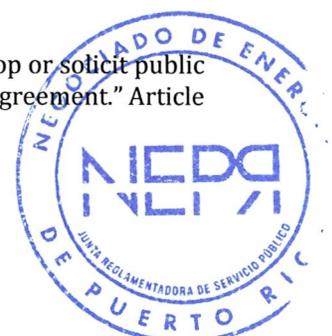
- 1) Issuing follow-up questions to LUMA due within 20 days - see Attachment A to this order;

<sup>6</sup> Regulation on Electric Energy Wheeling, April 20, 2022.

<sup>7</sup> See Regulation 9374 Sections 6.01-6.06. On December 7, 2022, the Energy Bureau adopted the Regulation on Electric Energy Wheeling in *In re: Regulation on Wheeling*, Case No.: CEPR-MI-2018-0010. In adopting this regulation, the Energy Bureau stated in its Resolution, “[t]he Amended Final Regulation establishes a clear, flexible framework for wheeling services. The goal is to clearly identify the categories of participants and the relationships between those participants. Further details will be established by the Energy Bureau in this docket or in other proceedings, including *In re: The Unbundling of the Assets of the Puerto Rico Electric Power Authority* Case No. NEPR-AP-2018-0004 (“Unbundling Docket”) The intent is that the Amended Final Regulation is consistent with the full scope of the Energy Bureau’s statutory authority, but subsequent orders may establish prudential limitations on wheeling. As such, specific wheeling policies should be able to evolve over time within the overall framework established by this Amended Final Regulation.

<sup>8</sup> “At an appropriate time, the Energy Bureau shall convene a stakeholder technical workshop or solicit public comment for purposes of requesting input on the development of a standard Retail Supply Agreement.” Article 7, Section 7.01 of Regulation 9374.

<sup>9</sup> Final R&O, p.21.



- 2) Providing Pre-Technical Conference comment period – The Energy Bureau encourages stakeholders to submit comments and proposed language for the WSA to discuss at the stakeholder technical conference. See Attachment B to this order;
- 3) Holding Stakeholder Technical Conference – see proposed agenda in Attachment C to this order;
- 4) Providing Post-Technical Conference comment period - 7-day period for stakeholders to submit comments after technical conference; and
- 5) Issuing Energy Bureau guidance on the WSA – After review of stakeholder input, the Energy Bureau will provide further direction on drafting the WSA before the deadline.

The Energy Bureau also notes that LUMA, the ICPO<sup>10</sup>, and Circon Energy submitted responses to Attachment B of the Final R&O, and the Energy Bureau is appreciative to these parties for their feedback. The Energy Bureau finds their submissions helpful to informing the implementation of wheeling and will enter these responses into the record of this docket.

In step #2 outlined above, the Energy Bureau requests stakeholders to file comments if they have not provided this feedback. Attachment B to this order includes the questions from the Final R&O to allow another opportunity for stakeholder input. The Energy Bureau encourages any interested stakeholders to file proposed language for the WSA that satisfies the Wheeling Regulation and past Energy Bureau orders.<sup>11</sup> The Energy Bureau can review these submissions in determining if any modifications are needed to LUMA's proposal. After the first four steps outlined above, the Energy Bureau will direct further action on the draft WSA as needed and consistent with the **March 30, 2023**, deadline established in this order.

## B. WHEELING SERVICES AGREEMENT APPLICATION FORM

Section 6.04 (A) of the Wheeling Regulation outlines the requirements for a Wheeling Services Agreement Application Form ("WSAAF"). The Energy Bureau received comments on this topic and a stakeholder provided an example<sup>12</sup>. Given the relatively straightforward requirements, the Energy Bureau **ORDERS** LUMA to develop a draft form for review to be presented at the upcoming stakeholder technical conference. The Energy Bureau will direct further action after reviewing the draft WSAAF and stakeholder comments.

## C. NONREFUNDABLE FEE

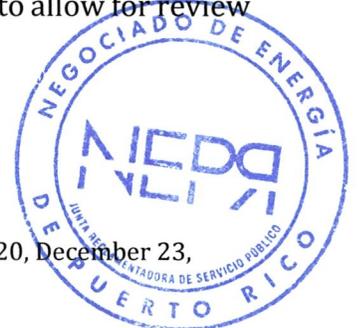
Section 6.05 of the Wheeling Regulation states that the nonrefundable fee paid by retail electric suppliers, "shall be set by the Energy Bureau for no more than is necessary to ensure that costs associated with processing the application do not affect in any way whatsoever nonsubscribers of wheeling services."

The Energy Bureau **ORDERS** LUMA to file a proposal for the nonrefundable fee including documentation that the proposed fee meets the Wheeling Regulation. This filing should occur five (5) business days before the Stakeholder Technical Conference to allow for review and discussion.

<sup>10</sup> Independent Consumers Protection Office ("ICPO").

<sup>11</sup> See Regulation 9374 Section 6.03 and Resolutions and Orders filed on October 14, 2020, December 23, 2020, and March 24, 2022 (Final R&O) in Unbundling Docket.

<sup>12</sup> See, *Comments and Responses of Circon Energy LLC to the Questions for Stakeholder Comment Regarding Wheeling Services Agreement and Application Form, In re: The Unbundling of the Assets of the Puerto Rico Electric Power Authority* Case No.: NEPR-AP-2018-0004 filed on April 25, 2022 at p.9.



#### D. TECHNICAL CONFERENCE

The Energy Bureau will hold a virtual Stakeholders Technical Conference on Thursday, **February 23, 2023**<sup>13</sup> with the proposed agenda in Attachment C. The Energy Bureau's goal is to review LUMA's progress on drafting the proposed enabling agreements, discuss Pre-Technical Conference comments, and review the timeline for finalizing the agreements. The Energy Bureau requests that stakeholders submit Pre-Technical Conference comments at least 48 hours before the Stakeholders Technical Conference and on or before seven (7) after the Stakeholders Technical Conference submit the Post-Technical Conference Comments as stated in Section A(4) above. After consideration of this feedback, the Energy Bureau will direct further action as necessary.

#### E. STANDARD RETAIL SUPPLY AGREEMENT

The Energy Bureau sought feedback on the Standard Retail Supply Agreement ("SRSA") and received comments from LUMA and the ICPO. Both parties generally supported standardizing certain terms and increasing transparency for customers<sup>14</sup>. The Energy Bureau also notes that no retail suppliers or representatives of these entities have submitted comments yet.

The Energy Bureau encourages further comments by the Stakeholders on a SRSA, including proposed language for the agreement, and refers stakeholders back to the relevant questions in Attachment B of this order. The comments submitted on the SRSA will be discussed in the upcoming Stakeholder Technical Conference and the Energy Bureau will direct further action as necessary.

#### III. CONCLUSION

The Energy Bureau **ORDERS** that:

1. LUMA files a draft Wheeling Services Agreement on or before March 30, 2023.
2. LUMA files a draft Wheeling Services Agreement Application Form before the Stakeholders Technical Conference.
3. LUMA files a proposed nonrefundable fee with appropriate documentation before the Stakeholders Technical Conference.
4. LUMA and PREPA respond to the Information Requests in Attachment A within 20 days of this Resolution and Order.

Be it notified and published.



<sup>13</sup> This Technical Conference shall be virtual from 10:00 a.m. to 2:00 p.m. AST.

<sup>14</sup> See, Independent Consumer Protection Office's Comments to Attachment B of the Energy Bureau's March 24, 2022, Final Resolution and Order, *In re: The Unbundling of the Assets of the Puerto Rico Electric Power Authority*, Case No.: NEPR-AP-2018-0004, filed on April 25, 2022 ,p.8 and *Motion Submitting LUMA's Responses to Questions for Comments by Stakeholders included in Attachment B to the Resolution and Order of March 24, 2022*, Case No.: NEPR-AP-2018-0004 filed on August 30, 2022 at Exhibit 1 pp.22-24

  
Edison Avilés Deliz  
Chairman

  
Lillian Mateo Santos  
Associate Commissioner

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
Sylvia B. Ugarte Araujo  
Associate Commissioner

  
Antonio Torres Miranda  
Associate Commissioner

### CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 13, 2023. I also certify that on January 13, 2023 a copy of this Resolution and Order was notified by electronic mail to: wayne.stensby@lumapr.com; Ashley.engbloom@lumapr.com; mario.hurtado@lumapr.com; legal@lumapr.com; astrid.rodriguez@prepa.com; lionel.santa@prepa.com; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; kbolanos@diazvaz.law, jmarrero@diazvaz.law, contratistas@jrsp.pr.gov, hriviera@jrsp.pr.gov, manuelgabrielfernandez@gmail.com, ramonluisnieves@rlnlegal.com; ccf@tcm.law and agraitfe@agraitlawpr.

I also certify that on January 13, 2023, a copy of this Resolution and Order was notified by electronic mail to I sign this in San Juan, Puerto Rico, today, January 13, 2023.

  
Sonia Seda Gaztambide  
Clerk



## ATTACHMENT A – Information Requests for LUMA and PREPA

1. Current data and information available on hourly marginal energy costs.
  - a. Does LUMA or PREPA compute, and record hourly marginal energy cost data associated with the Puerto Rico electric system? Explain.
  - b. If LUMA or PREPA computes and records hourly marginal cost data associated with the Puerto Rico electric system, provide the data in Excel format for that metric for all periods available from June 1, 2021 to today.
  - c. Does LUMA or PREPA compute and record a marginal energy cost data at any finer temporal granularity than hourly, e.g., fifteen minute or five-minute intervals? If so, provide the data in Excel format for that metric for all periods available from June 1, 2021, to today. If not, explain why not.
2. Current process for dispatch and unit commitment.
  - a. Explain the process used by LUMA and PREPA to conduct near-term operational horizon unit commitment or decommitment processes (24-96 hours ahead of real time).
  - b. Explain the process used by LUMA and PREPA to conduct “day of” or immediate operational horizon unit commitment or decommitment processes (1-24 hours ahead of real time).
  - c. Explain the specific process used by LUMA and PREPA to conduct dispatch of resources in real time, or at very near-term operational time frames (e.g., 0-12 hours ahead of real time).
  - d. Please explain how LUMA defines a resource stack for current-day dispatch procedures.
3. Current data on heat rates, variable operation and maintenance (O&M) costs, and fuel prices.
  - a. Does LUMA or PREPA keep a systematic record of current-day unit-specific heat rates by capacity segment, unit-specific variable O&M costs, and unit specific fuel prices?
    - i. If so, provide the data LUMA has from June 1, 2022, to today.
    - ii. If not, explain why not.
  - b. Does LUMA compute a dispatch rate, in \$/MWh, on a unit-specific basis for all or a portion of units in Puerto Rico?
    - i. If so, provide the underlying computation for the dispatch rate and provide the data LUMA has from June 1, 2022, to today.
    - ii. If not, explain why not.
4. Projected data for heat rates, variable operation and maintenance (O&M) costs, and fuel prices.
  - a. Does LUMA systematically project unit-specific heat rates by capacity segment, unit-specific variable O&M costs, unit specific fuel prices, or an overall dispatch rate (\$/MWh) for the near-term (1-30 days ahead) period?
  - b. If so, provide a snapshot of this information for current near-term month ahead.
  - c. If not, explain why not.
  - d. If not, explain how LUMA plans for near-term (1-30 days) operational dispatch and unit commitment requirements.
5. Reconcile the information in response to the four questions above with LUMA’s current system operation principles.



## ATTACHMENT B

1. Please comment on whether the Energy Bureau should establish requirements for a wheeling services agreement beyond those in Regulation 9374.
2. Please provide any comments on the potential methods for establishing hourly balancing charges to be billed to retail electricity suppliers monthly as discussed in the March 2022 Final R&O on pages 18-20.
3. Please comment on the design of annual imbalance charges for retail electricity suppliers. Does any imbalance charge necessary? How should the imbalance charge vary with the annual difference between energy a supplier delivers to the LUMA system, and the energy required by its customers? What is the amount of imbalance (“dead zone”) should be allowed before the imbalance charge is triggered? Should the dead zone be larger in the early years of the wheeling program, or should each new retail electricity supplier have a larger dead zone in the early years of its operations, as it matches supply and load?
4. See pages 20-21 of Exhibit D (Proposal for Uniform Services Agreement Report by Guidehouse) to the Motion in Compliance with Resolution and Order entered on May 13, 2021. Is the proposal for different collateral requirements depending on a retail electricity supplier’s credit rating appropriate? What are the proper percentages of collateral that should be required depending on the entity’s credit rating?
5. Please describe any factors or information that should be considered in establishing cost-based administrative charges to retail electricity suppliers (e.g., per month for each retail electricity supplier and per-month for each wheeling customer account).
6. Please describe any other issues that the Energy Bureau should consider in creating a wheeling services agreement.
7. Please provide any general comments that the Energy Bureau should consider in establishing a wheeling services agreement application form.
8. Please provide any comments on the establishment of a nonrefundable fee to be paid with the wheeling services agreement application form.

### Retail Supply Agreement

1. Are there any compelling reasons to create a standard retail supply agreement at the current stage of this process?
2. If the Energy Bureau waits to create a standard retail supply agreement, should there be a filing requirement for retail supply agreements entered into between wheeling customers and retail electricity suppliers?
3. Should any preliminary requirements for retail supply agreements be determined before the Energy Bureau creates a standard retail supply agreement? If so, what should those preliminary requirements be?



## **ATTACHMENT C – Proposed Agenda for Technical Conference**

- 1.** Energy Bureau to outline objectives and goals of new docket
- 2.** LUMA presents proposed future state wheeling ecosystem
- 3.** LUMA presents proposed enabling wheeling agreements in Puerto Rico
- 4.** Discussion of LUMA’s responses to Attachment A
- 5.** Discussion of stakeholder responses and proposed enabling wheeling agreements
  - a.** Wheeling Services Agreement (“WSA”)
  - b.** Wheeling Services Agreement Application Form (“WSAAF”)
  - c.** Nonrefundable Fee
  - d.** Standard Retail Supply Agreement (“SRSA”)
- 6.** Discussion of next steps to finalize enabling agreements

