

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

**IN RE: THE UNBUNDLING OF THE ASSETS
OF THE PUERTO RICO ELECTRIC POWER
AUTHORITY**

CASE NO.: NEPR-AP-2018-0004

SUBJECT: Determination on LUMA's
December 6 Motion.

RESOLUTION AND ORDER

I. Introduction and Procedural Background

On March 24, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Final Resolution and Order ("March 24 Final Resolution") which included a draft Wheeling Customer Rider ("WCR") as Attachment A. On April 13, 2022, LUMA¹ filed a motion for reconsideration of the March 24 Final Resolution ("April 13 Reconsideration"). On August 10, 2022, the Energy Bureau issued a Resolution and Order ("August 10 Resolution") denying the April 13 Reconsideration and ordered LUMA to submit a formal version of the WCR, along with a description and rationale for any proposed changes, within seven (7) days. On August 15, 2022, LUMA filed a request for extension of time to file changes to the draft Wheeling Customer Rider ("August 15 Request").

On August 24, 2022, LUMA presented a document titled *Motion Submitting Proposed Changes to the Draft Wheeling Customer Rider* ("August 24 Motion") which included a revision to the draft WCR, rationales for those proposed revisions, and three pages of additional material as Exhibit 1. On November 22, 2022, the Energy Bureau issued a Resolution and Order ("November 22 Resolution") through which it approved in part and denied in part LUMA's proposed revisions to the draft WCR, and ordered LUMA to publish within 14 days the final WCR in the tariff books. The final WCR was specified in Attachment A to the November 22 Resolution. The Energy Bureau also directed LUMA to inform, within five (5) days its compliance with the requirement to publish in PREPA's Tariff Book.²

On December 6, 2022, LUMA filed a document titled *Informative Motion on LUMA's Ongoing Efforts on Wheeling and need for the Historical Fuel Data, Renewed Request to Open a Regulatory Proceeding, and Motion for Reconsideration of Orders on Wheeling Customer Rider* ("December 6 Motion"). In the December 6 Motion LUMA presented i) its ongoing efforts on Wheeling and stated its current limitations on access to certain data; ii) informs the limitations on data gathering regarding the historical fuel data; iii) LUMA renewed its request for the Energy Bureau to open an "MI" proceeding; and iv) requested reconsideration of the November 22 Resolution.³

II. Requests regarding the Wheeling Customer Rider

In its December 6 Motion, LUMA argues that it is premature to publish the WCR in its tariff books.⁴ This argument was considered and rejected in the November 22 Resolution, and the Energy Bureau sees no additional merit. The final WCR references several steps that must be completed before a large commercial and industrial customer is eligible to adopt the rider. These customers likely will not make substantial investments or plans without investigating those details. The Energy Bureau shall expeditiously address the remaining issues that need

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

² November 22 Resolution, Section III, p.2.

³ The Energy Bureau clarifies that this Resolution and Order, which includes its determination on the allegation stated in Section IV of the December 6 Motion titled Request for Reconsideration of the November 22nd Order, in no manner shall be considered as a reconsideration under Section 3.15 of Act 38-2017 known as *The Uniform Administrative Procedure of the Government of Puerto Rico Act*.

⁴ December 6 Motion, p. 9.



to be resolved to implement wheeling and minimize any lag between publication of the tariff and final availability.⁵

In its December 6 Motion, Exhibit 1, LUMA raises general concerns with the implementation of wheeling and seven specific recommendations for the WCR.⁶ The general concerns, raised by LUMA, are a reiteration of issues that were previously litigated and adjudicated by the Energy Bureau in the March 24 Final Resolution and the August 10 Resolution. To restate one of the previously decided issues, the Energy Bureau found that a customer credit set at the full FCA and PPCA, combined with hourly balancing charges and an annual imbalance charge, will not lead to cross-subsidization of wheeling costs by non-wheeling customers. The Energy Bureau need not consider the matter further.

As for the seven specific recommendations, the Energy Bureau finds that each recommendation are, with one exception, matters of emphasis that either reflect LUMA's disagreement with the Energy Bureau's determinations or are not significant enough to merit amendments.⁷ To respond briefly to each of the remaining six recommendations, the Energy Bureau states the following:

- Recommendation #1⁸: All metering used by LUMA must be certified as described and including the adjective "appropriate" does little or nothing to describe the relevant issues in hand. Nothing in the WCR or other relevant orders should be taken to imply that non-standard metering may be used.
- Recommendation #2:⁹ Given the structure of the annual imbalance charge, the Energy Bureau intends to provide strong guidance that the adoption of wheeling should be a mechanism to approximately match load and supply annually. However, as clarified in the March 24 Final Resolution, this should not be a rigid requirement and leeway should be given. The suggested language does not reflect these underlying policy nuances.
- Recommendation #3:¹⁰ Retail electricity suppliers must be eligible and have a wheeling services agreement in effect by the date that wheeling with the customer starts and the customer starts receiving the WCR credit on their bill. The word "eligible" is sufficient.
- Recommendation #4:¹¹ The Energy Bureau agrees that, if a customer wishes to install new interval metering, that customer must pay the full costs of purchase and installation. However, the customer may also decline to install interval metering and either forgo wheeling entirely or petition the Energy Bureau for approval of an estimated customer load shape. The current language is sufficient to communicate the relevant issues.

⁵ Resolution and Order, *In Re: Wheeling Implementation*, Case No. NEPR-MI-2023-0001, January 13, 2023.

⁶ December 6 Motion, Exhibit 1, p. 2.

⁷ Neither the recommendations nor the Energy Bureau's discussion of the same shall be in any way deemed, interpreted, or construed as a reconsideration of matters previously litigated and adjudicated.

⁸ December 6 Motion, Exhibit 1, Section 2.1.2, p. 3.

⁹ December 6 Motion, Exhibit 1, Section 2.1.2, p.3.

¹⁰ December 6 Motion, Exhibit 1, Section 2.1.2, pp. 3-4.

¹¹ December 6 Motion, Exhibit 1, Section 2.1.2, p. 4.



- Recommendation #5:¹² Details regarding bounds on approving an estimated customer load shape may be decided in future proceedings, notably a future customer petition specifically on the issue.
- Recommendation #7:¹³ Proper notification procedures must be followed in all steps of the wheeling process and need not be specified at each step of the WCR. Notification procedures will be considered in a future proceeding.

With regards to the recommendation, labeled #6,¹⁴ whether otherwise eligible customers may not participate in wheeling because those customers participate in another rider or program, the Energy Bureau observes that no tariff rider is set in stone. To the extent that LUMA or other stakeholders present a persuasive argument that participation in another rider or program should prevent participation in wheeling, that may be addressed in another future proceeding.¹⁵

III. Additional Matters

Regarding the request for the Energy Bureau to open an “MI” proceeding, refer to Resolution and Order issued January 13, 2023, *In Re: Wheeling Implementation*, Case No. NEPR-MI-2023-0001.

LUMA has stated that it requested historical hourly plant-specific fuel data from and the Puerto Rico Electric Power Authority (“PREPA”) and has not received the requested data. While the Energy Bureau appreciates the proactive efforts, it is not necessarily the case that historical fuel data is the most pertinent data to determine hourly marginal energy costs going forward. The Energy Bureau anticipates issuing information requests to both LUMA and PREPA on these topics in any newly opened proceeding.

IV. Conclusion

For all the above, the Energy Bureau **DENIES** the request stated in Section IV of the December 6 Motion.

The request stated in Section III of the December 6 Motion has been addressed through Resolution and Order issued January 13, 2023, *In Re: Wheeling Implementation*, Case No. NEPR-MI-2023-0001.

Be it notified and published.


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

¹² December 6 Motion, Exhibit 1, Section 2.1.2, p. 4.

¹³ December 6 Motion, Exhibit 1, Section 2.1.2, p 5.

¹⁴ December 6 Motion, Exhibit 1, Section 2.1.2, pp.4-5.

¹⁵ Such as, *In Re: Wheeling Implementation*, Case No. NEPR-MI-2023-0001.



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 27, 2023. I also certify that on January 27, 2023 a copy of this Resolution and Order was notified by electronic mail to 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.com and 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 January 27, 2023.



Sonia Seda Gaztambide
Clerk

