

**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:** Determination on LUMA's January 30, 2023, Motion and Request for Confidential Designation and Treatment of the Initial Scope of Work ("SOW") for T & D Project.

**RESOLUTION AND ORDER**

**I. Introduction**

On March 26, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 26 Resolution") in the instant case, through which it ordered the Puerto Rico Electric Power Authority ("PREPA") to provide certain information related to the different projects under the categories of Transmission Line Projects, Transmission Substation Projects, and Distribution Substation Projects in the PREPA 10 -Year Infrastructure Plan.<sup>1</sup> The Energy Bureau ordered PREPA to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP") and Modified Action Plan.<sup>2</sup> To streamline the process, the Energy Bureau requested PREPA to submit the specific projects to the Energy Bureau at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3") and the Federal Emergency Management Agency ("FEMA").<sup>3</sup>

On August 20, 2021, the Energy Bureau issued a Resolution and Order ("August 20 Resolution"),<sup>4</sup> through which it determined that the March 26 Resolution applies equally to LUMA<sup>5,6</sup>

On May 31, 2022, LUMA filed a document titled *Motion Submitting Technical Interconnection Studies for Eighteen Tranche 1 Projects required under Energy Bureau's Resolution and Order of April 27, 2022, and Request for Confidential Treatment* ("May 31 Motion").<sup>7</sup> According to LUMA, the Final Interconnection Study Report for each project includes an executive summary and these appendices: (a) Interconnection Studies Summary Report, (b) Facility Study POI Cost Estimates, (c) Facility Study Network Upgrade Cost Estimates, and (d) LUMA Interconnection Facility Works ("Technical Studies"). The executive summary presents an overview of the findings and cost estimate for the facilities required at the points of interconnection and transmission system network upgrades ("Network Upgrades") needed to safeguard system reliability ("Final Interconnection Study Report"). LUMA also provides a "System Impact and Facility Study Results" report, that includes a summary and analytical detail for a "cluster study" of the system, developed to determine the required transmission system network upgrades. This report also includes cost estimate and respective cost allocation by project, which is used to inform the Final Interconnection Study Report for each project.

<sup>1</sup> Resolution and Order, *In re: Review of the Puerto Rico Electric Power Authority's 10-Year Infrastructure Plan*, Case No. NEPR-MI-2021-0002, March 26, 2021 ("March 26 Resolution").

<sup>2</sup> Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 ("IRP Order").

<sup>3</sup> March 26 Resolution, pp. 14-15.

<sup>4</sup> August 20, 2021, Resolution and Order, p. 3.

<sup>5</sup> LUMA Energy, LLC, and LUMA Energy ServCo, LLC (collectively, "LUMA")

<sup>6</sup> August 20 Resolution, p. 3.

<sup>7</sup> *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, *Motion Submitting Technical Interconnection Studies for Eighteen Tranche 1 Projects required under Energy Bureau's Resolution and Order of April 27, 2022, and Request for Confidential Treatment* filed by LUMA on May 31, 2022.





Upon the review of the System Impact and Facility Results, on June 13, 2022, the Energy Bureau issued a Resolution and Order ("June 13 Order")<sup>8</sup> determining that: (i) the transmission system network identified by LUMA as necessary to integrate the Tranche 1 projects, shall be undertaken by LUMA; and (ii) LUMA shall investigate whether all or a portion of the transmission system network upgrade facilities can be procured using federal funds obligated for the reconstruction of the electric grid, or by additionally available supplemental federal funding.

The June 13 Order directed LUMA, while federal funding is being sought: (i) to move forward with the transmission system network upgrade projects needed to support the Tranche 1 selected resource, and (ii) to fund these projects from the Non-Federally Funded Capital Budget as needed using procurement process that follow federal procurement guidelines, with such expenditures to be offset by federal funds when such funds become available.

On January 30, 2023, LUMA filed a document titled *Motion Submitting Initial Scope of Work and Request for Confidentiality and Supporting Memorandum of Law* ("January 30 Motion")<sup>9</sup>. As Exhibit 1 to the January 30 Motion, LUMA included the FEMA Project Scope of Work ("SOW") for the Network Upgrades to support the Integration of Tranche 1 Utility Scale Renewable projects, which are categorized as Network upgrades for: three (3) 38 KV Lines and one (1) Substation.

As part of its filing, LUMA request confidential designation and treatment to the unredacted version of Exhibit 1.<sup>10</sup>

## II. Evaluation of the January 30 Motion

Through the January 30 Motion, LUMA submitted one (1) SOW for the Network Upgrades of three (3) 38 KV Lines in the: (i) Guayanilla – Yauco area, (ii) Juana Diaz – Santa Isabel area and, (iii) Naguabo area, and one (1) substation in the Santa Isabel area.

The projects under the SOW for the Lines upgrades, are identified as a 38 KV Line L700, a 38KV Line L 4800 and a 38KV Line L9900 and; the Substation upgrades, at the Santa Isabel TC. The SOW for the Network Upgrades identifies lines or line segments, where the existing conductor's MVA capacity does not meet the requirement for the additional renewable generation envisioned.

The estimated construction scope of work to be performed includes poles replacement with new steel poles, concrete drilled shaft foundations and embedded foundations, installation of new conductors, transfer of existing distribution facilities to new steel poles, construction of access roads, installation of new conductors, and hardware. Also, is included the replacement of transformers, with the corresponding pads, oil containment pits and new fire walls, replacement of circuit breakers and main bus, new cables and removal and disposal of existing structures, among other related works.

All four (4) projects in the Project SOW of the January 30 Motion were reviewed. All the projects are aligned with the goal of repair, improve, and sustain the reliability, capacity, and resiliency of the Puerto Rico electric system. All these reconstruction efforts on the island need to be aligned with local and federal regulations, and actual codes and standards.

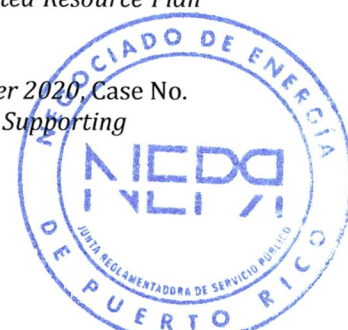
The execution of those four (4) projects will ensure that the terminals and/or point of connections will be capable to accept the forecast capacity provided by the new renewable generation projects of Tranche 1 and will provide primary and redundant sources of generations as part of an overall Grid focused strategies to establish, maintain and restore electrical service before, during and after a natural disaster or event.

Upon review of the four (4) projects in the January 30 Motion SOW, the Energy Bureau **DETERMINES** that all the projects are necessary to improve the reliability and resiliency of the

<sup>8</sup> Resolution and Order, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, June 13, 2022.

<sup>9</sup> *In re: Review of the Puerto Rico Electric Power Authority's 10-Year Infrastructure Plan – December 2020*, Case No. NEPR-MI-2021-0002, *Motion Submitting Initial Scope of Work and Request for Confidentiality and Supporting Memorandum of Law* filed by LUMA on January 30, 2023.

<sup>10</sup> January 30 Motion, p. 15.





system and to improve the capacity while the impact to the environment is reduced and the safety of the personnel and the equipment is increased. The Energy Bureau **APPROVES** the projects in Attachment A to this Resolution and Order. This approval represents **\$78,300,000.00** based on the Class 5 Cost Estimates submitted by LUMA.

III. LUMA’s Request for Confidential Information Designation and Treatment of portions of Exhibit 1 of the January 30 Motion

In the January 30 Motion, LUMA requested that the unredacted version of portions of Exhibit 1 be granted confidential treatment. LUMA alleges that the unredacted version of the SOW in **Exhibit 1** contain: confidential information in the form of critical energy infrastructure information or critical electric infrastructure information (“CEII”) that garners protection from public disclosures pursuant to federal statutes and regulations;<sup>11</sup> and the Energy Bureau policy on management of confidential information,<sup>12</sup> that therefore is also protected under Act 57-2014.<sup>13</sup> LUMA states that the SOW include personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico’s legal framework on privacy emanating from the Puerto Rico Constitution. LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred portion of Exhibit 1. Table 1 below details the portions of the Exhibit 1 which LUMA requested confidential designation and treatment.

Table 1: LUMA’s Request for Confidential Information Designation and Treatment, of portions of Exhibit 1

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 1	FEMA Project Scope of Work Project Name: Network Upgrades to Support the Integration of Tranche 1 Utility Scale Renewable Projects	Page 1	Right to privacy (see, e.g., Const. ELA, Art. II, Sections 8 and 10)	January 30, 2023
		Page 4 and 12-15	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671- 674.	January 30, 2023

IV. Energy Bureau Determination

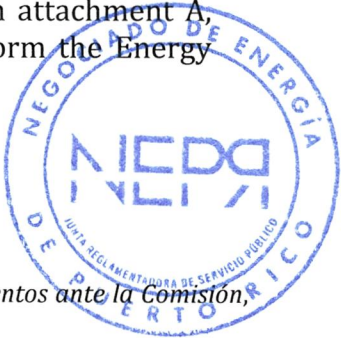
The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize their approval process for the request of federal funds. The Energy Bureau approved these projects based upon the information provided by LUMA. Should the scope of the project change or the request for the federal funds are not approved for such projects, LUMA **SHALL** immediately seek the Energy Bureau’s approval of such changes.

The Energy Bureau **ORDERS** LUMA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in Attachment A, which shall contain the costs obligated for each project, **within ten (10) days of receipt of such approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each project in attachment A **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

<sup>11</sup> 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).

<sup>12</sup> See, Resolution, *In re: Política sobre Manejo de Información Confidencial en los Procedimientos ante la Comisión*, Case No. CEPR- MI-2016-0009, issued on August 31, 2016.

<sup>13</sup> Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.



The directive established in the March 26 Resolution regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

Act 57-2014<sup>14</sup> establishes that any person having the duty to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.<sup>15</sup> Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information stated that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected”.<sup>16</sup> In such case, the Energy Bureau “shall grant such protection **in a manner that least affects the public interest, transparency,** and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”<sup>17</sup>

Upon review of LUMA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the parts of Exhibit 1 as described in Table 1 above, pursuant to Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that LUMA already submitted a redacted (*i.e.*, public) version of Exhibit 1 as describe in Table 1.

The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014<sup>18</sup> and applicable Energy Bureau’s regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it hereby notified and published.

  
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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

  
\_\_\_\_\_  
Antonio Torres Miranda  
Associate Commissioner



<sup>14</sup> *Id.*

<sup>15</sup> Section 6.15 of Act 57-2014.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* (Emphasis added).

<sup>18</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 22, 2023. I also certify that on February 22, 2023, a copy of this Resolution and Order was notified by electronic mail to yahaira.delarosa@us.dlapiper.com, laura.rozas@us.dlapiper.com; jmarrero@diazvaz.law. I also certify that today, February 22, 2023, 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 February 22, 2023.

  
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Sonia Seda Gaztambide  
Clerk





Attachment A  
Projects Approved by the Energy Bureau

Renewable Network Upgrades  
(Damage Number 223189 & 206253)

Number	Region	Project Name	Presented Estimate
1	Island Wide	38KV Line 700	\$ 78,300,000.00
		38KV Line 4800	
		38KV Line 9900	
		Santa Isabel TC	

