

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

NEPR

Received:

Mar 17, 2023

11:23 AM

IN RE: THE IMPLEMENTATION OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY INTEGRATED RESOURCE
PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Motion in Compliance with Order
and to Inform and Clarify March 10, 2023,
Resolution and Order as Applicable to
Sectionalizer Projects

**MOTION IN COMPLIANCE WITH ORDER AND TO INFORM AND CLARIFY
MARCH 10, 2023 RESOLUTION AND ORDER AS APPLICABLE TO
SECTIONALIZER PROJECTS**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority (“PREPA”), through its counsel of record, and respectfully submits and prays as follows:

1. On March 10, 2023, the Puerto Rico Energy Bureau of the Public Service Regulatory Board (“Energy Bureau”) entered a Resolution and Order (“March 10 Order”) resolving various motions including the motion filed by PREPA on February 28, 2023 titled “*Informative Motion Regarding Update on LUMA Interconnection Studies Policy Change, Amendment to Closing Date, T1 Project Permitting Process and Request for Order Addressing Same*” (“February 28 Motion”).
2. After explaining various situations related to the Tranche 1 process, PREPA requested assistance from the Energy Bureau: (i) directing LUMA to submit a letter or motion explaining the Third Policy Change; (ii) allowing PREPA to authorize further extensions to the time to close the Tranche 1 contracts to accommodate LUMA's interconnection works RFP process; (iii) directing LUMA to send PREPA the

transmission works EPC timeline by March 3, 2023 to afford PREPA sufficient time to communicate with Tranche 1 proponents on a plan for making any changes to deadlines or documents that may be required; (iv) directing LUMA to support Resource Providers in acquiring land to be transferred to PREPA for PREPA substations; and (v) issuing an order reminding LUMA that the Energy Bureau has ordered it to pay for System Upgrades associated with the interconnection and integration of all Tranche 1 projects.

3. In response, the Energy Bureau entered the March 10 Order finding and ordering the following:
 - a. At this moment it will not authorize further modifications to Section 2.3 of the signed Agreements regarding the Closing Date. The parties to the Agreements shall abide by the current applicable terms, that is, (i) cause the Closing Date to occur not later than one hundred and eighty (180) days after PREPA's execution of the Agreement, and (ii) the automatic termination of the Agreement if the Closing Date does not occur within three hundred (300) days after the Agreement Date.
 - b. The execution of PREPA's Interconnection Facilities Works shall be in accordance with the terms and conditions included in each applicable Agreement. That is, if the Agreement provides for PREPA's Interconnection Facilities Works to be built by the Service Provider, the latter must build them and, if on the contrary, the Agreement provides for the PREPA's Interconnection Facilities Works to be built by LUMA, the latter must build them. The Energy Bureau clarifies that LUMA's policies regarding the construction of PREPA's Interconnection Facilities Works shall not affect the terms and conditions of the signed Agreements.
 - c. To the extent applicable, LUMA shall complete the RFP process for the PREPA's Interconnection Facilities Works on or before July 1, 2023. The Energy Bureau further **ORDERS LUMA on or before March 17** to provide PREPA the timeline for the completion of the PREPA's Interconnection Facilities Works.
 - d. In order to avoid additional delays to the Tranche 1 projects and considering the protection of the public interest, the Energy Bureau **ENCOURAGES** the parties to evaluate any pending Condition Precedent that may be waived to achieve the Closing Date within the timeframe established in the Agreements.
 - e. **PREPA shall** inform the Energy Bureau within **five (5) business days** of the

notification of this Resolution and Order, the projects that have a signed *Conditions Precedent Certificate*, confirming the satisfaction or waiver of the Conditions Precedent applicable to each party.

4. On March 13, 2023, PREPA and LUMA met to discuss the details as well as the extent of the March 10 Order. Also, during this week, PREPA has conferred with various proponents related to the extent and effects of the March 10 Order. As a result of these conversations, PREPA would like to clarify the scope and applicability of item (b) of the March 10 Order as applicable to sectionalizer projects. The PREPA Interconnection Facilities can take the form of assets inside PREPA transmission centers / substations or new sectionalizers. The Energy Bureau's order in item (b) of the March 10 Order clarifies the path forward for interconnection assets located inside PREPA facilities or in PREPA substations but may inadvertently make new sectionalizers more challenging. In the case of projects requiring construction of sectionalizers, were the work to be done by any party other than the Resource Provider, the work would take more time and increase interconnection costs, ultimately pushing the Resource Provider's levelized cost of energy ("LCOE") higher. Accordingly, PREPA hereby informs the Energy Bureau that PREPA, LUMA and the Resource Providers whose interconnection works include sectionalizer projects agree, and have been proceeding on the assumption that, the works to be performed in these areas will be performed by the Resource Provider. Three to six projects may need amendments to reflect this allocation of responsibility, but PREPA, LUMA and Resource Providers have been progressing the documentation and the time to complete this should be less than the time to complete the LUMA RFP for interconnection works.
5. Additionally, the March 10 Order required PREPA to inform the Energy Bureau "within five (5) business days of the notification of this Resolution and Order, the projects

that have a signed *Conditions Precedent Certificate*, confirming the satisfaction or waiver of the Conditions Precedent applicable to each party.” In compliance with such mandate PREPA respectfully informs the Energy Bureau that the parties have yet to sign any Conditions Precedent Certificates. PREPA will continue pushing Resource Providers to complete the closing process within the 300 days provided under the executed agreements, as amended.

WHEREFORE, for the reasons stated above, PREPA respectfully **INFORMS** the Energy Bureau that, as applicable to sectionalizer projects, the same will be performed by Resource Providers and that no Conditions Precedent Certificates have been signed by the parties.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17th day of March 2023.

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CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and a courtesy copy of the filing was sent to LUMA through its legal representatives at margarita.mercado@us.dlapiper.com and laura.rozas@us.dlapiper.com.

In San Juan, Puerto Rico, on this 17th day of March 2023.

f/ Joannely Marrero Cruz
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