

**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 March
29, 2023, Motion for the Submission of Two
Scope of Works, List of Updated Projects,
and Request for Confidential Designation
and Treatment.

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. 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.¹ 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").²

On August 20, 2021, the Energy Bureau issued a Resolution and Order ("August 20 Resolution"),³ through which it determined that the March 26 Resolution applies equally to LUMA^{4,5}

On March 29, 2023, LUMA filed a document titled *Motion Submitting Two Scope of Work and Updated List of Projects and Request for Confidentiality and Supporting Memorandum of Law* ("March 29 Motion")⁶. As Exhibit 1 to the March 29 Motion, LUMA included: (i) one (1) FEMA Project Scope of Work ("SOW") of Transmission and Distribution ("T&D") for the "Minor Protection, Automation, and Control ("PAC") Replacement" and (ii) an initial FEMA Project Scope of Work for "Advance Metering Infrastructure" ("AMI").⁷

As part of this filing, as Exhibit 2, LUMA included an excel file titled *Updated Project List*, containing a current list of the total initial SOWs submitted to the Energy Bureau, a list of the approved projects by the Energy Bureau with assigned FEMA Accelerated Awards Strategy ("FAAST") numbers and a list of projects with approved FEMA funding obligations.

¹ 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").

² March 26 Resolution, pp. 14-15.

³ August 20, 2021, Resolution and Order, p. 3.

⁴ LUMA Energy, LLC, and LUMA Energy ServCo, LLC (collectively, "LUMA")

⁵ August 20 Resolution, p. 3.

⁶ *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 Two Scope of Work and Updated List of Projects and Request for Confidentiality and Supporting Memorandum of Law* filed by LUMA on March 29, 2023.

⁷ March 29 Motion, p.16.



On the March 29 Motion, LUMA requested confidential designation and treatment to the unredacted version of Exhibit 1.⁸

II. Evaluation of the March 29 Motion

Through the March 29 Motion, as Exhibit 1, LUMA submitted one (1) SOW for the “Minor Protection, Automation, and Control (“PAC”) Replacement in the Island Wide Substations” and an Initial SOW for the “Advance Metering Infrastructure (“AMI”)”, and as Exhibit #2, LUMA submitted an updated Project List, containing: (i) a current list of the total initial SOWs submitted to the Energy Bureau, (ii) a list of approved projects by the Energy Bureau with assigned FEMA FAAS number and (iii) a list of projects with approved FEMA funding obligations.

A. Minor Protection, Automation, and Control Replacement in the Island Wide Substations Project (“PAC SOW”)

The PAC SOW project operates at nominal voltages of 230kV, 115kV and 38kV, and the facilities comprises the following: transmission and distribution lines, switches, circuit breakers, transformers, voltage regulators, distribution bus, control house and a security perimeter fence among others.

The affected substations have a Protection and Control System that protect the electrical components such as Transmission Lines, Transformers, Bus Bar, Breakers among others and in order to increase these components resiliency and decrease their loss of function during future emergency events, LUMA suggest implementing some changes under the minor Protection, Automation, and Control program focusing on four (4) aspects:



1. Protection associated with circuit breaker replacement program- in which 166 circuit breakers are planned to be replaced to bring redundant protection and automation, as part of the new breakers installation. Also, protection and accessories will be installed in a protection outdoor cabinet if the existing control building does not have sufficient space.
2. Protection associated with Phasor Measurement Unit (“PMU”) replacement – at each 230kV, 115kV, and 38kV lines and transformers to be available for PMU, a data concentrator will be installed, and at all data measuring locations, the existing relays will be replaced with new PMU capable relays.
3. Protection, Automation, and Control for emergency replacement- Many substations have cables or wiring that are susceptible to present issues and loss of function in future emergency conditions. In many cases cable retrofitting through existing conduits is not feasible and new outdoor protection cabinets are required to bypass existing cable conduits. LUMA has identified 137 required cabinets.
4. Remote End Line Protection Replacement Work- considered for 38kV line end differential protection equipment to ensure protocols compatibility.


The estimated construction for the PAC SOW to be performed includes the removal and replacement of disaster related damages components and systems, to restore the facilities to the pre-disaster functions to increase the resilience and reliability of the electric system in the event of a major disaster with the applicable codes and standards as per FEMA Public Assistance Alternative Procedures.

⁸ March 29 Motion, p. 4.





The project considers replacing damaged components as described:

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1. Replace legacy protection systems with new digital relays in outdoor cabinets or relay panels for all new circuit breakers.
 2. Replacement of non-compatible relays in compliance with future phasor measurement units ("PMU").
 3. Protection enhancement for emergency conditions to eliminate or lessen failure due to malfunction caused by electrically operated switches or wiring.



The estimated cost for this project represents **\$70,500,000.00** and is based on a Class 5 estimate that includes materials, construction labor and equipment, engineering, permitting, management, and contingencies.

B. The Advance Metering Infrastructure ("AMI") Project ("AMI SOW")



The AMI Project included in the SOW is an Island Wide and categorized under the Telecommunication and IT Systems, and consists of the planning, design, procurement, and implementation of a new AMI system infrastructure, including the replacement of the meters and communication system damaged. The AMI SOW for this project includes:

1. A total of 36,394 standard metering units and 2,299 smart metering units to be replaced.
2. Replacement of 209 concentrators (remote metering system).
3. Deployment of 1,429,530 smart meters to be replaced and the associated communications infrastructure to enable them.

The project is a restoration type by which the facilities will be restored to pre-disaster function and to approved codes and standards. LUMA indicates that the deployment of a new AMI system will provide functionality to support AMI Communications and will enable communications of Intelligent Electronic Devices ("IEDs"). The AMI will help LUMA to speed outage restoration following major events, reduce the number of affected customers, and improve overall service reliability to reduce power disruptions. The new equipment will additionally improve the System Average Interruption Duration Index ("SAIDI"), the System Average Interruption Frequency Index ("SAIFI"), and the grid resiliency.

The estimated project cost for the AMI project is **\$780,000,000.00** based on a Class 5 estimate that includes materials, construction labor and equipment, engineering, management, and contingencies.

The repair in-kind cost of replacing the 36,394 standard meters and the 2,299 smart meters is the base cost of replacing the damaged standard meters and the 2,299 smart meters, with AMI equipment where the cost difference for AMI equipment will be captured under a 406 Hazard Mitigation measure and the cost under such program has not been provided yet.

The project is 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.

Upon review of the Exhibit #1 in the March 29 Motion FEMA SOWs, the Energy Bureau **DETERMINES** that all the projects are necessary to improve the reliability and resiliency of the electrical system 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 **\$850,500,000.00** based on the Class 5 Cost Estimates submitted by LUMA.

C. LUMA’s Updated Project List

LUMA presented as Exhibit #2 of the March 29 Motion an updated Project List with a current list of projects presented by LUMA to the Energy Bureau, projects approved by the Energy Bureau with the assigned FEMA FAASSt numbers and a list of projects approved with FEMA funding obligations.

Upon review of the updated Project List filed by LUMA, the Energy Bureau **DETERMINES** that the information contained in such list is consistent with the information in the Energy Bureau records.

III. LUMA’s Request for Confidential Information Designation and Treatment of portions of Exhibit 1 of the March 29 Motion

In the March 29 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;⁹ and the Energy Bureau policy on management of confidential information,¹⁰ that therefore is also protected under Act 57-2014.¹¹ 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	Minor Protection, Automation, and Control (PAC) Replacement	Page 1	Right to privacy (see, e.g., Const. ELA, Art. II, Sections 8 and 10)	March 29, 2023
		Page 4, 5, and 6	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671- 674.	March 29, 2023
	Advance Metering Infrastructure (AMI)	Page 1	Right to privacy (see, e.g., Const. ELA, Art. II, Sections 8 and 10)	March 29, 2023

⁹ 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).

¹⁰ 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.

¹¹ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.



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.

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 57-2014¹² 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.¹³ 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".¹⁴ 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.**"¹⁵

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 57-2014¹⁶ 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.

¹² *Id.*

¹³ Section 6.15 of Act 57-2014.

¹⁴ *Id.*

¹⁵ *Id.* (Emphasis added).

¹⁶ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

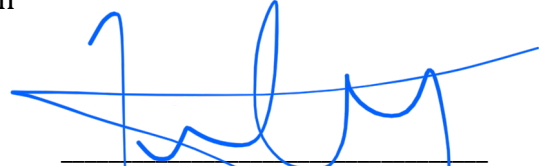




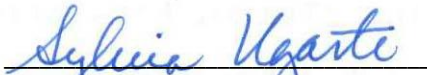
Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner

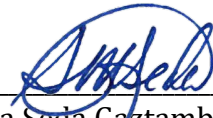


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on April 5, 2023. I also certify that in April 5, 2023 a copy of this Resolution and Order was notified by electronic mail to the following: Yahaira.dealrosa@us.dlapiper.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com; jmarrero@diazvaz.law; mvazquez@diazvaz.law. I also certify that today, April 5, 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 April 5, 2023.



Sonia Seda Gaztambide
Clerk



Attachment A
Projects Approved by the Energy Bureau

Damage Number	Region	Project Name	Presented Estimate
223189	Island Wide Substations	Minor PAC replacement and hazard mitigation	\$70,500,000.00
223318	Island Wide Telecommunication System	Advance Metering Infrastructure	\$780,000,000.00
Total			\$850,500,000.00

