

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

**NEPR**

**Received:**

**Apr 3, 2023**

**9:27 PM**

IN RE: REVIEW OF LUMA'S INITIAL  
BUDGETS

CASE NO. NEPR-MI-2021-0004

SUBJECT: Request for Extension of Time to Submit  
FY2024 Proposed Annual Budgets

**REQUEST FOR EXTENSION OF TIME TO SUBMIT FY2024 PROPOSED  
ANNUAL BUDGETS**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

COME NOW LUMA Energy, LLC (“ManagementCo”), and LUMA Energy ServCo, LLC (“ServCo”), (jointly referred to as “LUMA”), and respectfully state and request the following:

1. On February 27, 2023, this honorable Energy Bureau entered a Resolution and Order in this proceeding whereby it conditionally approved LUMA’s Annual Budgets for FY2023 as filed on July 13, 2022 (“February 27<sup>th</sup> Order”).

2. In what is pertinent, in Section IV.I. of the February 27<sup>th</sup> Order, the Energy Bureau specifically directed LUMA to submit the FY2024 Budget Proposal on or before March 15, 2023. *See*, February 27<sup>th</sup> Order at page 29.

3. On February 28, 2022, the Energy Bureau entered a Resolution *Nunc Pro Tunc* correcting *motu proprio* a clerical error in the date of submission established for the FY2024 Budget Proposal (the “February 28<sup>th</sup> Resolution”). Specifically, the Energy Bureau clarified that the FY2024 Budget Proposal shall be submitted on or before April 15, 2023, instead of March 15, 2023.<sup>1</sup>

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<sup>1</sup> April 15, 2023 is a Saturday, therefore, as per Section 1.09 of Regulation 8543 of this Energy Bureau, the deadline is automatically moved to the next business day, that is, April 17, 2023.

4. LUMA respectfully informs that since February 14, 2023, it has been engaged in discussions with the Puerto Rico Public-Private Partnerships Authority (“P3A”) regarding the FY2024 Budget Allocation and in discussions with P3A, Genera, and PREPA since the initial kick off meeting on February 24, 2023. As part of such process, on March 27, 2023, LUMA provided the P3A with an update on the Fiscal Year 2024 Budget Allocation whereby it informed the steps taken after a Budget Allocation Meeting held with the P3A, PREPA, Genera, and PREB’s consultant on February 24, 2023, during which the FY2024 Budget Allocation was discussed. *See*, Letter dated March 27, 2023 from LUMA to P3A, copy of which is included as *Exhibit 1* (the “March 27<sup>th</sup> Letter”).

5. Through its March 27<sup>th</sup> Letter, LUMA also requested the P3A an extension of 30 days from the date that LUMA receives a final Budget Allocation from P3A, to comply with the requirement set forth in Section 7.3(a) of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“T&D OMA”) for the submission of the FY2024 Annual Budgets to the P3A. *See, Exhibit 1.*

6. As explained in the March 27<sup>th</sup> Letter, LUMA’s request for extension stemmed from the fact that as of the date of the request, LUMA had not yet received confirmation from the P3A of certain information pertinent to the FY2024 Budget Allocation. As the PREB is aware, there are a few outstanding items related to the transition of generation services to a new operator. In addition, as of the date of the request for extension, P3A had still to make a determination on the FY2024 Budget Allocation under Section 3.1(b)(ii) of the Puerto Rico PREPA-GenCo-HydroCo Operating Agreement (“PGHOA”) which determination was originally due on March 3, 2023, within five (5) days of the Budget Allocation Meeting as outlined in the PGHOA.

7. LUMA's request for extension responded to the need to afford the parties to the T&D OMA and the PGHOA the same amount of time contemplated under Section 3.1 of the PGHOA, from the date of the Budget Allocation determination until the submission of the Annual Budgets. As set forth in the March 27<sup>th</sup> Letter, per the timeline contemplated at Section 3.1 of the PGHOA, the Parties had 30 days (from March 3, 2023 until April 3, 2023) to prepare, finalize and submit the Annual Budgets to the P3A. Insofar as the determination on the FY2024 Budget Allocation had not been made as of today, April 3, 2023, that is, 31 days in excess of the deadline established in Section 3.1 of the PGHOA, LUMA requested a 30 day extension from the date the Budget Allocation is approved, to submit the Annual Budgets to the P3A.

8. In their effort to develop a consolidated budget and conduct this year's budget proceedings(which this year involves new actors), the Parties to the PGHOA have been conducting the budget allocation process in accordance with Section 7.3 of the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement (the "Generation OMA") dated as of January 24, 2023,which terms are consistent with those of Section 7.3 of the T&D OMA and Article 3 of the PGHOA.

9. Section 7.3(a) of the T&D OMA establishes in its pertinent part that "...Operator shall, no later than ninety (90) days prior to the commencement of such Contract Year, submit to Administrator the proposed Budgets for such Contract Year...". Historically, LUMA has submitted the Annual Budgets to the P3A and PREB more than ninety (90) days in advance of the commencement of each Contract Year to ensure that the proposed Annual Budgets are considered prior to the start of the fiscal year.

10. Due to the need to extend the deadline to submit the FY2024 Proposed Annual Budgets to the P3A, LUMA hereby respectfully requests that this Energy Bureau also extend the deadline set

forth in its February 27<sup>th</sup> Order, as amended *nunc pro tunc* through the February 28<sup>th</sup> Resolution, for 15 days, that is, until May 1<sup>st</sup>, 2023, to allow the P3A to provide the outstanding required information for the Budget Allocation and to provide a final determination on the Budget Allocation for all Parties. This requested extension would also allow LUMA the required time to prepare, finalize and review the budget prior to submitting to the Energy Bureau for examination.

11. It is respectfully informed that the instant request is made in good faith as a result of the delay in the Budget Allocation determination that the P3A must make under Section 3.1 of the PGHOA, which roadmap the Parties thereto are following in their effort to develop the consolidated budgets for FY2024.

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **take notice** of the above, **grant** the instant request for extension and, consequently, **extend** the deadline to submit the FY2024 Annual Budgets until May 1, 2023.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 3<sup>rd</sup> day of April, 2023.

We hereby certify that this motion was filed using the electronic filing system of this Energy Bureau. We also certify that copy of this motion will be notified to the Puerto Rico Electric Power Authority, through its attorneys of record: [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law) and [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law).



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*Exhibit 1*

March 27, 2023

**To: Puerto Rico Public-Private Partnerships Authority (“P3A”)**

Attention: Gerardo Loran Butron  
Roberto Sanchez Vilella (Minillas) Government Center  
De Diego Ave. Stop 22,  
San Juan, PR 00907

**Re: Fiscal Year (“FY”) 2024 Budget Allocation Update and Extension Request**

LUMA is providing a formal Budget Allocation update in accordance with LUMA and P3A’s most recent discussion on March 17, 2023. The following updates have been made following the March 17, 2023 discussion, and are further detailed in the attached presentation (*23.03.27\_Budget Allocation Update.pdf*):

1. Bad Debts
2. Other Income
3. LUMA Interim Costs

As requested by LUMA in Budget Allocation discussions on February 24, 2023, March 8, 2023, and March 17, 2023, LUMA would once again like to request that P3A confirm the amount to be used for Genera’s fee for the FY2024 Budget Allocation, for which there is a placeholder in the materials attached herewith.

In addition, due to the fact that it is currently twenty-four (24) days past March 3, 2023, the date P3A was required to make a determination on the FY2024 Budget Allocation under Section 3.1(b)(ii) of the Puerto Rico PREPA-GenCo-HydroCo Operating Agreement (“PGHOA”), LUMA would like to request an extension to the requirement in Section 7.3(a) of the Puerto Rico Transmission & Distribution System Operation & Maintenance Agreement (“T&D OMA”)<sup>1</sup> for the submission of the FY2024 Annual Budgets to P3A.

LUMA proposes that the submission deadline be extended so that the Parties have the same amount of time from the original Budget Allocation determination date under the timeline outlined under Section 3.1 of the PGHOA. Originally, the Parties had 30 days from the Budget Allocation determination on March 3, 2023 until the Annual Budgets submission on April 3, 2023. Therefore LUMA is proposing that the Parties are granted an extension of 30 days from the date P3A approves the Budget Allocation to the time LUMA is required to submit the Annual Budget.

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<sup>1</sup> The Puerto Rico Transmission and Distribution System Operations and Maintenance Agreement (“T&D OMA”) executed on June 22, 2020, among the Puerto Rico Electric Power Authority (“PREPA”), the Puerto Rico Public-Private Partnerships Authority (“P3A”) and LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, “LUMA”)



For instance, if the Budget Allocation is approved on March 31, 2023, then LUMA would have to submit the Annual Budget on May 1, 2023, and all other dates in the PHGOA would be adjusted accordingly. In this scenario, HydroCo's budget would be submitted to GenCo by April 5, 2023, GenCo and GenCo Operator would submit the Generation Budget to T&D Operator by April 17, 2023, and LUMA would submit the Annual Budgets to P3A by May 1, 2023.

LUMA would also like to raise its concern that based on the current allocation of funds available to GridCo, the projected FY2024 GridCo Budget will not be sufficient to prudently operate the T&D System, meet the Contract Standards outlined in the T&D OMA, or achieve LUMA's Performance Metrics. This lack of funding coupled with an increase in unfunded requirements will result in, among other things, a significant decrease in reliability of the T&D System, delays in timelines to reach a remediated state for many of the System Remediation Plan programs, and LUMA's ability to respond to outages.

Section 7.4 of the T&D OMA states that the Budgets "...shall be designed to be adequate in both scope and amounts to reasonably assure that Operator is able to carry out the related O&M Services in accordance with the Contract Standards and have a reasonable opportunity to earn the Incentive Fee for achieving the Performance Metrics." Section 6.1(a)(iv) goes on to state that the Owner is responsible for cooperating with Operator such that budgets for O&M Services are sufficient to enable Operator to meet Contract Standards and provide a reasonable opportunity for Operator to achieve the Performance Metrics. Section 6.2(a)(iii) supports this as well, stating that P3A shall cooperate with Operator to enable the same.

Please don't hesitate to reach out with further questions on this matter. LUMA would be happy to discuss.

Sincerely,



**Ashley Engbloom**

Vice President, Regulatory

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