

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

NEPR

Received:

Apr 24, 2023

8:13 PM

IN RE: REVIEW OF LUMA’S INITIAL
BUDGETS

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Motion in Compliance with the
April 18 Order Regarding Service Account
Funding

**MOTION IN COMPLIANCE WITH THE APRIL 18 ORDER
REGARDING SERVICE ACCOUNT FUNDING**

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 14, 2023, PREPA filed with the Honorable Puerto Rico Energy Bureau of the Public Service Regulatory Board (“Energy Bureau” or “PREB”), a document titled *Request to Amend FY2023 PREPA Budget for Implementation of FOMB Certified Fiscal Plan Transformation Initiatives* (“March 14 Motion”).
2. Through the March 14 Motion, PREPA impressed upon the Energy Bureau the urgent need PREPA has to amend its fiscal year 2022-2023 (“FY2023”) budget to be able to address the Genera PR LLC (“Genera PR”) Mobilization Service Fee for effective transformation efforts, necessary operations, repairs and maintenance works under the PREPA fiscal plan, and the continuance of payments to its pension system. PREPA explicitly stated in the March 14 Motion, that the budget amendment request does not impact the energy sales rates, nor it represents a burden to the customers, as the update is based on revenues from reimbursed federal funds gathered by PREPA during the present and past fiscal years.
3. After several procedural events and iterations of the budget amendment request on April

2, 2023, PREPA submitted to PREB a document titled *Modified FY2023 Budget Amendment Request for Implementation of FOMB Certified Fiscal Plan Transformation Initiatives and in Compliance with the March 25 Order* (“April 2 Motion”). In the April 2 Motion, PREPA requested the Honorable Energy Bureau to approve the Modified FY2023 Budget Amendment Request for the following amounts:

(i) Genera PR Mobilization Funding - \$15 million to pay for Genera PR Mobilization costs as required under the LGA OMA; (ii) VTP Funding - \$29.4 million to fund a VTP consistent with PREPA;s obligations under Act 120-2018 and Act 17-2019; (iii) Pension Funding – \$65M for FY2023 pension funding FY2023 (May and June 2023) while a long-term solution is coordinated and implemented with the Central Government (iv) Generation Necessary Maintenance Expenses (NME) and Operational expenditures - \$46.4 million for FY2023, to ensure stability and continuity of PREPA’s generation assets through necessary maintenance and repair works.

April 2 Motion p. 18

4. In response, on April 5, 2023, the Energy Bureau issued a *Resolution and Order* (“April 5 Order”) requesting additional information as stated in Annex A of the April 5 Order and also determined further responsive information was warranted to evaluate responses to the following Commissioners requests, including information from PREPA in the form of:

- a. Detailed information of the Generation NME expenditures, by year, by project including crow reference to Scope of Works (“SOW’s”) and Project Worksheets (“PW’s”) as well as reimbursement information.
- b. State whether a project was completed or not.
- c. State whether any current NME expenditures caused a deferment to any

previously approved project.

d. Detailed information of operational expenditures with a correlation to the Generation NME expenditures.

e. In the case PREPA understands that projects could cross over to FY2024 PREPA should state so and detail the amounts for FY2023 and FY2024.

April 5 Order p. 4

5. On April 14, 2023, PREPA submitted a document titled *Motion in Compliance with the April 5 Order* (“April 14 Motion”). Through the April 14 Motion, PREPA submitted its responses to PREB’s requirements of information and also an explanation or response to the referenced Commissioners’ requests, PREPA also reiterated its request for the Energy Bureau to grant approval to the Modified FY2023 Budget Amendment Request.

6. On April 18, 2023, the Energy Bureau issued a *Resolution and Order* partially approving PREPA’s Modified FY2023 Budget Amendment Request, subject to the FOMB’s March 24 Resolution¹ in the following manner (“April 18 Order”):

- (i) Generation NME and Operational expenditures for FY2023 for \$13,920,000 to be allocated for the operation and maintenance budget and \$3,734,000 for the NME Budget for the Budgetary line items and projects as outlined in Annex A.
- (ii) Genera PR Mobilization Funding of up to \$15 million to pay for Genera PR Mobilization costs as required under the LGA-OMA.
- (iii) VTP Funding of up to \$29.4 million to fund a VTP program consistent with PREPA's obligations under Act 120-2018, as amended by Act 17-2019.
- (iv) Pension Funding needs of up to \$65 million and only for the needs of the current FY2023 (May and June).

7. Additionally, in the April 18 Order, the Energy Bureau ordered PREPA to provide supplementary information to further evaluate the appropriateness of the budgetary increase not approved to date.

¹ Financial Oversight and Management Board for Puerto Rico (“FOMB”) letter and Resolution dated March 24, 2023, certifying a revised fiscal year 2023 budget for PREPA (“FOMB’s March 24 Resolution”), which the Energy Bureau took administrative notice of in the April 5 Order.

8. Specifically, due today, April 24, 2023, the Energy Bureau directed PREPA to provide (a) the latest estimate of the funding needs for the Service Accounts as per the LGA-OMA; and (b) the amount of underfunding of the LUMA Service Accounts to date as per the T&D-OMA. In compliance with order, PREPA hereby references those documents responsive to the Energy Bureau's April 18 Order regarding Service Account Funding:

- a. Please refer to the letter from P3A to PREPA dated February 10, 2023, regarding the Genera PR Mobilization Account funding amount of \$15 million, based on the Anticipated Mobilization Service Fee, and the letter from FOMB to Puerto Rico legislative leaders dated April 17, 2023, which presents the latest LGA-OMA Service Account funding estimate of \$545 million that is to be funded by a working capital loan from the Government of Puerto Rico. *See*, Annex A.
- b. Please refer to the latest Luma Service Account funding requirement estimate, dated as of March 31, 2023, and PREPA letter responses to Luma and P3 Authority that contain relevant background and contextual information on the status of Luma Service Account funding. *See*, Annex B.

WHEREFORE, PREPA respectfully requests the Energy Bureau to **NOTE** the above and **FIND** PREPA in compliance with the April 18 Order

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 24th day of April 2023.

/s Maralíz Vázquez-Marrero

Maralíz Vázquez-Marrero

TSPR 16,187

mvazquez@diazvaz.law

/s Joannely Marrero-Cruz

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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, this 24th day of April 2023.

/s Joannely Marrero-Cruz

Joannely Marrero Cruz

Annex A



GOVERNMENT OF PUERTO RICO
PUERTO RICO PUBLIC-PRIVATE PARTNERSHIPS AUTHORITY

February 10, 2023

BY ELECTRONIC MAIL

Fernando Gil Enseñat

Chairman
Governing Board
Puerto Rico Electric Power Authority
fernando.gil@prepa.com

Josué A. Colón Ortiz

Executive Director
Puerto Rico Electric Power Authority
director_ejecutivo@prepa.com

Re: Approval of Anticipated Mobilization Service Fee


Dear Sirs,

Reference is made to the Operation and Maintenance Agreement ("LGA O&M Agreement") dated as of January 24, 2023, by and among the Puerto Rico Electric Power Authority ("Owner" or "PREPA"), the Puerto Rico Public-Private Partnerships Authority ("Administrator" or "P3 Authority") and Genera PR LLC ("Operator" or "Genera"). Terms not defined in this letter shall have the meanings ascribed to them in the LGA O&M Agreement.

In accordance with Section 4.6(c) of the LGA O&M Agreement, on January 31, 2023, Genera sent the P3 Authority the estimate of the anticipated Mobilization Service Fee. After a careful review of the aforementioned estimate, the P3 Authority hereby approves and authorizes PREPA to deposit into the Mobilization Account the total estimated Mobilization Service Fee as set forth in **Annex I** attached herein. Kindly

provide evidence that the Mobilization Account has been fully funded on or before close of business day (5:00 pm AST) February 13, 2023.

Regards,


Fermín Fontanés (Feb 10, 2023 13:09 AST)

Fermín Fontanés Gómez
Executive Director
Puerto Rico Public-Private Partnerships Authority

CC:

Nelson Morales
Edison Avilés Deliz

nelson.morales@prepa.com
eavilesddeliz@energia.pr.gov

Annex I



954 Ponce de Leon Ave, Suite 400
San Juan, PR 00907

January 31, 2023

Via Electronic Email and FedEx

Administrator
PO BOX 42001
San Juan, Puerto Rico 00940-2001
Attention: Executive Director – Fermín E. Fontanés Gómez
Telephone: (787) 722-2525 Ext. 15330
Email: Fermin.Fontanes@p3.pr.gov and Administrator@p3.pr.gov

Re: Estimate of the Anticipated Mobilization Service Fee; Operation and Maintenance Agreement (“OMA”) dated as of January 24, 2023, by and among the Puerto Rico Electric Power Authority (“Owner” or “PREPA”), the Puerto Rico Public-Private Partnerships Authority (“Administrator” or “P3A”) and Genera PR LLC (“Operator” or “Genera”). Capitalized terms not defined in this letter shall have the meanings ascribed to them in the OMA.

Dear Sirs:

In accordance with Section 4.6(c) Funding, Operator submits its estimate of the anticipated Mobilization Service Fee as shown in Table 1: Anticipated Mobilization Service Fee.

GeneraPR | Mobilization Fee Estimate

1/31/2023

Name of Supplier	GeneraPR Department	Scope of Work / Services Provided	Contract Total
Kroma / Media Outlets / Dynamix	Communications	Advertising & Media firms / Public Affairs / Web Development	\$ 250,000
[Various]	Facilities	Office renovations / expense	\$ 200,000
PWC	Finance	Assessment of back office	\$ 360,000
Langan / Crossfire Risk / SMS 360	HSSEQ	Environmental permitting / Site assessments / Compliance tracker / Fire	\$ 790,000
BMA / Kroma	Human Resources	HR Specialist & Coordinator / background checks / payroll outsource	\$ 1,420,000
Insurance (Marsh)	Insurance	[Locally Required Insurance]	\$ 50,000
TRC / Scott Madden	IT	IT infrastructure site surveys / Tech consultant staff / Cyber assessment	\$ 900,000
Vinson & Elkins / SBGB / ECIJA / CWL	Legal and Compliance	Legal/Regulatory/Environmental/Labor/Corporate	\$ 3,600,000
PIC	Power	Assessments / Operating Procedures / Trainings	\$ 4,200,000
IEM	Power	IEM Cost	\$ 300,000
Sargent and Lundy	Power	Data Review / Site Visits / Assessments	\$ 1,600,000
NB Ventures, Inc. d/b/a GEP	Procurement	Assessments / Transportation & Lodging / Future state design	\$ 530,000
Project Management	Project Management	Mobilization Period Project Management	\$ 500,000
T&E	T&E	Travel to PR	\$ 300,000
Mobilization Budget			\$ 15,000,000

Table 1: Anticipated Mobilization Service Fee

The above table is submitted for your review and approval for the entirety of the Mobilization Period. As this is an initial estimate, it will be updated throughout the Mobilization Period as more information becomes available. Operator appreciates your prompt review and approval and deposit of the Mobilization Period Deposit within 10 days so that Operator may commence its Mobilization Services.

Operator looks forward to working with you for a productive Mobilization Period through transparent, open, and consistent communications.

[Signature Page to Follow]

Cordially,

Genera PR LLC

A handwritten signature in black ink, appearing to read 'Brannen McElmurray', written over a horizontal line.

Brannen McElmurray
Authorized Signatory



David A. Skeel Jr.
Chair

Members

Andrew G. Biggs
Arthur J. González
Antonio L. Medina
John E. Nixon
Justin M. Peterson
Betty A. Rosa

Robert F. Mujica Jr.
Executive Director

BY ELECTRONIC MAIL

April 17, 2023

Honorable José Luis Dalmau Santiago
President of the Senate of Puerto Rico

Honorable Rafael Hernández Montañez
Speaker of the House of Representatives of Puerto Rico

Dear President Dalmau Santiago and Speaker Hernández Montañez:

Pursuant to a Resolution, a copy of which is attached hereto as Exhibit A (the “Resolution”), adopted by the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), the Oversight Board hereby submits to the Legislature a compliant Amended Fiscal Year 2023 Budget pursuant to Section 202(c)(1)(A) of PROMESA, attached to the Resolution as Exhibit 1.

Pursuant to Section 202(a), the Oversight Board consulted with the Governor and the Legislature and, on April 5, 2023, established a schedule for the development of an Amended Fiscal Year 2023 Budget.

Pursuant to Section 202(c)(1), on April 13, 2023, the Governor submitted to the Oversight Board a proposed Amended Fiscal Year 2023 Budget. The Oversight Board and its advisors held extensive discussions with the Governor’s representatives about the proposed Amended Fiscal Year 2023 Budget and, after substantial deliberations, the Oversight Board determined that the proposed Amended Fiscal Year 2023 Budget, as submitted by the Governor, is a compliant amended budget, and approved it.

Accordingly, the Oversight Board hereby submits to the Legislature the compliant Amended Fiscal Year 2023 Budget as required by Section 202(c)(1)(A)(ii) of PROMESA.

* * *

Pursuant to Section 202(a) of PROMESA, the established schedule for developing, submitting, approving, and certifying the Amended Fiscal Year 2023 Budget is as follows:

- May 1, 2023 – Pursuant to Section 202(d)(1), the Legislature submits a proposed adopted Amended FY2023 Budget to the Oversight Board.
- May 5, 2023 – Pursuant to Section 202(d)(1)(B), the Oversight Board sends the Legislature a notice of violation, as needed.
- May 10, 2023 – Pursuant to Section 202(d)(2), the Legislature submits a revised adopted Amended FY2023 Budget to the Oversight Board, as needed.
- May 12, 2023 – Pursuant to Section 202(e), on or before this date, the Oversight Board certifies the Amended FY2023 Budget.

The Oversight Board looks forward to continuing working with you to accomplish the requirements and goals of PROMESA for the benefit of the people of Puerto Rico.

Sincerely,



David A. Skeel, Jr.

Andrew G. Biggs
Arthur J. González
Antonio L. Medina
John E. Nixon
Justin M. Peterson
Betty A. Rosa

Cc: Robert F. Mujica Jr.
Hon. Pedro Pierluisi Urrutia
Hon. Omar Marrero Díaz

FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO

APRIL 14, 2023

**RESOLUTION APPROVING SUBMISSION OF THE GOVERNOR'S PROPOSED
AMENDED FISCAL YEAR 2023 BUDGET FOR THE COMMONWEALTH OF
PUERTO RICO TO THE LEGISLATURE**

WHEREAS, on June 30, 2016, the federal Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA") was enacted; and

WHEREAS, Section 101 of PROMESA created the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board"); and

WHEREAS, Section 202(c) of PROMESA establishes a multi-step procedure for the development, review, and approval of a budget for the Commonwealth of Puerto Rico, providing that: (i) the Governor must submit a proposed budget to the Oversight Board; (ii) the Oversight Board must review the proposed budget and determine, in the Oversight Board's sole discretion, whether the proposed budget is compliant with the applicable fiscal plan; (iii) if the Oversight Board determines that the proposed budget is a compliant budget, then the Oversight Board shall approve the proposed budget and submit such budget to the Legislature; and

WHEREAS, (i) the Government seeks to achieve fiscal responsibility and access to capital markets, ensuring that all known liabilities are fully funded becomes critically important; (ii) the 2023 Fiscal Plan for the Commonwealth adopts this practice by prioritizing the allocation of revenue outperformance against pre-existing unfunded obligations; and (iii) amounts must be included in a revised Fiscal Year 2023 Budget for the Commonwealth of Puerto Rico (the "Amended Fiscal Year 2023 Budget") to effect this practice; and

WHEREAS, on April 5, 2023, the Oversight Board sent to the Governor and the Legislature a letter establishing a schedule for submitting, approving, and certifying the Amended Fiscal Year 2023 Budget; and

WHEREAS, on April 13, 2023, the Governor submitted a proposed Amended Fiscal Year 2023 Budget; and

WHEREAS, the Oversight Board and its advisors held extensive discussions with the Governor's representatives regarding such submission; and

WHEREAS, after substantial deliberations, in accordance with Section 202(c)(1)(A), the Oversight Board (i) determined that the proposed Amended Fiscal Year 2023 Budget, as submitted by the Governor, is a compliant amended budget, and (ii) approved the proposed Amended Fiscal Year 2023 Budget as submitted by the Governor (the "Compliant Amended Fiscal Year 2023 Budget").

Exhibit A

(Page A-2)

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT, the Oversight Board submits to the Legislature the Compliant Amended Fiscal Year 2023 Budget, which budget is attached hereto as Exhibit 1, as required by Section 202(c)(1)(A)(ii) of PROMESA.

GOVERNMENT OF PUERTO RICO

April 11, 2023

JOINT RESOLUTION

To amend the Joint Resolution of the General Fund for the Fiscal Year 2023 from \$12,426,459,000 ¹ to \$13,904,505,000 by appropriating surplus funds from the General Fund of the State Treasury for the operating expenses of the Government of Puerto Rico for the fiscal year ending June 30, 2023;

STATEMENT OF MOTIVES

As the Government seeks to achieve fiscal responsibility and access to capital markets, ensuring that all known liabilities are fully funded becomes critically important. The 2023 Fiscal Plan for the Commonwealth (the “2023 Fiscal Plan”) adopts this practice by prioritizing the allocation of revenue outperformance against pre-existing unfunded obligations.

BE IT RESOLVED BY THE PUERTO RICO LEGISLATIVE ASSEMBLY:

1 Section 1 - An increase to the appropriation “Emergency Reserve required in the
2 Fiscal Plan” in the amount of six hundred fifty million dollars (\$650,000,000) is added
3 under the custody of OMB in the Fiscal Year 2023 General Fund Budget to fully fund the
4 Emergency Reserve through Fiscal Year 2028.

5 Section 2 - A new appropriation “Loan to PREPA for Genera PR working capital
6 reserves” in the amount of five hundred and forty-five million (\$545,000,000) is added
7 within Appropriations under the custody of OMB under the Other Operating
8 Expenditures cost concept in the Fiscal Year 2023 General Fund Budget to provide a loan

¹ Balance is not inclusive of additional appropriation of \$556,150,956, authorized by JR 63-2022, nor additional allocation for \$70,750,000 pursuant to JR 39-2022.

1 to Puerto Rico Electric Power Authority ("PREPA") to establish working capital reserves
2 for Genera PR to operate the generation assets according to the terms of the Operating &
3 Maintenance Agreement. The loan will be repaid in accordance with terms to be agreed
4 upon with the Financial Oversight and Management Board for Puerto Rico (the
5 "Oversight Board").

6 Section 3 - A new appropriation "To pay for health insurance as provided in Law
7 72-1993, as amended" in the amount of one hundred million dollars (\$100,000,000) is
8 added within Appropriations under the custody of OMB under the Social Wellbeing for
9 Puerto Rico cost concept in the Fiscal Year 2023 General Fund Budget to be utilized to
10 cover a potential Medicaid budget shortfall (the "Medicaid Reserve").

11 Section 4 - To include as part of the General Fund Budget for Fiscal Year 2023 an
12 appropriation of ninety-four million nine hundred and ten thousand dollars (\$94,910,000)
13 to increase the appropriation "For the payment of Sales and Use Taxes Contingent Value
14 Instrument" under the custody of the Treasury in the Fiscal Year 2023 General Fund
15 Budget.

16 Section 5 - A new appropriation "Payment of outstanding liabilities" in the
17 amount of eighty-eight million one hundred thirty-six thousand dollars (\$88,136,000) is
18 added within Appropriations under the custody of OMB to be utilized for: (a) payment
19 of global settlement between PREPA and Commonwealth government entities related to
20 past due power service bills; and (b) payment of invoices issued to the Government of
21 Puerto Rico by the Federal Emergency Management Agency ("FEMA") related to the

1 non-federal share portion of the Individual Assistance Program (“IA”) for disaster DR-
2 4671.

3 Section 6 – All other provisions in the Joint Resolution of the General Fund Budget
4 for Fiscal Year 2022-2023 certified on June 30, 2023 not amended herein shall remain in
5 full effect.

6 Section 7 - If any clause, paragraph, subparagraph, sentence, word, letter, article,
7 provision, section, subsection, title, chapter, subchapter, heading, or part of this Joint
8 Resolution, were to be annulled or declared unconstitutional, the order to such effect will
9 neither affect nor invalidate the remainder of this Joint Resolution. The effect of such an
10 order shall be limited to the clause, paragraph, subparagraph, sentence, word, letter,
11 article, provision, section, subsection, title, chapter, subchapter, heading, or part of this
12 Joint Resolution so annulled or declared unconstitutional. If the application to a person
13 or circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article,
14 provision, section, subsection, title, chapter, subchapter, heading, or part of this Joint
15 Resolution, were to be annulled or declared unconstitutional, the order to such effect will
16 neither affect nor invalidate the application of the remainder of this Joint Resolution to
17 such persons or circumstances to which it may be validly applied. It is the express and
18 unequivocal intent of this Legislative Assembly that the courts of law enforce the
19 provisions and application of this Joint Resolution to the greatest possible extent, even if
20 any of its parts is annulled, invalidated, affected or declared unconstitutional, or even if
21 the application thereof to any person or circumstance is annulled, invalidated or declared

1 unconstitutional. This Legislative Assembly would have passed this Joint Resolution
2 regardless of the ruling on severability that a Court may issue.

3 Section 8 – This Joint Resolution shall be adopted in both of Puerto Rico’s official
4 languages, Spanish and English. If in the interpretation or application of this Act any
5 conflict arises between the English and Spanish texts, the English text shall govern.

6 Section 9 – This Joint Resolution shall take effect immediately after enactment.

GOBIERNO DE PUERTO RICO

11 de abril de 2023

RESOLUCIÓN CONJUNTA

Para enmendar la Resolución Conjunta del Presupuesto General para el Año Fiscal 2023 de \$12,426,459,000¹ a \$13,904,505,000, mediante la asignación de fondos excedentes del Fondo General del Tesoro del Estado para gastos operacionales del Gobierno de Puerto Rico para el año fiscal que finaliza el 30 de junio de 2023.

EXPOSICIÓN DE MOTIVOS

A medida que el Gobierno busca lograr la responsabilidad fiscal y el acceso a los mercados de capital, el asegurar que todos los pasivos conocidos estén totalmente financiados adquiere una importancia crítica. El Plan Fiscal de 2023 para el Estado Libre Asociado (el “Plan Fiscal 2023”) adopta esta práctica al priorizar la asignación de excedentes en los recaudos para el pago de obligaciones preexistentes que no contaban con financiamiento.

RESUÉLVASE POR LA ASAMBLEA LEGISLATIVA DE PUERTO RICO:

1 Sección 1 – Se aumenta la asignación en la partida de “Reserva de Emergencia
2 requerida en el Plan Fiscal”, bajo la custodia de la OGP, en el Presupuesto del Fondo
3 General del Año Fiscal 2023, por la cantidad de seiscientos cincuenta millones de dólares
4 (\$650,000,000) para financiar la Reserva de Emergencia en su totalidad hasta el Año Fiscal
5 2028.

6 Sección 2 – Se añade al Presupuesto del Fondo General del Año Fiscal 2023 una
7 nueva asignación por la cantidad de quinientos cuarenta y cinco millones de dólares
8 (\$545,000,000), designada como “Préstamo a la AEE para las reservas de capital de trabajo
9 de Genera PR”, dentro de las Asignaciones bajo la custodia de la OGP, bajo el concepto

¹ Balance no incluye asignación adicional por \$556,150,956, autorizada mediante la RC 63-2022, ni asignación adicional por \$70,750,000 mediante la RC 39-2022.

1 de costos “Otros gastos de funcionamiento”, para proveerle un préstamo a la Autoridad
2 de Energía Eléctrica (“AEE”) para que establezca reservas de capital de trabajo para que
3 Genera PR opere los activos de generación, de conformidad con los términos del Contrato
4 de Operación y Mantenimiento. El préstamo será repagado según los términos que se
5 acuerden con la Junta de Supervisión y Administración Financiera (la “Junta de
6 Supervisión”).

7 Sección 3 – Se añade una nueva asignación en el Presupuesto del Fondo General
8 del Año Fiscal 2023, denominada “Para pagar el seguro de salud según dispuesto en la
9 Ley 72-1993, según enmendada” por la cantidad de cien millones de dólares
10 (\$100,000,000), dentro de la partida de “Asignaciones bajo la custodia de la OGP”, bajo el
11 concepto de costo de “Incentivos y subsidios dirigidos al bienestar de la ciudadanía”, la
12 cual será utilizada para cubrir un posible déficit de Medicaid (la “Reserva de Medicaid”).

13 Sección 4 – Se añade como parte del Presupuesto del Fondo General del Año Fiscal
14 2023 una asignación de noventa y cuatro millones novecientos diez mil dólares
15 (\$94,910,000), para aumentar la asignación denominada “Para el pago del Instrumento de
16 Valor Contingente del Impuesto sobre Ventas y Uso” bajo la custodia del Departamento
17 de Hacienda.

18 Sección 5 – Se añade una nueva asignación por la cantidad de ochenta y ocho
19 millones ciento treinta y seis mil dólares (\$88,136,000) designada como “Pago de
20 obligaciones vencidas” dentro de Asignaciones bajo la custodia de la OGP que podrá
21 destinarse para : (a) pagar un acuerdo transaccional global entre la AEE y entidades
22 gubernamentales relacionado a facturas vencidas por el servicio eléctrico; y (b) pagar

facturas emitidas al Gobierno de Puerto Rico por la “Federal Emergency Management Agency” (FEMA) relacionadas a la porción no federal del Programa de Asistencia Individual (“IA”) por el desastre DR-4671.

Sección 6 – Todas las demás disposiciones de la Resolución Conjunta del Presupuesto del Fondo General del Año Fiscal 2022-2023, certificada el 30 de junio de 2022, que no hayan sido enmendadas por la presente Resolución Conjunta, permanecerán en vigor.

Sección 7 – Si cualquier cláusula, párrafo, subpárrafo, oración, palabra, letra, artículo, disposición, sección, subsección, título, capítulo, subcapítulo, acápite o parte de esta Resolución Conjunta fuera anulada o declarada inconstitucional, la resolución, dictamen o sentencia a tal efecto no afectará, perjudicará, ni invalidará el remanente de esta Resolución Conjunta. El efecto de dicha sentencia quedará limitado a la cláusula, párrafo, subpárrafo, oración, palabra, letra, artículo, disposición, sección, subsección, título, capítulo, subcapítulo, acápite o parte de esta Resolución Conjunta que así hubiere sido anulada o declarada inconstitucional. Si la aplicación a una persona o a una circunstancia de cualquier cláusula, párrafo, subpárrafo, oración, palabra, letra, artículo, disposición, sección, subsección, título, capítulo, subcapítulo, acápite o parte de esta Resolución Conjunta fuera invalidada o declarada inconstitucional, la resolución, dictamen o sentencia a tal efecto no afectará ni invalidará la aplicación del remanente de esta Resolución Conjunta a aquellas personas o circunstancias en las que se pueda aplicar válidamente. Es la voluntad expresa e inequívoca de esta Asamblea Legislativa que los tribunales hagan cumplir las disposiciones y la aplicación de esta Resolución Conjunta,

1 aunque se deje sin efecto, anule, invalide, perjudique o declare inconstitucional alguna
2 de sus partes, o aunque se deje sin efecto, invalide o declare inconstitucional su aplicación
3 a alguna persona o circunstancia. Esta Asamblea Legislativa habría aprobado esta
4 Resolución Conjunta independientemente del pronunciamiento de separabilidad que
5 pueda dictar un Tribunal.

6 Sección 8 – Esta Resolución Conjunta se adoptará en los dos idiomas oficiales de
7 Puerto Rico, español e inglés. Si en la interpretación o aplicación de esta Resolución
8 Conjunta surgiera algún conflicto entre los textos en inglés y español, prevalecerá el texto
9 en inglés.

10 Sección 9 – Esta Resolución Conjunta entrará en vigor inmediatamente después de
11 su aprobación.

Annex B



In compliance with the Transmission and Distribution Operation and Maintenance Agreement (OMA), executed as of June 22, 2020, and specifically with Section 7.5, the following are the calculations for the refunding requirements for each of the Service Accounts, as of March 31, 2023:

	<u>Amount, 000's</u>		66.67% of		
	<u>As per OMA Required</u>	<u>As per Bank, 3/31/2023</u>	<u>Funding Requirement</u>	<u>Funding Requirement</u>	
a) Operating Account \$668,910 / 12 * 4.5 = \$250,841	\$ 250,841	\$ 61,479	\$ 189,362	\$ 126,241	
b) Capital Account - Federally Funded \$580,733 / 12 * 4.5 = \$217,775	217,775	216,532	1,243	-	*funding excludes this account
c) Capital Account - Non Federally Funded \$79,778 / 12 * 4.5 = \$29,917	29,917	28,822	1,095	\$ 730	
d) Outage Event Reserve Account	30,000	1,456	28,544	\$ -	*funding excludes this account
e) Purchased Power Account (\$472,207+\$79,217+\$9,748) / 12 * 2 = \$101,862	101,862	21,385	80,477	\$ 53,651	
f) Fuel Account	N/A	N/A	N/A	N/A	
i) Contingency Reserve \$625,478 / 12*1.5 / 24 months of operations (22)	71,669	67,027	4,642	\$ 3,095	
j) Generation Expenditures Account (\$87,543+\$59,294+\$90,039) / 12 * 2 = \$40,979	40,979	12,017	28,962	\$ 19,308	
			\$ 334,325	\$ 203,025	



GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY

BY ELECTRONIC MAIL

March 23, 2023

Corey Schneider
Chief Financial Officer
LUMA Energy, LLC and
LUMA Energy ServCo, LLC (LUMA)
PO Box 363508
San Juan, P.R. 00936-3508

Re: Response to March 16, 2023 LUMA Letter Regarding Service Account Funding

Dear Mr. Schneider:

The Puerto Rico Electric Power Authority (PREPA) is in receipt of LUMA's March 16, 2023 letter regarding service account funding. PREPA once again rejects all explicit or implicit allegations of non-compliance or Breach of the T&D OMA¹ as applicable to Service Account Funding. As LUMA indicates, PREPA funded the pertinent Service Accounts in an amount that is 2/3 of the requisite funding notified by LUMA pursuant to the T&D OMA. At this time, and to maintain sufficient liquidity, it was PREPA management's decision to fund an amount equal to 2/3 of the requisite T&D Service Accounts funding at this time. The mentioned funding amount is compliant with Section 14.3(f) of the T&D OMA.

Sincerely,

Nelson Morales
Chief Financial Officer

C: Josué Colón, Executive Director, PREPA; josue.colon@prepa.com
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GOVERNMENT OF PUERTO RICO

PUERTO RICO ELECTRIC POWER AUTHORITY

Executive Director | Josué A. Colón Ortiz | director_ejecutivo@prepa.com

April 14, 2023

BY ELECTRONIC MAIL

Fermin.Fontanes@p3.pr.gov

Mr. Fermín Fontanés Gómez, Esq.
Executive Director
Puerto Rico Public-Private Partnership Authority
PO Box 42001
San Juan, P.R. 00940-2001

Re.: Response to P3 Authority Letter of March 24, 2023¹

Dear Mr. Fontanés Gómez:

PREPA is in receipt of the referenced letter, regarding the Puerto Rico Electric Power Authority's ("PREPA") Service Account funding, including the Outage Event Reserve Account ("Outage Account") funding, pursuant to the Transmission and Distribution System Operation and Maintenance Agreement dated as of June 22, 2020 ("T&D OMA")². As the P3 Authority is aware, PREPA is fully cognizant of its obligations thereunder and continues to meet them in a timely and compliant manner.

As part of PREPA's ongoing efforts to meet these obligations, and as recently discussed with P3 Authority representatives³, PREPA has specific concerns and questions related to LUMA's most recent Outage Account funding request of \$28,825,365.18⁴. The basis for PREPA's questions and concerns follows.

Section 7.5(d)(iii) of the T&D OMA provides,

¹ The referenced letter is unsigned.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the T&D OMA unless otherwise specified.

³ Mr. Gerardo Loran and Ms. Sheila Torres Sterling of P3 Authority and PREPA representatives held a meeting on March 21, 2023, to discuss the Outage Account matters herein referenced in detail. Leading up to that meeting, PREPA (Mr. Nelson Morales) sent the P3 Authority an explanatory email (March 13, 2023) which was replied to on March 14, by Ms. Sheila Torres Sterling informing that Mr. Loran would be point of contact on LUMA matters and indicating that the P3 Authority would discuss the latest withdrawal request with LUMA and would provide PREPA with any additional information after that.

⁴ As per the T&D OMA, Section 7.5(d)(ii), PREPA initially funded this account with \$30 million, and following an initial round of withdrawals by Operator, replenished another \$28,014,348 million on June 10, 2022. LUMA is now requesting a second replenishment of over \$28 million. The T&D OMA requires that PREPA replenish the Outage Account following withdrawals by Operator to maintain an amount equal to \$30 million.



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"Subject to the terms of this Section 7.5(d) (Service Accounts – Outage Event Reserve Account), Operator shall be entitled to withdraw funds from the Outage Event Reserve Account from time to time as necessary to fund payment for Outage Event Costs. Simultaneous with each such withdrawal, Operator shall provide Administrator with written notice of such withdrawal, including a summary of Outage Event Costs being paid. Not later than ten (10) Business Days following each month end during which funds were withdrawn from the Outage Event Reserve Account, Operator shall furnish Administrator with a full accounting setting forth in reasonable detail the Outage Event Costs actually incurred and paid during the prior month." (Emphasis added.)

PREPA has only received a LUMA one-page notification with a general breakout of five (5) withdrawals on February 2, 2023, totaling \$28,825,365.18. In said notification, LUMA references Section 7.5(d)(iii), although the limited information provided does not comply with the clear and non-discretionary information requirement under the referenced T&D OMA. At the time of the meeting with P3 Authority representatives, they could not confirm whether the P3 Authority had received the information required under Section 7.5(d)(iii) from LUMA, but agreed to review and confirm back to PREPA, understanding the express and detailed information that is required of LUMA under the T&D OMA⁵.

PREPA hereby confirms its request to the P3 Authority to (a) confirm that it had timely received from LUMA the information required under Section 7.5(d)(iii) in support the replenishment request; (b) confirm that, based on the information provided by LUMA, the itemized costs are properly classified as an Outage Event Cost under Section 7.5(d)(i) of the T&D OMA; and (c) share such information with PREPA so that PREPA may meet its funding obligations in a manner that is compliant under the T&D OMA. As also discussed, if such monthly detailed accounting of actual costs incurred and paid for by LUMA has not been received, confirm that the P3 Authority has requested it from LUMA, to then ascertain that those costs are (i) separate and distinct from T&D Pass-Through Expenditures; and (ii) thus, properly classified as Outage Event costs, all in accordance with the T&D OMA⁶.

The information provided by LUMA and shared with PREPA as of the date of this letter unfortunately does not provide the required full accounting setting forth in reasonable detail the Outage Event Costs actually incurred and paid during the relevant (prior) month. As such, the information is insufficient to reasonably determine and properly document whether the costs to be reimbursed are properly classified as Outage Event costs under the T&D OMA. The P3 Authority and PREPA should clarify the shared concerns related to the withdrawal amounts being claimed, whether such amounts overlap with pass through expenses, and whether some or all the requested amounts will be reimbursed by FEMA.

⁵ PREPA (Mr. Nelson Morales) sent Ms. Torres Sterling and Mr. Loran an email on April 10, 2023, following up on Ms. Torres Sterling's email of March 14 promising pledging to share the additional information LUMA provides to support its request to replenish the Outage Account.

⁶ See generally, e.g., Article 7, Sections 7.1, 7.5(d)(iii) of the T&D OMA.

Relatedly, and as further discussed during the meeting with P3 Authority representatives, the Outage Account does not have a recurrent source of funding within PREPA's rate structure nor PREPA's Certified Budget and Fiscal Plan. As such, to the extent the amounts are more than amounts in the certified budget, withdrawals from PREPA's operating account to the Outage Account could have a direct (and unbudgeted) impact on PREPA's liquidity, since there is no budgeted funding source. Please be advised that, as discussed, the subject of the Outage Account and its material funding level is relevant to the ongoing FY24 budget process with the Puerto Rico Energy Bureau ("PREB") and the Financial Oversight and Management Board ("FOMB") and needs to be clarified and accounted for overall budgeting purposes.

PREPA appreciates your attention to this matter. We look forward to receiving the additional supporting information that LUMA may have provided to the P3 Authority, as outlined above, and continuing to fund the relevant T&D service accounts in a compliant manner.

Cordially,



Josué A. Colón Ortiz
Executive Director

c Gerardo Loran, Director of Project Monitoring, P3A; Gerardo.loran@p3.pr.gov
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