

**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 April 24, 2023, Motion for the Submission of Scope of Work and Request for Confidentiality and Supporting Memorandum of Law.

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 February 27, 2023, the Energy Bureau issued a Resolution and Order ("February 27 Resolution")⁶ directing LUMA to include its plan for maximizing federal funding.

On April 24, 2023, LUMA filed a document titled *Motion Submitting Scope of Work and Request for Confidentiality and Supporting Memorandum of Law* ("April 24 Motion")⁷. As Exhibit 1 to the April 24 Motion, LUMA included one (1) FEMA Project Initial Scope of Work ("SOW") of Transmission and Distribution ("T&D") for the "Island-Wide Vegetation Clearing".⁸

On the April 24 Motion, LUMA requested confidential designation and treatment to the unredacted version of Exhibit 1.⁹

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 LUMA's Initial Budgets*, Case No. NEPR-MI-2021-0004, p.13.

⁷ *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 Scope of Work and Request for Confidentiality and Supporting Memorandum of Law* filed by LUMA on April 24, 2023.

⁸ April 24 Motion, p.10.

⁹ April 24 Motion, p. 4.



II. Evaluation of the April 24 Motion

Through the April 24 Motion, as Exhibit 1, LUMA submitted one (1) Initial SOW for the “Island-Wide Vegetation Clearing.”

LUMA states that the execution of the “Island-Wide Vegetation Clearing T&D Project will provide significant improvements in system reliability and will enable the furtherance of LUMA’s vegetation management goals and in recognition that Vegetation Management conveys a strong positive impact on system performance and that such a project represents an integral part of LUMA’s efforts to maximize federal funding opportunities in order to return all affected facilities to a standard consistent with current safety codes and standards.

On the Initial Scope of Work, LUMA establishes that the T&D system comprises over 19,000 miles of lines and over 400 substations. This Project SOW LUMA is considering over 16,000 miles of overhead T&D lines as well as the substations. The SOW in each system is described as follow:

| Facility | Activity |
|--------------------|---|
| Transmission Lines | Full clearing of all overhead transmission lines with minimum vegetation clearing distance (MVCD) clearance for 38 kV, 115 kV and 230 kV, Right of Way clearing, restoration of access roads, tree crews working on bucket trucks, manual tree felling, manual and mechanical vegetation clearing, debris disposal (chipping, mulching), herbicide applications (where applicable), vegetation clearing techniques to exceed standards for MVCD and address any vegetation with strike potential to the facilities. |
| Distribution Lines | Full clearing of all overhead distribution feeders, lateral, primary, and secondary conductors, tree crews working on bucket trucks, manual tree felling, manual and mechanical vegetation clearing, debris disposal (chipping, mulching), herbicide applications (where applicable), vegetation clearing techniques to exceed standards for MVCD, address any vegetation with strike potential to the facilities and maintenance of traffic (MOT) when necessary. |
| Substations | Clearing around substation and all entering access point, manual tree felling, manual and mechanical vegetation clearing, debris disposal (chipping, mulching), herbicide applications (where applicable), vegetation clearing techniques to exceed standards for MVCD and address any vegetation with strike potential to the facilities. |
| Access roads | Identification and restoration of existing and/or new access roads, manual tree felling, manual and mechanical vegetation clearing, debris disposal (chipping, mulching), herbicide applications (where applicable). |

LUMA estimates that the proposed island-wide vegetation remediation will have immediate and widespread benefits, including:

1. 70% annual reduction of outages caused by vegetation;
2. 35-45% annual reduction of customer interruptions;
3. Faster restoration for affected customers;
4. Improved safety for utility workers and the public;
5. Support the rebuilding of the grid and effective execution of large-scale construction projects; and
6. Mitigation of the hazards due to vegetation impacts and damages.

The estimated cost for this project represents **\$1,200,000,000.00** and is based on a Class 5 estimate that includes materials, construction labor and equipment, engineering, management, and contingencies.

The project is aligned to repair, improving, and sustaining 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, specifications, and standards.



After a review of the Exhibit #1 in the April 24 Motion FEMA Initial SOW, the Energy Bureau **DETERMINES** that the project is 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 project in **Attachment A** to this Resolution and Order. This approval represents \$1,200,000,000.00 based on the Class 5 Cost Estimates submitted by LUMA.

III. LUMA’s Request for Confidential Information Designation and Treatment of parts of Exhibit 1 of the April 24 Motion

In the April Motion, LUMA requested that the unredacted version of parts of Exhibit 1 be granted confidential treatment. LUMA alleges that the unredacted version of the SOW in Exhibit 1 have confidential information including 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 and should be also protected pursuant to the Energy Bureau’s Policy on Management of Confidential Information.¹⁰ LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred part of Exhibit 1 pursuant to Section 6.15 of Act 57-2014¹¹ Table 1 below details the parts of the Exhibit 1 which LUMA requested confidential designation and treatment.

Table 1: LUMA’s Request for Confidential Information Designation and Treatment, of parts 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 | Island-Wide Vegetation Clearing | Page 1 | Right to privacy (see, e.g., Const. ELA, Art. II, Sections 8 and 10) | April 24, 2023 |

IV. Energy Bureau Determination

The Energy Bureau **APPROVES** the project in **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize its approval process for the request of federal funds. The Energy Bureau approved this project based on the information provided by LUMA. Should the scope of the project change or the request for the federal funds are not approved for such project, 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 project in **Attachment A**, which shall contain the cost obligated for the project, **within ten (10) days of receipt of this approval**; (ii) provide the Energy Bureau the actual contracted cost to construct the project in **Attachment A, within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the project is 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

¹⁰ In re: “Energy Bureau’s Policy on Management of Confidential Information,” Case No. CEPR-MI-2016-0009.

¹¹ Also known as the “Puerto Rico Energy Transformation and Relief Act.”

¹² Id.

¹³ Section 6.15 of Act 57-2014.

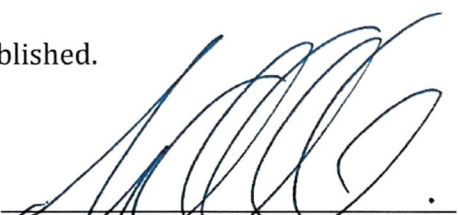



Bureau, after the appropriate evaluation, believes such information should be protected”.¹⁴ In such case, the Energy Bureau “shall grant such protection **in a manner that least affects the public interest, transparency,** and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”¹⁵

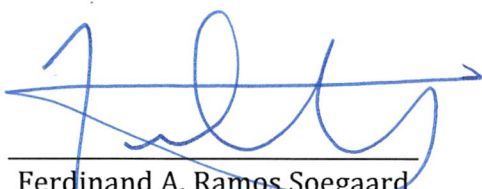
Upon review of LUMA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the parts of Exhibit 1 as described in Table 1 above, pursuant to Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that LUMA already submitted a redacted (*i.e.*,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


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 May 5, 2023. I also certify that in May 5, 2023 a copy of this Resolution and Order was notified by electronic mail to the following: Yahaira.delarosa@us.dlapiper.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com; jmarrero@diazvaz.law; mvazquez@diazvaz.law. I also certify that today, May 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 May 5, 2023.


Sonia Seda Gaztambide
Clerk

¹⁴ *Id.*

¹⁵ *Id.* (Emphasis added).

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



Attachment A
Projects Approved by the Energy Bureau

| Damage Number | Region | Project Name | Presented Estimate |
|---------------|-------------|---------------------------------|--------------------|
| 136271 | All Regions | Island-Wide Vegetation Clearing | \$1,200,000,000.00 |
| Total | | | \$1,200,000,000.00 |

