

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

IN RE: REVIEW OF LUMA'S INITIAL
BUDGETS

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Resolution with Respect to
PREPA's May 17 Motion.

RESOLUTION AND ORDER

On May 9, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("May 9 Resolution") which, (i) denied the Puerto Rico Electric Power Authority ("PREPA") request to further increase the Operation and Maintenance Budget and (ii) approved an additional increase of \$2,650,000 for the NME Budget for the budgetary line items and projects as outlined in Annex A of the May 9 Resolution.

The Energy Bureau on the May 9 Resolution also determined that any further request for Operation and Maintenance funds shall be made, (i) as part of the FY2024 Budget Process, (ii) consistent with the updated Generation Stabilization Plan, and (iii) following the Procedural Calendar determined in the Energy Bureau Resolution and Order dated May 8, 2023¹ regarding the "*Modification of the Procedural Calendar*".

On May 17, 2023, PREPA filed a document titled *Request for Reconsideration of May 9, 2023's Order Related to PREPA's Request to Amend FY2023 PREPA Budget* ("May 17 Motion") in which PREPA states that:

"PREPA hereby stresses that continue denying its repeated requests to use the money deposited in its accounts for executing needed repair and work in Puerto Rico's generation fleet attempts against the safety and security of the people, as impeding these works will not allow operating the electrical system in accordance with prudent industry practices. In addition, not executing these works will needlessly increase the risk of huge load shedding events, putting the lives of the people of Puerto Rico at risk. In fact, the Department of Homeland Security has identified the electrical service as an essential service for national security."²

"PREPA reiterates that it is committed to working for the benefit of the People of Puerto Rico, but requests that the Energy Bureau allow for a reliable transformation of the energy sector transformation and grant PREPA the support requested. This support can only be accomplished with a budgeting process that is functional and doable on a daily basis, considering that a utility operation shall be executed uninterrupted. PREPA appeals to the Energy Bureau to allow the use of PREPA's funds to complete its works in its generating fleet, particularly the repairs in Units 1 and 2 of Aguirre Power Plant. The safety of the people of Puerto Rico is in the hands of the Energy Bureau and the Oversight Board"³

¹ Resolution, *In re: Review of LUMA's Initial Budget*, Case No.: NEPR-MI-2021-0004, May 8, 2023.

² May 17 Motion, p. 30

³ *Id.*, p. 31



The Energy Bureau, considering that:

1. In the April 18 Resolution⁴ the Energy Bureau specified that “PREPA shall use unincumbered funds at its disposal subject to the FOMB March 24 Resolution for: 1) the O&M Agreement Mobilization Fee, 2) the Voluntary Transition Program and the Emergency PREPA Employee Retirement System Contribution, and 3) the Generation NME and Operational expenditures.”⁵.
2. In the May 16 Motion⁶, LUMA mentioned that “[o]n May 12, 2023, the P3A notified a Revised Budget Allocation Determination as a result of conversations held with LUMA, this Energy Bureau, the Central Office for Recovery, Reconstruction and Resilience (“COR3”) and the Fiscal and Oversight Management Board (“FOMB”) to identify additional funds for distribution under the FY2024 Annual Budgets”. See *Exhibit 1*, Appendix B. Through the Revised Budget Allocation Determination, the P3A determined that an additional amount of \$130MM identified as “cash in hand” could be allocated in a matter consistent with the provisions of the May 1 Budget Allocation Determination.⁷

ORDERS PREPA, on or before Noon on Thursday May 25, 2023 to provide a detailed outline of what is the “free cash” or unrestricted and unallocated cash on hand that PREPA has available to date.

On the May 9 Resolution the Energy Bureau determined that any further request for funds shall be made, (i) as part of the FY2024 Budget Process, (ii) consistent with the updated Generation Stabilization Plan. Taking notice that the budget proposal for the Legacy Thermal Generation units (the “GenCo Budget”) was developed by Genera PR, LLC (“Genera”) for FY 2024 and that the on-going request from PREPA for funds so that PREPA can comply with maintenance and repairs of the Legacy Generation fleet, the Energy Bureau **DETERMINES** that Genera’s position on the May 17 Motion is required.

The Energy Bureau **ORDERS** GENERA, on or before Noon Thursday May 25, 2023 to provide its (i) position on the May 17 Motion and (ii) certify there is no duplication of request of funds between the May 16 Motion and the May 17 Motion.

The Energy Bureau **WARNS** PREPA and Genera that: (i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to \$25,000 per day; (ii) any person who intentionally violates Act 57-2014, as amended, by omitting, disregarding, or refusing to obey, observe, and comply with any rule or decision of the Energy Bureau shall be punished by a fine of not less than five hundred dollars (\$500) nor over five thousand dollars (\$5,000) at the discretion of the Energy Bureau; and (iii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than ten thousand dollars (\$10,000) nor greater than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

Be it notified and published.

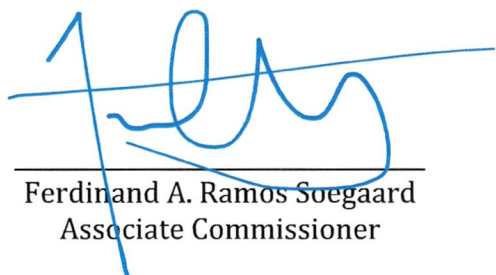
⁴ Resolution and Order, *In re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, April 18, 2023 (“April 18 Resolution”).

⁵ The Energy Bureau is cognizant that the FOMB Budget Amendment Resolution suggests in its footnotes funding sources for the 1) The O&M Agreement Mobilization Fee, 2) The Voluntary Transition Program and the Emergency PREPA Employee Retirement System Contribution, and 3) The Generation NME and Operational expenditures and PREPA shall make all commercially available efforts to adhere to the suggested funding sources in the FOMB March 24 Resolution without impacting the safe and adequate electric service to the people of Puerto Rico.

⁶ Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Annual T&D Projections through Fiscal Year 2026, *In re: Review of LUMA’s Initial Budgets*, Case No. NEPR-MI-2021-0004, May 16, 2023 (“May 16 Motion”).

⁷ May 16 Motion, p. 8 and Exhibit 1, Appendix B





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 23, 2023. Chairman Edison Avilés Deliz and Associate Commissioner Lillian Mateo Santos did not intervene. I also certify that on May 23, 2023, a copy of this Resolution and Order was notified by electronic mail to the following: jaime.elkoury@promesa.gov; margarita.mercado@us.dlapiper.com; ana.rodriguezrivera@us.dlapiper.com; mvazquez@diazvaz.law; jmarrero@diazvaz.law; brannen@genera-services.com; kbolanos@genera-pr.com; regulatory@genera-pr.com; jfr@sbgblaw.com; alopez@sbgblaw.com; and 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, on May 23, 2023.



Sonia Seda Gaztambide
Clerk

