

**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 pertaining *Motion for Reconsideration of the June 25 Resolution and Order on the Determination of the FY24 Annual Budgets for the Electric Utility System-LUMA, Genera, and PREPA*, filed by the Puerto Rico Electric Power Authority and *Urgent Motion in Compliance with Resolution and Order of June 25, 2023 and for Partial Reconsideration*, filed by Genera PR, LLC.

RESOLUTION

On June 25, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("June 25 Resolution") through which it modified the Proposed Consolidated Fiscal Year 2024 ("FY24") Budget submitted by LUMA Energy, LLC and LUMA Energy ServCo, LLC ("LUMA") and approved the modified budgets subject to compliance with the orders included in the June 25 Resolution.

On June 29, 2023, the Puerto Rico Electric Power Authority ("PREPA") filed a document titled *Motion for Reconsideration of the June 25 Resolution and Order on the Determination of the FY24 Annual Budgets for the Electric Utility System-LUMA, Genera, and PREPA* ("June 29 Motion").

On June 30, 2023, Genera PR, LLC ("Genera") filed a document titled *Urgent Motion in Compliance with Resolution and Order of June 25, 2023 and for Partial Reconsideration* ("June 30 Motion").

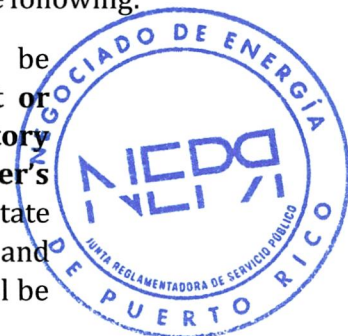
Through the June 29 and June 30 Motions, PREPA and Genera requests the Energy Bureau to reconsider its June 25 Resolution. However, the Energy Bureau notes that such requests are inconsistent with the provisions of the OMA.¹ Section 5.6(a) of the OMA provides that:

- (a) General. From the Service Commencement Date and during the duration of the Term thereafter, Operator shall function as agent of Owner, and Owner hereby irrevocably authorizes Operator to (i) represent Owner before PREB with respect to any matter related to the performance of any of the O&M Services provided by Operator under this Agreement, (ii) **prepare all related filings and other submissions before PREB** and (iii) represent Owner before any Governmental Body and any other similar industry or regulatory institutions or organizations having regulatory jurisdiction.

Similarly, Sections (G) and (H) of Annex I to the OMA provide, in pertinent part, the following:

- G. Planning, Environmental and Regulatory. Operator shall be responsible for (1) **preparing, presenting, defending current or future Integrated Resource Plans, rate cases or other regulatory or legal matters as they relate to the [OMA], as the Owner's representative before the [Energy Bureau]** and any other local, state or federal government agencies, ... In performing these services and any other services under the [OMA], nothing shall require, or shall be

¹ On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnerships Authority ("P3A"), and LUMA entered into an Operation and Maintenance Agreement ("OMA") under which PREPA transferred operational control of its transmission and distribution system ("T&D System") to LUMA.



construed as requiring, Operator to act as legal counsel to, or to provide legal advice or representation to, Owner.

H. Legal Services. Operator shall be responsible for (1) day-to-day legal responsibilities relating to the O&M Services, in coordination with Owner and Administrator in accordance with processes set forth in this Annex I (Scope of Services), and (2) preparing, presenting, defending current or future Integrated Resource Plan, rate cases, **or other regulatory or legal matters as they relate to the Agreement, as the Owner’s representative before the [Energy Bureau]** and any other local, state or federal government agencies, as well as preparing, presenting, and defending any non-compliance with local legislative requirements such as energy efficiency mandates. In performing these services and any other services under this Agreement, nothing shall require, or shall be construed as requiring, Operator to act as legal counsel to, or to provide legal advice or representation to, Owner.²

Consistent with the above, the Energy Bureau deems that, under the OMA’s provisions, LUMA is the entity charged with the responsibility to represent PREPA and Genera before the Energy Bureau with respect to any regulatory or legal matters as they relate to the OMA including budget policy and carry out other tasks in connection thereto before the Energy Bureau.

III. Conclusion

For all the foregoing reasons, the Energy Bureau will not consider the June 29 and June 30 Motions. The Energy Bureau **RETURNS** the June 29 and June 30 Motions to PREPA and Genera and **REMINDS** them that it must comply with the provisions of the OMA.

Be it 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



² (Emphasis added).

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on June 30, 2023. I also certify that on June 30, 2023 a copy of this Resolution and Order was notified by electronic mail: pre@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@sbglaw.com; alopez@sbglaw.com. I also certify that on June 30, 2023, I have -moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, on June 30, 2023.



Sonia Seda Gaztambide
Clerk

