

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

IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY
INTEGRATED RESOURCE PLAN

CASE NO.: NEPR-AP-2023-0004

SUBJECT: Commencement of Review
Proceeding and Initial Technical Conference
for the 2024 IRP - Prefiling Process (Phase 1)

RESOLUTION AND ORDER

I. Introduction & Procedural background

On August 24, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued the IRP Order¹, regarding the Integrated Resource Plan ("IRP") of PREPA. The IRP Order included a Section titled "Preparing for the Next IRP Cycle", containing action items and internal process improvements to be implemented by the Puerto Rico Electric Power Authority ("PREPA") for the next IRP.² The action items included specific technical elements about how the IRP considered energy efficiency, distributed generation and storage, load forecasting, wind resources, resource need assessment, transmission and distribution and a Modified Action Plan.³

On June 22, 2020, PREPA, the Puerto Rico Public-Private Partnerships Authority ("P3 Authority"), LUMA Energy, LLC as ManagementCo, and LUMA Energy ServCo, LLC as ServCo (collectively, "LUMA") entered into an Operation and Maintenance Agreement ("T&D OMA") under which LUMA will manage PREPA's transmission and distribution system ("T&D System"). As part of the OMA services, LUMA, as agent of PREPA is responsible for "[f]rom time to time, or as otherwise required by [applicable law as defined in the OMA] or ordered by [the Energy Bureau], [...] prepare a proposed [IRP] for review and approval by [the Energy Bureau]."⁴

On October 6, 2020, the Energy Bureau issued a Resolution and Order ("October 6 Resolution") opening the docket to manage the implementation phase of the Approved IRP and Modified Action Plan.⁵

On November 5, 2021, LUMA submitted a document titled *Informative Motion on Status of Activities Related to Next IRP Cycle, Request for Extension to File Documents and Request to Schedule Technical Conference* ("November 5 Request"), informing the Energy Bureau of the status of LUMA's efforts regarding the process to prepare for the next IRP cycle and requesting until November 30, 2021 to submit: (a) the Internal IRP Process Review Report required under Section V(B)(1); and (b) the first submittal required under the IRP Consultant Contracting Process under Section V(B)(2). LUMA also requested the Energy Bureau to schedule a Technical Conference with the purpose of: (a) providing the Energy Bureau more detailed information on the status of LUMA's efforts with its preparation for the next IRP cycle, including the matters discussed in the November 5 Request; b) discussing

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 IRP Order, pp. 285-289, ¶ 912-922.

³ IRP Order, pp. 285-287, ¶ 913-919.

⁴ Section 1(G) of Annex I of the T&D OMA also provides, in pertinent part, that the O&M Services being responsible for "preparing, presenting, [and] defending current or future [IRP's], [...], representative before the [Energy Bureau] and any other local, state, or federal government agencies".

⁵ See Resolution, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, October 6, 2020, p. 1.



LUMA's request for streamlining the IRP Consulting Contracting process; c) discussing pending questions LUMA has regarding the next IRP cycle requirements; d) and answering questions from the Energy Bureau regarding these subjects.

On November 30, 2021, LUMA filed a document titled *Informative Motion on Timeline to Submit the Report on Resource Planning for the Next IRP Cycle and the Draft RFQ and RFP for IRP Consultant and Request for Additional Time* ("November 30 Request"). In the November 30 Request, LUMA informs that it has prepared preliminary drafts of the Internal IRP Process Review Report required under Section V(B)(1) and the Request for Proposal required under Section V(B)(2) of the IRP Order, but such preliminary drafts were not ready for the Energy Bureau's Review and approval. Therefore, LUMA requested until December 17, 2021 to file such documents.⁶

On December 15, 2021 the Energy Bureau issued a Resolution and Order granting LUMA's November 5 and November 30 requests.⁷ The Energy Bureau Resolution and Order included scheduling a technical conference for January 25, 2022.

On December 17, 2021 LUMA submitted a *Motion to Submit Report On Resource Planning Process For Next IRP Cycle And Draft RFQ/RFP for IRP Consultant And Requests For Confidential Treatment* ("December 17 Motion"). LUMA included in its December 17 Motion the following three attachments: Exhibit 1, IRP Process Report; Exhibit 2, Diagrams Comparing IRP Consultant Contracting Process under August 24th Resolution with the Streamlined Process, and Exhibit 3, Draft RFQ/RFP (submitted under Seal of Confidentiality).

On December 27, 2021 LUMA submitted a *Memorandum of Law in Support of Request for Confidential Treatment of Draft RFQ/RFP for IRP Consultant and Draft Contract* ("Confidentiality Request"). LUMA states that Exhibit 3 filed with the December 17 Motion has commercially sensitive documents and drafts that must be kept confidential to protect future competitive procurement process. LUMA argues that a disclosure will adversely affect the integrity of the procurement process. LUMA request confidential treatment to the documents under Act 80-2011.⁸

On January 20, 2022 LUMA submitted a *Motion To Submit LUMA's Presentation for Technical Conference Scheduled for January 25, 2022* and its presentation for the Technical Conference, to be held on January 25, 2022. Attached was Exhibit 1, Presentation for the January 25th Technical Conference.⁹

On January 25, 2022 a Technical Conference was held at which LUMA presented a slide deck with information on the next IRP development status, the development process overview, and the review and approval process of an RFQ and a contract for the IRP technical consultant. LUMA answered questions from the Energy Bureau.

On March 21, 2022 LUMA submitted an *Informative Motion and Request for Approval of RFQ/RFP for IRP Consultant Contracting Process* ("March 21 Motion"). LUMA noted that the "timeline to prepare and complete the IRP is still very limited"¹⁰ even with an IRP filing date of January 2024.

⁶ November 30 Request, p. 6.

⁷ See Resolution and Order, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, December 15, 2021.

⁸ Known as Protection for Commercial and Industrial Trade Secrets Act, June 3, 2011 ("Act 80-2011").

⁹ See Presentation, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, January 25, 2022.

¹⁰ March 21 Motion, p. 4, ¶9



On April 22, 2022, the Energy Bureau issued a Resolution and Order ("April 22 Order") approving the requests of LUMA to streamline the contracting process for an IRP Technical Consultant and LUMA's use of a draft RFQ/RFP/contract form for such contracting.¹¹ The Energy Bureau also directed LUMA to file status updates on July 1, 2022, and October 1, 2022.¹²

On July 1, 2022, LUMA submitted the first status update¹³. On August 31, 2022, LUMA filed a document titled *Motion to Submit List of Qualified Proponents for IRP Consultant Procurement and Related Information and Request for Confidentiality* ("August 31 Motion"). The August 31 Motion included LUMA's list of qualified proponents for IRP contracting, identification of their selected proponent, and documents supporting their determination.

On October 3, 2022, LUMA submitted its October status update on the technical contracting process and its early stages of IRP preparation, seeking Energy Bureau determinations on its contracting process and next steps for procurement of a contractor ("October 3 Motion").¹⁴

On October 14, 2022, the Energy Bureau issued a Resolution and Order conditionally approving LUMA's choice of contractor, contingent upon explicit contractor compliance with the Energy Bureau's Regulation 9021¹⁵ about filing an integrated resource plan.¹⁶ In that Order the Energy Bureau approved LUMA's request for confidentiality of Exhibit 1 of its August 31 Motion, and noted that the contractor plans to use the PLEXOS model. The Energy Bureau directed LUMA and its contractor to use 2025 as the starting year for the IRP modeling, and to support an exercise considering the 20-year modeling horizon 2025-2044, using reasonable assumptions for demand and supply side resource development, and resource retirement likely to be in place in years before 2025. The Energy Bureau also ordered LUMA and its contractor to make input assumptions and output results available to stakeholders in industry standard electronic format (e.g., Excel file) to facilitate stakeholder review and quantitative analysis, especially for those without access to the PLEXOS software.

On March 31, 2023, LUMA filed its *Motion Submitting Update on IRP Technical Consultant Contracting Process, Request for Modification of Procedural Timeline and Request for Confidential Treatment* ("March 2023 Motion").¹⁷ In its Motion LUMA requested an initial technical conference no earlier than May of 2023, due to contracting issues delays. As part of the March 2023 Motion LUMA filed (under seal) an Exhibit 1, which explains the circumstances under which the process to contract the IRP Technical Consultant has been delayed. LUMA included as Exhibit 2 a 2024 IRP Status Update summary, indicating that it is working towards resolving the potential contracting delay. LUMA also indicated in the IRP

¹¹ See April 22 Order, p.5

¹² See *Id.*

¹³ See, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, *Motion to Submit Status Update on Technical Consultant Contracting Process and Early Stages of 2024 IRP Preparation in Compliance with Energy Bureau Resolution and Order of April 22, 2022*, filed by LUMA on July 1, 2022.

¹⁴ See, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, *Motion to Submit Status Update on Technical Consultant Contracting Process and Early Stages of IRP Preparation in Compliance with Energy Bureau Resolution and Order of April 22, 2022*, filed by LUMA on October 3, 2022.

¹⁵ *Regulation on Integrated Resource Plan for the Puerto Rico Electric Power Authority*, April 24, 2018 ("Regulation 9021").

¹⁶ Resolution and Order, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, October 14, 2022.

¹⁷ See *Motion Submitting Update on IRP Technical Consultant Contracting Process, Request for Modification of Procedural Timeline and Request for Confidential Treatment*, *In re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012, March 31, 2023 ("March 2023 Motion").



Status Update summary it has issued a Stakeholder Facilitator RFP to manage the stakeholder engagement process.

On July 1, 2023, Genera PR, a subsidiary of New Fortress Energy Inc., commenced operations and maintenance of the Puerto Rico Electric Power Authority's aging power-generation assets, also known as the "legacy" power plants, formerly operated by PREPA.¹⁸

II. DISCUSSION AND FINDINGS

The Energy Bureau **TAKES NOTICE** of the information in Exhibit 1 of LUMA's March 2023 Motion.

The Energy Bureau **APPROVES** LUMA's request to move the date for the initial technical conference to no earlier than May of 2023. The Energy Bureau **ORDERS** a virtual technical conference for August 8, 2023, at 10:00a.m.

Pursuant to Section 3.01 of the IRP Regulation,¹⁹ the August technical conference will serve as the initial technical conference to address IRP Prefiling Process issues for the 2024 IRP.

The purpose of the technical conferences during the IRP Prefiling period is for the Energy Bureau to ensure that LUMA reasonably complies with Regulation 9021, to ensure that LUMA's analysis will be sufficiently robust to comply with Puerto Rico public policy goals and to meet Energy Bureau expectations as to the quality of the analysis and the information provided.

The purpose of the Prefiling period technical conferences is also to provide an opportunity for LUMA to seek clarifications from the Energy Bureau about compliance with Regulation 9021.

The Energy Bureau includes as Attachment A an agenda for this technical conference and **ORDERS** LUMA to develop a presentation to include material that addresses agenda item number 2.

The Energy Bureau envisions for the initial technical conference three high level agenda elements:

- I. Energy Bureau introduction of the Prefiling Process, including initial consideration of Section 3.01 B) and 3.01 C) items in Regulation 9021,²⁰
- II. LUMA presentation of its plan for the IRP, including addressing the agenda items in Attachment A and indicating how LUMA is or will follow the specific action items ordered by the Energy Bureau in the August 20, 2020 IRP Order,²¹ and
- III. a period for questioning by the Energy Bureau of LUMA's IRP plan and for LUMA to seek clarification from the Energy Bureau on initial Prefiling Process issues.

¹⁸ Available at: <https://aafaf.pr.gov/press-room-articles/genera-pr-tapped-to-run-puerto-ricos-energy-generation/> (last verified July 11, 2023).

¹⁹ Section 3.01 – IRP Prefiling Process (Phase 1), Regulation 9021.

²⁰ Section 3.01 B) and C) of Regulation 9021 includes possible requirements for LUMA to consider certain plausible scenarios; whether certain IRP analyses and reporting requirements may be expanded or excluded; and whether LUMA may be required to address special issues not specifically set forth in Regulation 9021.

²¹ IRP Order, pp. 285-289, ¶ 912-922.



The Energy Bureau **TAKES NOTICE** that the initial technical conference will discuss whether the expected March 2024 filing date for the IRP will be retained given the Technical Consultant contracting issues noted in Exhibit 2 and explained in Exhibit 1.

Regulation 9021 includes stakeholder intervention procedures after LUMA's filing of the IRP. The Energy Bureau will provide further information on its procedures for stakeholder participation during the initial and subsequent IRP Prefiling technical conferences.

III. CONCLUSION

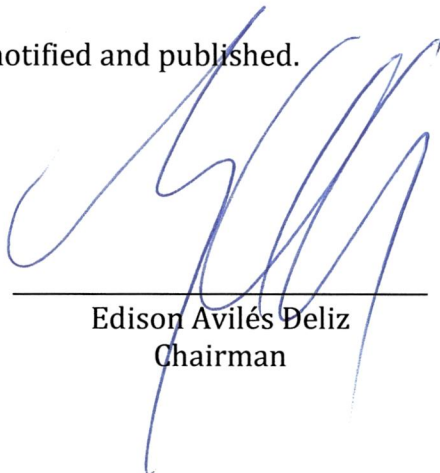
The Energy Bureau, through this Resolution and Order, initiates an administrative proceeding for the review of proposed Integrated Resource Plan to be filed by LUMA as PREPA's agent.

The Energy Bureau has scheduled an initial technical conference for the 2024 IRP Prefiling Process for August 8, 2023, commencing at 10:00 a.m. A detailed agenda for the technical conference is included as Attachment A to this Resolution and Order.

Act 57-2014²² establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.²³ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information provided that "the Energy Bureau, after the appropriate evaluation, believes such information should be protected".²⁴ 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."²⁵

Upon review of LUMA's arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to Exhibit 1 of the March 2023 Motion, pursuant to the provisions of Article 6.15 of Act 57-2014 and Act 80-2011²⁶.

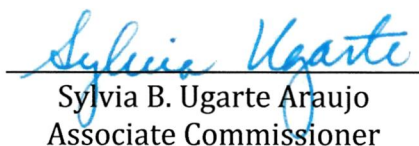
Be it notified and published.



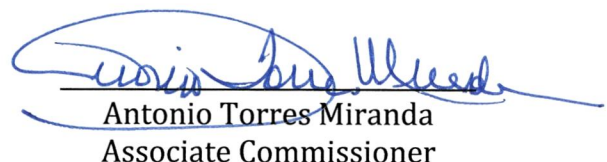
Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

²² Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

²³ Section 6.15 of Act 57-2014.

²⁴ *Id.*

²⁵ *Id.* (Emphasis added).

²⁶ Known as the *Trade Secrets Act of Puerto Rico*, ("Act 80-2011").



CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on July 12 2023. Associate Commissioner Ferdinand A. Ramos Soegaard did not intervene. Also certify that on July 12 2023, I have proceeded with the filing of this Resolution and Order and was notified by email to laua.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com, mvazquez@diazvaz.law; ana.rodriguezrivera@us.dlapiper.com; jmarrero@diazvaz.law; brannen@genera-services.com; kbolanos@genera-pr.com; regulatory@genera-pr.com. I also certify that on July 12 2023, I have moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign in San Juan, Puerto Rico, today, July 12, 2023.



Sonia Seda Gaztambide
Clerk



Attachment A

Agenda for 2024 IRP Initial Technical Conference, August 8, 2023

1. Introduction and IRP Prefiling Issues – PREB
 - a. Overall Process and Steps for Next IRP
 - i. Additional Prefiling technical conferences as needed
 - ii. Initial discovery requests by PREB
 - iii. Timing of LUMA IRP filing / contractor selection issues
 - iv. Stakeholder participation during Prefiling periods
 - b. Regulation 9021
2. LUMA IRP Plan to Meet PREB Expectations under Regulation 9021 and Address Puerto Rico Public Policy Compliance – LUMA (slide deck required)
 - a. Compliance with 2020 IRP Order Action Items^[1]
 - i. Energy Efficiency and Demand Response
 - ii. Distributed Generation and Storage
 - iii. Load Forecasting
 - iv. Wind Resources
 - v. Resource Need Assessment
 - vi. Caveats and Limitations – Scorecard Use if Chosen
 - vii. Transmission and Distribution
 - viii. Modified Action Plan
 - b. Core Substantive Issues
 - i. Scenario analysis structure
 - Specifically address how to practically ensure comprehensiveness without requiring an unwieldy number of modeling runs
 - ii. Annual energy and peak load forecasting – treatment of input assumptions for energy efficiency and distributed resources (behind the meter) and economic projections underlying the forecast
 - iii. Tranche 1 (T1), T2, T3, T4-T6 planned resources from tranches of procurement
 - iv. Wind and solar potential from PR100 study
 - v. Sources for wind, solar, battery, and other resource cost projections
 - vi. Hydro resources
 - vii. Distribution system analysis / distributed resources projection
 - viii. Transmission system analysis including lessons learned and analysis leveraged from PR100 Study
 - ix. New peakers and new black start resource procurements
 - x. Retirement schedule for legacy generation assets
 - xi. Role of 2023-installed emergency generation at Palo Seco and San Juan
 - c. Internal Process Improvements
 - i. Processes for Improving the Filing
 - ii. Selection of the IRP Technical Consultant
3. Questions and Discussion

^[1] These Specific Action Items are detailed in the IRP Order at paragraphs 912-919, on pages 285-287.

