

**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:** LUMA technical support for the  
2024 IRP filing.

**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 Order<sup>1</sup>, 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.<sup>2</sup> 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.<sup>3</sup>

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].”<sup>4</sup>

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.<sup>5</sup>

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

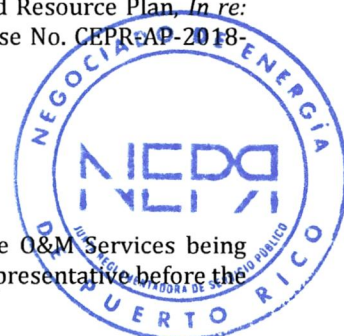
<sup>1</sup> Final Resolution and Order on the Puerto Rico Electric Power Authority’s Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 (“IRP Order”).

<sup>2</sup> IRP Order, pp. 285-289, ¶ 912-922.

<sup>3</sup> IRP Order, pp. 285-287, ¶ 913-919.

<sup>4</sup> 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”.

<sup>5</sup> 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.<sup>6</sup>

On December 15, 2021 the Energy Bureau issued a Resolution and Order granting LUMA's November 5 and November 30 requests.<sup>7</sup> 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 24<sup>th</sup> 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.<sup>8</sup>

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 25<sup>th</sup> Technical Conference.<sup>9</sup>

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"<sup>10</sup> even with an IRP filing date of January 2024.

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<sup>6</sup> November 30 Request, p. 6.

<sup>7</sup> 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.

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

<sup>9</sup> 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.

<sup>10</sup> 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.<sup>11</sup> The Energy Bureau also directed LUMA to file status updates on July 1, 2022, and October 1, 2022.<sup>12</sup>

On July 1, 2022, LUMA submitted the first status update<sup>13</sup>. 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.

*Jim*  
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").<sup>14</sup>

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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 9021<sup>15</sup> about filing an integrated resource plan.<sup>16</sup> 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").<sup>17</sup> 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

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<sup>11</sup> See April 22 Order, p.5

<sup>12</sup> See *Id.*

<sup>13</sup> 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.

<sup>14</sup> 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.

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

<sup>16</sup> 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.

<sup>17</sup> 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.<sup>18</sup>

On July 12, 2023 the Energy Bureau issued a Resolution and Order ("July 12 Resolution") approving LUMA's request for an initial technical conference date no earlier than May of 2023, establishing August 8, 2023 at 10:00 a.m. as the date and time for the initial 2024 IRP technical conference. The Energy Bureau also ordered LUMA to prepare a presentation to address elements of Attachment A to the July 12 Resolution, which contains the agenda for the technical conference.

The July 12 Resolution explicitly 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 of LUMA's March 2023 Motion.

## II. DISCUSSION AND FINDINGS

In its April 2022 Order the Energy Bureau approved the form of RFQ/RFP to be used by LUMA for contracting with a technical consultant in support of the IRP filing. The draft RFQ/RFP had been filed by LUMA in 2021 in the December 17 Motion.

The draft combined RFQ and RFP for technical support services is to be used to obtain a contractor to "perform analyses, conduct studies and develop a Preferred Resource Plan to operationalize these targets without negatively affecting reliability".<sup>19</sup>

Section 15 of the combined RFQ and RFP addresses potential LUMA contractor conflict(s) of interest (COI). The potential contractor to LUMA for technical support for the IRP must certify that "to the best of its knowledge, at the time of the RFP publishing date, it does not have any other contractual relationship that could be deemed to constitute a conflict of interest with LUMA or with public policy", and the "Proponent agrees to avoid even the appearance of a conflict of interest. The mere appearance of a conflict of interest shall constitute sufficient cause for the rejection of a Proposal(s). LUMA will cancel any contract executed pursuant to this RFP in the event of a conflict of interest, or if the appearance of a conflict of interest is not cured immediately to LUMA's satisfaction".<sup>20</sup>

The Energy Bureau **ORDERS** LUMA to be prepared to address COI issues and respond to directed, specific questions on the matter during the August 8, 2023 IRP Technical Conference.

## III. CONCLUSION

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 was included as Attachment A to the July 12 Resolution.

This Resolution and Order reiterates the need for the IRP technical consultant to be free of even appearances of COI and **ORDERS** LUMA to be prepared to address COI issues during the August 8, 2023 Technical Conference.

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

<sup>19</sup> LUMA December 17 Motion, Exhibit 3, Draft RFQ/RFP, Section 2.3 "Purpose of RFP", page 5.

<sup>20</sup> Op. cit., Section 15, page 32.



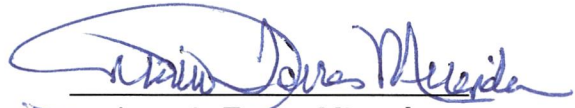
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Edison Avilés Deliz  
Chairman



Lillian Mateo Santos  
Associate Commissioner



Antonio Torres Miranda  
Associate Commissioner

**CERTIFICATION**

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on July 26, 2023. Associate Commissioners Ferdinand A. Ramos Soegaard and Sylvia Ugarte Araujo did not intervene. Also certify that on July 26, 2023, I have proceeded with the filing of this Resolution and Order and was notified by email to [laura.rozas@us.dlapiper.com](mailto:laura.rozas@us.dlapiper.com); [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com), [mvazquez@diazvaz.law](mailto:mvazquez@diazvaz.law); [ana.rodriguezrivera@us.dlapiper.com](mailto:ana.rodriguezrivera@us.dlapiper.com); [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law); [brannen@genera-services.com](mailto:brannen@genera-services.com); [kbolanos@genera-pr.com](mailto:kbolanos@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com). I also certify that on July 26, 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 26, 2023.



Sonia Seda Gaztambide  
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