

**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: Request of Information.

RESOLUTION AND ORDER

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 (collectively referred to as, "LUMA") and approved the modified budgets subject to compliance with various orders in the June 25 Resolution.

Through the June 25 Resolution, the Energy Bureau ordered the Puerto Rico Electric Power Authority ("PREPA") to file for review and approval, any new contract or amendment to an existing contract, before executing or making any award of such contract or amendment.

On July 7, 2023, PREPA filed a document titled *Motion to Submit PREPA's Contract for Professional Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* ("July 7 First Motion"). Through the July 7 First Motion, PREPA submitted a contract titled Professional Services Agreement executed by PREPA on June 30, 2023, between PREPA and O'Melveny Myers LLP ("O'Melveny Contract") for review and approval by the Energy Bureau.¹ PREPA stated that said agreement was negotiated prior to the June 25 Resolution, approved by its Governing Board on June 24, 2023, and approved by the Financial Oversight and Management Board for Puerto Rico ("FOMB") on June 26, 2023,² for a quantity not to exceed nine million dollars and to enter in effect from July 1, 2023 until June 30, 2024.³ PREPA maintained that it was imperative that the Energy Bureau review and approve the O'Melveny Contract as the referenced firm provides PREPA legal services in connection with its ongoing operational and financial restructuring, litigation in the Title III case, mediation, fiscal plan issues, among others.⁴ PREPA indicated that the O'Melveny Contract was subject to the Bankruptcy Advisor Cost portion of the FY24 approved budget.⁵ According to PREPA, these professional services are warranted and it would be detrimental for PREPA that they be suspended.⁶

On July 7, 2023, PREPA filed a document titled *Second Motion to Submit PREPA's Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* ("July 7 Second Motion"). Through the July 7 Second Motion, PREPA submitted twenty-four (24) contracts between PREPA and multiple contractors for review and approval by the Energy Bureau.⁷ PREPA expressed that these contracts were executed before submittal to the Energy Bureau due to error or inadvertence of PREPA's legal affairs office who acted in the ordinary course of business of PREPA's procurement

¹ Exhibit A of the July 7 First Motion.

² Exhibit B of the July 7 First Motion.

³ July 7 First Motion, p. 2, ¶ 4.

⁴ *Id.*, ¶ 5.

⁵ *Id.*, p. 3, ¶ 6.

⁶ *Id.*

⁷ Annex A of the July 7 Second Motion. PREPA also provided a link to a sharefile with copies of each listed contract.



process, to not disrupt the services required by PREPA.⁸ PREPA maintained that it was imperative that the Energy Bureau review and approve these contracts as these contractors provide PREPA legal, security, technical, and financial services in connection with PREPA's day-to-day operational activities, which are required for its continued operations.⁹

On July 7, 2023, PREPA filed a document titled *Third Motion to Submit PREPA's Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* ("July 7 Third Motion"). Through the July 7 Third Motion, PREPA submitted eight (8) proposed contracts between PREPA and multiples contractors for review and approval by the Energy Bureau.¹⁰ PREPA indicated that the contract with the firm Ankura Consulting Group, LLC was reviewed and approved by the FOMB on July 7, 2023.¹¹ PREPA sustained that it was imperative that the Energy Bureau review and approve these contracts as these contractors provide PREPA technical support services in connection with PREPA's day-to-day operational activities, which are required for its continued operations.¹²

On July 11, 2023, the Energy Bureau issued a Resolution and Order ("July 11 Order") through which it determined that PREPA did not comply with the criteria for the Energy Bureau's review of the contracts submitted with the July 7 Motions. The Energy Bureau highlighted that to review and grant approval of these contracts, PREPA had to specify: 1) if these are the totality of the contracts to be executed during FY24 and 2) how the amounts referenced pertaining these contracts fit within the FY24 Approved Budget. Hence, the Energy Bureau granted PREPA until Friday, July 14, 2023 to identify the budgeted line items from the Non-Labor Expenses Category that the contracts fall within and ensure that the referenced amounts are within the budgeted amounts for FY24 considering the totality of the contracts to be executed during FY24. The Energy Bureau also ordered PREPA to certify that there was no duplicity of scopes of work between the efforts handled by LUMA, Genera PR, LLC ("Genera"), and/or PREPA.

On July 12, 2023, PREPA filed a document titled *Urgent Request for Approval of Four Contracts for Professional Services in Compliance with the June 25 and July 11 Orders* ("July 12 Motion"). Through the July 12 Motion, PREPA submitted four (4) contracts for professional services between PREPA and multiples contractors for review and approval by the Energy Bureau for services to be rendered from July 1, 2023 to June 30, 2024. PREPA submitted the proposed contract for the Díaz & Vázquez Law Firm PSC ("D&V Contract") for \$3.350MM.¹³ PREPA stated that of the referenced amount, \$2MM corresponds Bankruptcy Title III Advisor Costs portion of the FY24 Budget, and the other \$1.350MM corresponds to the HoldCo Non-Labor Expenses Category, for the HoldCo Operating and Capital Expenditures portion of FY24 Budget.¹⁴

PREPA also resubmitted the contract for O'Melveny Myers LLP ("O'Melveny Contract"), a legal firm that provides PREPA legal services in connection with its ongoing operational and financial restructuring, litigation in the Title III case, mediation, fiscal plan issues, among others.¹⁵ PREPA indicated that the O'Melveny contract is in the amount of \$9MM and is

⁸ July 7 Second Motion, p. 2, ¶ 5.

⁹ *Id.*, pp. 2 - 3, ¶ 6.

¹⁰ Annex A of the July 7 Third Motion. PREPA also provided a link to a sharefile with copies of each listed contract.

¹¹ July 7 Third Motion, p. 2, ¶ 5; Annex B.

¹² *Id.*, p. 2 ¶ 6.

¹³ July 12 Motion, p. 3, ¶ 7.

¹⁴ *Id.*

¹⁵ *Id.*, p. 4, ¶ 9.



subject to the Bankruptcy Title III Advisor Costs portion of the FY24 Budget.¹⁶ PREPA also resubmitted the contract for Ankura Consulting Group, LLC ("Ankura Contract"), PREPA's financial advisor on matters such as fiscal plan revisions, reporting to the Financial Oversight and Management Board for Puerto Rico ("FOMB") and other initiatives.¹⁷ PREPA stated that the Ankura Contract is for \$6.6MM and is subject to the Bankruptcy Title III Advisor Costs portion of the FY24 Budget.¹⁸ Last, PREPA submitted the contract with King & Spalding LLP ("King and Spalding Contract") for the amount of \$1MM, also subject to the Bankruptcy Advisor Title III Costs of the FY24 Budget.¹⁹

PREPA maintained that the amounts for the four (4) referenced contracts are within the budgeted amounts for FY24 considering the totality of the contracts to be executed during FY24.²⁰ PREPA certified that the works to be executed by the referenced contractors are not duplicative of the scopes of work handled by LUMA and Genera.²¹

Upon review, on July 13, 2023, the Energy Bureau, approved the following four (4) contracts for professional services as requested by PREPA in its July 12 Motion: D&V Contract for \$3.350MM; the O'Melveny Contract in the amount of \$9MM; the Ankura Contract for \$6.6MM; and the King and Spalding Contract in the amount of \$1MM. Pertaining the D&V Contract, the Energy Bureau granted PREPA three (3) business days to identify the budgeted line item from the Non-Labor/ Other Operating Expenses Category that the \$1.350MM corresponds to.

On July 14, 2023, PREPA filed a document titled *Informative Motion in Compliance with the July 11 and July 13 Orders* ("July 14 Informative Motion"). In its July 14 Informative Motion, PREPA indicated that it had determined to allocate for the remainder of the D&V Contract the amount of \$200,000 from the legal services budgeted line item in the FY 2024 Non-Labor Other Operating Expenses Category Budget as approved by the Energy Bureau.²²

PREPA also informed that the contracts submitted with the July 7 Motions were not the totality of the contracts to be executed during FY24 and that it would submit contracts for the Energy Bureau's approval on a rolling basis, specifying the budget line item to which they correspond.²³ As such, PREPA expressed that it needed additional time to comply with the July 11 Order.²⁴

Furthermore, PREPA informed that it was withdrawing certain contracts submitted in its July 7 filings which pertain to the legal services budgeted line item from the Non-Labor Expenses Category, since PREPA is reassessing the priority and amounts in accordance with the Energy Bureau's requirements and specifically the FY24 approved budget.²⁵

On July 14, 2023, PREPA also filed a document titled *Request for Approval of Five Contracts for Professional Services in Compliance with the June 25 and July 11 Orders* ("July 14 Request"). In its July 14 Request, PREPA submitted five (5) proposed contracts for professional services between PREPA and multiples contractors for review and approval by the Energy Bureau.

¹⁶ *Id.*, p. 5, ¶ 11.

¹⁷ *Id.*, p. 4, ¶ 9; p. 6 ¶ 13.

¹⁸ *Id.*, p. 6, ¶ 13.

¹⁹ *Id.*, pp. 6 – 7, ¶ 15.

²⁰ *Id.*, p. 7, ¶ 16.

²¹ *Id.*, ¶ 17.

²² July 14 Informative Motion, p. 3, ¶ 9.

²³ *Id.*, ¶ 10.

²⁴ *Id.*, pp. 3 – 4, ¶ 10.

²⁵ *Id.*, p. 4, ¶ 11.



Three (3) of the referenced proposed contracts correspond to the legal services line item in the HoldCo Non-Labor Expenses Category for the HoldCo Operating and Capital Expenditures portion of the approved FY24 Budget.²⁶ The three (3) contractors are: Global Consultas Asociados, Víctor Manuel Ruiz Pérez, and González and Martínez Offices P.S.C. The proposed amounts for these contracts are: \$20,000; \$20,000; and 350,000, respectively.²⁷

The fourth proposed contract submitted by PREPA is with Baker Donelson Caribe LLC for the amount of \$200,000, which corresponds to the Bankruptcy Title III Advisor Costs portion of the FY24 Budget.²⁸ Last, PREPA submitted a contract for Regulatory Compliance Services Corp. for the amount of \$250,000.²⁹ Of this amount, \$200,000 corresponding to the Bankruptcy Title III Advisor Costs portion of the FY24 Budget and \$50,000 to the legal services line item in the HoldCo Non-Labor Expenses Category for the HoldCo Operating and Capital Expenditures portion of the approved FY24 Budget.³⁰

PREPA affirmed that the referenced amounts for the contracts previously identified are within the budgeted amounts for FY24 considering the totality of the contracts to be executed during FY24.³¹ PREPA also certified that the works to be executed by the referenced contractors are not duplicative of the scopes of work handled by LUMA and Genera.³²

On July 19, 2023, the Energy Bureau took notice of the July 14 Informative Motion and granted PREPA's request to withdraw the five (5) contracts identified in its filing and to submit the remaining contracts for FY24 on a rolling basis ("July 19 Resolution"). The Energy Bureau also ordered PREPA to, within three (3) business days, clarify to which line item from the Non-Labor/ Other Operating Expenses Category the remaining \$1.350MM corresponds. Upon review of the July 14 Request, the Energy Bureau approved the Global Consultas Asociados Contract in the amount of \$20,000; the Víctor Manuel Ruiz Pérez Contract in the amount of \$20,000; the González and Martínez Offices P.S.C. Contract in the amount of \$350,000; the Baker Donelson Caribe LLC Contract in the amount of \$200,000; and the Regulatory Compliance Services Corp. Contract in the amount of \$250,000.

Further, the Energy Bureau ordered PREPA to submit, in its future filings, a table including the approved and proposed contracts, the amounts approved and proposed for those contracts, the line items from the Non-Labor/ Other Operating Expenses Category that they correspond to, and the remaining balance of budgeted amount for Non-Labor Expenses (\$11.7MM), as approved in the June 25 Resolution. The Energy Bureau highlighted that as approved in the June 25 Resolution, the approved Non-Labor Operating Expenses for HoldCo during FY24, as adjusted, of \$11.772MM, include \$7.95MM for Retiree Medical Benefits, resulting in a net amount of \$3.822MM for contracts and other applicable expenses.

On July 20, 2023, PREPA filed a document titled *Motion to Submit the Amended Contract in Compliance with the July 19 Order* ("July 20 Motion"). Through its July 20 Motion, PREPA clarified that it made reductions in the line item budgets to comply with the approved budget.³³ Particularly, PREPA indicated that the D&V Contract was reduced from \$3.35 MM to \$2.2 MM. PREPA further expressed that \$2 MM corresponds to the Bankruptcy Title III Advisor Costs portion of the FY24 Budget and the other \$200,000 corresponds to the Non-

²⁶ July 14 Request, p. 3, ¶ 7.

²⁷ *Id.*

²⁸ *Id.*, ¶ 8.

²⁹ *Id.*, p. 4, ¶ 10.

³⁰ *Id.*

³¹ *Id.*, pp. 4 – 5, ¶ 12.

³² *Id.*, p. 5, ¶ 13.

³³ July 20 Motion, p. 4, ¶ 11.



Labor/Other Operating Expenses Category. Hence, PREPA requested that the Energy Bureau take notice of the referenced contract amendment and approve the revised D&V Contract. PREPA also requested that the Energy Bureau find PREPA in compliance with the July 19 Resolution.

On August 2, 2023, PREPA filed a document titled *Motion to Submit the Proposed Contract for Hydro Co in Compliance with the June 25 and July 11 Orders* ("August 2 Motion"). Through the August 2 Motion, PREPA submitted for the Energy Bureau's review and approval the proposed contract between PREPA and ConWaste – Consolidated Waste Service LLC for the collection and disposal service of non-hazardous industrial waste in PREPA's HydroCo hydroelectric power plants, needed for HydroCo's compliance with state and federal environmental regulations.³⁴ The referenced contract is in the amount of \$50,000 for services to be rendered for FY24.³⁵ PREPA indicated that the ConWaste contract corresponds to the HydroCo-Account 630-Environmental Division from the Non-Labor Operating Expenses Category.³⁶ PREPA also certified that there was no duplicity in scopes of work between the efforts handled with LUMA and Genera PR, LLC.³⁷

On August 3, 2023, the Energy Bureau issued a Resolution and Order, through which it took notice of the July 20 Motion and approved the D&V Contract amendment ("August 3 Resolution"). However, the Energy Bureau determined that PREPA did not comply with the July 19 Resolution whereby the Energy Bureau ordered PREPA to submit, in its future filings, a table including the approved and proposed contracts, the amounts approved and proposed for those contracts, the line items from the Non-Labor/Other Operating Expenses Category to which they correspond, and the remaining balance of budgeted amount for Non-Labor Expenses (\$11.7 MM) by line-item, as approved in the June 25 Resolution. The Energy Bureau reiterated that PREPA must submit in all future filings the referenced table.

On August 14, 2023, the Energy Bureau approved the ConWaste Contract in the amount of \$50,000 ("August 14 Resolution"). The Energy Bureau granted PREPA three (3) business days to confirm the referenced contract corresponds to the Regulation and Environmental Inspection budget line item from the HydroCo Non-Labor/Other Operating Expenses Category. The Energy Bureau reminded PREPA to make direct reference to the budgeted line item as shown in Appendix A (Pages A-3 and A-4) of PREPA's FY24 Budget as approved by the Financial Oversight & Management Board for Puerto Rico ("FOMB").

The Energy Bureau reiterated that PREPA must submit in all future filings a table including the approved and proposed contracts, the amounts approved and proposed for those contracts, the line items from the category to which they correspond, and the remaining balance for that particular category considering said amounts. Last, the Energy Bureau warned PREPA that, noncompliance with the provisions of this Resolution and Order, would result in the imposition of fines pursuant to Article 6.36 of Act 57-2014.³⁸

The Energy Bureau **HIGHLIGHTS** that currently there are **no pending contracts** for the Energy Bureau's review and approval.

The Energy Bureau **STRESSES** that PREPA has not filed the referenced table despite having been ordered three (3) times to do so through the July 19, August 3, and August 14 Resolutions.

Consequently, the Energy Bureau **REITERATES** its July 19, August 3, and August 14 Resolutions and **ORDERS** PREPA to, **within ten (10) days of the notification of the present Resolution and Order**, file a table including the totality of the approved and

³⁴ August 2 Motion, p. 2, ¶ 6.

³⁵ *Id.*

³⁶ *Id.*; Annex A.

³⁷ *Id.*, pp. 2 – 3, ¶ 6.

³⁸ *Puerto Rico Energy Transformation and RELIEF Act*, as amended (Act 57-2014").




proposed contracts for FY24, the amounts approved and proposed for those contracts, the line items from the category to which they correspond, and the remaining balance for that particular category considering said amounts.

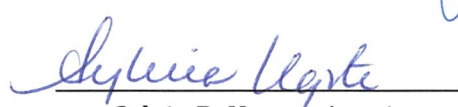
The Energy Bureau **REMINDS** PREPA that all executed contracts that have not been approved by the Energy Bureau nor included in the referenced table must be terminated and no services pertaining to those contracts can be rendered. The Energy Bureau further **REMINDS** PREPA to notify the relevant agencies, including the Comptroller of Puerto Rico, of the termination of those contracts.


The Energy Bureau **WARNS** PREPA that noncompliance with the provisions of this Resolution and Order, **will result** in the imposition of fines pursuant to Article 6.36 of Act 57-2014. As such, in this case, the Energy Bureau will impose a fine of **one thousand dollars (\$1,000) per day of non-compliance** until compliance is achieved.

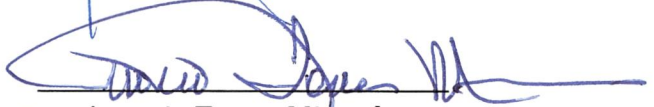
Be it notified and published.


Edison Avilés Deliz
Chairman


Lillian Mateo Santos
Associate Commissioner


Sylvia B. Ugarte Araujo
Associate Commissioner

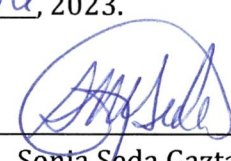

Ferdinand A. Ramos Soegaard
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on August 16, 2023. Also certify that on August 16, 2023, I have proceeded with the filing of this Resolution and was notified by email to pre@promesa.gov; margarita.mercado@us.dlapiper.com; ana.rodriquezrivera@us.dlapiper.com; julian.angladapagan@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. I also certify that on August 16, 2023, I have moved forward with filing the Resolution issued by the Puerto Rico Energy Bureau.

For the record, I sign in San Juan, Puerto Rico, today, August 16, 2023.


Sonia Seda Gaztambide
Clerk

