

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

NEPR Received: Aug 24, 2023 8:41 PM
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IN RE:

REVIEW OF LUMA’S INITIAL BUDGET

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Motion to Submit BONUS Facility Report in Compliance with Resolution and Order dated June 25, 2023

**MOTION TO SUBMIT BONUS FACILITY REPORT IN COMPLIANCE WITH
RESOLUTION AND ORDER DATED JUNE 25, 2023.**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC (“Genera”), as agent of the Puerto Rico Electric Power Authority (“PREPA”),¹ through its counsel of record, and respectfully state and request the following:

1. On May 16, 2023, LUMA² filed a document with the Energy Bureau of the Puerto Rico Service Regulatory Board (“Energy Bureau”) titled *Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Proposed Annual T&D Projections Through Fiscal Year 2026* (the “May 16th Motion”), in which LUMA submitted the proposed T&D Budgets developed by LUMA, the proposed GenCo Budgets revised by Genera on behalf of PREPA for the PREPA subsidiary GenCo LLC, and the proposed budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC and PREPA PropertyCo LLC.³

¹ Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* (“LGA OMA”), dated January 24, 2023, executed by and among PREPA, Genera, and the Puerto Rico Public-Private Partnerships Authority, Genera is the sole operator and administrator of the Legacy Generation Assets (as defined in the LGA OMA) and the sole entity authorized to represent PREPA before the Energy Bureau with respect to any matter related to the performance of any of the O&M Services provided by Genera under the LGA OMA.

² LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as “LUMA”).

³ The May 16th Motion incorporated a document titled *Annual Budgets, Fiscal Years 2024 to 2026* (the “Proposed Consolidated FY24 Budget”), which contained the aforementioned budget components and other expenditures.

2. After several procedural events, on June 25, 2023, the Energy Bureau issued a Resolution and Order titled *Determination on the FY24 Annual Budgets for the Electric Utility System – LUMA, Genera, and PREPA* (the "June 25th Order"), through which it (1) modified the Proposed Consolidated Fiscal Year 2024 Budget submitted by LUMA; (2) approved the modified budgets subject to compliance with various orders included in the June 25th Order; and (3) included a series of determinations and orders addressed to Genera regarding the GenCo Budget.⁴

3. Pertinent to this motion, the Energy Bureau expressed itself regarding the operation and maintenance of the BONUS Facility in Rincón (the "BONUS Facility").⁵ In the interests of operational efficiency and cost reduction, the Energy Bureau stated that it is interested in reassessing the current operational and maintenance structure of the BONUS Facility. Given Genera's prospective responsibility for the operation and maintenance of legacy generation plants, the Energy Bureau considers it may be beneficial to consider transferring operational and maintenance duties of the BONUS Facility to Genera.

4. In light of the above consideration, the Energy Bureau ordered Genera to:

- (i) Initiate discussions with HoldCo to explore this potential transfer of operational and maintenance responsibilities. These discussions should thoroughly evaluate the feasibility of such a transfer noting that a third party, not PREPA, performs annual radiological monitoring and inspections of the facility.⁶
- (ii) Within sixty (60) calendar days from the date of the issuance of this Resolution and Order, submit a report specifying the outcome of these discussions. This report should include a detailed proposal for how Genera would operate and maintain the BONUS Facility if the transfer is deemed feasible and in the public interest. The report is

⁴ See June 25th Order, pp. 16 - 21.

⁵ For additional information and details on the BONUS Facility, see *Fact Sheet, BONUS, Puerto Rico, Decommissioned Reactor Site*, Legacy Management, US Department of Energy, (May 2020) Available at: <https://www.energy.gov/sites/prod/files/2020/05/f74/BONUSFactSheet.pdf> (Last verified August 24, 2023)

⁶ See June 25th Order, p. 20

to include a projected yearly budget for such operations and maintenance as well as any existing or potential revenues associated with the operations museum.⁷

5. In compliance with the June 25th Order, Genera has undertaken the required discussions with PREPA and has conducted assessments concerning the facility's operations. Attached as Exhibit A is a report that outlines the status of these discussions and an initial analysis of BONUS Facility operations. It's important to note that the analysis is still in progress and not yet finalized.

WHEREFORE, Genera respectfully requests that the Energy Bureau **take notice** of the above and **deem** that Genera has complied with the June 25th Order as it pertains to the operation and maintenance of the BONUS Facility.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 24th day of August 2023.

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⁷ *Id.*

CERTIFICATE OF SERVICE

We hereby certify that a true and accurate copy of this motion was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System and that an electronic copy of this motion will be sent to Joannely Marrero-Cruz, at jmarrero@diazvaz.law; Maralíz Vázquez-Marrero, at mvazquez@diazvaz.law; Margarita Mercado Echegaray, at margarita.mercado@us.dlapiper.com; and Ana Margarita Rodríguez Rivera, at ana.rodriguezrivera@us.dlapiper.com promptly after such filing.

In San Juan, Puerto Rico, this 24th day of August 2023.

/s/ Alejandro López-Rodríguez
Alejandro López-Rodríguez

Exhibit A

BONUS Facility Report

Docket Number: NEPR-MI-2021-0004

In Re: Review of LUMA's Initial Budgets

Re: Response in Compliance with the June 25, 2023 Order regarding BONUS Facility

Order:

(IV)(B)(3) Operation and Maintenance of the Bonus Facility in Rincón (BONUS Facility)

The Energy Bureau hereby ORDERS Genera to initiate discussions with HoldCo to explore this potential transfer of operational and maintenance responsibilities. These discussions should thoroughly evaluate the feasibility of such a transfer noting that a third party, not PREPA, performs annual radiological monitoring and inspections of the facility.

As part of this process, the Energy Bureau ORDERS PREPA to provide detailed information on the current operational and maintenance tasks it is performing on BONUS Facility, including a detailed list of all associated costs to operate this site as a museum and maintain as per the agreement with the US Department of Energy ("DOE"). This data will aid in a comprehensive evaluation of the efficiency gains and potential cost savings that could be realized from the proposed transfer.

The Energy Bureau ORDERS Genera to, within sixty (60) calendar days from the date of the issuance of this Resolution and Order, submit a report specifying the outcome of these discussions. This report should include a detailed proposal for how Genera would operate and maintain the BONUS Facility if the transfer is deemed feasible and in the public interest. The report is to include a projected yearly budget for such operations and maintenance as well as any existing or potential revenues associated with the operations museum.

Response:**GPR – PREB ORDER – 06.25.2023(IV)(B)(3)**

Pursuant to the Order and Resolution issued on June 25, 2023 (“Order”) by the Puerto Rico Energy Bureau (“PREB”), Genera PR LLC (“Genera”) and the Puerto Rico Electric Power Authority (“PREPA”) have been diligently and continuously holding conversations to assess and evaluate, in accordance with that certain Puerto Rico Thermal Generation Operation and Maintenance Agreement by and among PREPA, Genera and the Puerto Rico Public-Private Partnerships Authority dated January 24, 2023 (the “Generation O&M Agreement”) the risks, challenges, responsibilities, and feasibility of Genera being the operator of the BONUS Facility, including costs for administration and maintenance. On June 29, 2023, Genera sent PREPA written communication requesting PREPA to provide detailed information on the current operational and maintenance tasks performed by PREPA on the BONUS Facility. Conversations ensued following the initial request until PREPA produced a BONUS Facility Maintenance Cost table on July 31st, 2023. On August 1st, 2023, Genera emailed PREPA a subsequent clarification and detailed data request list to alleviate the shortcomings of the information provided on July 31st. Meanwhile, Genera and PREPA conducted a site inspection on August 3, 2023. Furthermore, on August 17, 2023, PREPA provided Genera a SharePoint link with documentation required and relevant to evaluate the potential transfer of operational and maintenance responsibilities.

Notwithstanding the foregoing, and after careful review and evaluation of the Generation O&M Agreement, it is Genera’s interpretation that the decommissioned Boiling Nuclear Superheater reactor (the “BONUS Facility”) does not fall within the scope of the Generation O&M Agreement, therefore, it should not be considered a Legacy Generation Asset (as such term is defined in the Generation O&M Agreement). Hence, the BONUS Facility is not part of Genera’s responsibilities under the Generation O&M Agreement.

As previously stated, Genera and PREPA have engaged and made progress with the information-sharing front, cooperation and coordination required to comply with the Energy Bureau’s orders. The comprehensive and responsible

analysis and study needed to assess the potential transfer of operational and maintenance responsibilities of the BONUS Facility is beyond Genera's current expertise. Genera did not plan around this nor did it budget this responsibility because it was not included as part of O&M Services, as defined in the Generation O&M Agreement. Genera's expertise is focused on fossil fuel power plants and fuel management. Therefore, Genera does not currently have personnel with expertise in assessing the ongoing safety and security needs of a decommissioned nuclear facility, nor the current budget to undertake the task.

As stated in the Order, "(t)he Energy Bureau recognizes the unique status of the BONUS Facility, a decommissioned reactor site owned and maintained by PREPA and used as a museum. (see, Fact Sheet, BONUS, Puerto Rico, Decommissioned Reactor Site, Legacy Management, US Department of Energy, (May 2020))." Contrary to the assumptions and stated facts, the above-mentioned site inspection, performed by professionals in fields other than nuclear energy, revealed contradictory information. It is important to note that the site *is not* currently being used as a museum. The referenced Fact Sheet does not indicate that the BONUS Facility is "safe" to visit, it merely states that the "DOE completed an environmental assessment in 2003 that indicated *no unacceptable risk* (our emphasis) to human health or the environment if the main floor is used as a museum". The Genera personnel performing the inspection of the area designated as the museum on the main floor of the reactor does not have the expertise to determine whether the site is "safe" or not.

Furthermore, the Order states that "a site that features adequate containment of decaying radioactive material and robust perimeter protection" when discussing the need and the use of security services to patrol the site. Again, the Genera personnel who performed the site visit noted that robust perimeter protection of the site merely consists of a "cyclone fence" chain link fence and a single security guard. The complete perimeter is *not* sound. The beachfront containment area has been compromised, with areas where members of the public may enter the property unimpeded and undetected.

Currently, Genera lacks the financial and human capacity resources required to undertake the requested task. Genera wishes to be responsive to the Energy Bureau's order and cooperate with PREPA to seek solutions and alternatives to current challenges and those that may arise in the future. Genera respectfully request the Energy Bureau to reconsider the Order of the potential transfer of the BONUS Facility and current assessment. Genera respectfully suggests that alternative evaluation processes for this project be considered. This should include adequate resource planning for future proceedings, such as rate revision or evaluation of fiscal year 2025 budget proposals.