

**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 and Order pertaining to *PREPA's Motion to Clarify the August 24 Submittal and Request for Extension of Time to Comply with Portions of the August 16 Resolution and Order*, filed by the Puerto Rico Electric Power Authority.

RESOLUTION AND ORDER

On August 24, 2023, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Motion to Submit Two Urgent Contracts in Compliance with the Energy Bureau's Orders Necessary to Comply with the Tranche 1 Implementation* ("August 24 Motion"). In its August 24 Motion, PREPA submitted a proposed contract for professional services between PREPA and Sargent & Lundy for \$200,000 for services to rendered from the date of execution until June 30, 2024 for the Energy Bureau's review and approval.¹ Particularly, to assist PREPA during the Renewable Generation and Energy Storage Resources Tranche 1 Process.² PREPA indicated that the referenced contract corresponds to the Regulation and Environmental Inspection budget line item from the HoldCo Non-Labor/Other Operating Expenses Category.³

Through its August 24 Motion, PREPA also informed that the Financial Oversight and Management Board for Puerto Rico ("FOMB") had not yet approved the King and Spalding Contract that the Energy Bureau approved on July 13, 2023 in the amount of \$1MM, subject to the Bankruptcy Advisor Title III Costs of the FY24 Budget.⁴ PREPA resubmitted an amended proposed contract for \$100,000 for services to rendered from the date of execution until June 30, 2024 for the Energy Bureau's review and approval.⁵ Particularly, to assist PREPA mainly with the Tranche 1 processes.⁶ PREPA indicated that the referenced contract corresponds to the legal services line item from the HoldCo Non-Labor Expenses Category/Other Operating and Capital Expenditures portion of the approved FY24 Budget.⁷ PREPA further expressed that said proposed contract would be resubmitted to the FOMB for its approval.⁸

On August 28, 2023, the Energy Bureau issued a Resolution and Order ("August 28 Resolution") whereby it approved the Sargent & Lundy Contract for \$200,000 which corresponds to the Regulation and Environmental Inspection budget line item from the HoldCo Non-Labor/Other Operating Expenses Category. In addition, through the August 28 Resolution, the Energy Bureau conditionally authorized PREPA to execute the King and

¹ August 24 Motion, p. 3, ¶ 8.

² *Id.*

³ *Id.*

⁴ *Id.*, pp. 3 - 4, ¶ 9.

⁵ *Id.*, p. 4, ¶ 9.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*



Spalding Contract, subject to PREPA's adjustment of the contract to \$88,000, which was the remaining balance for legal services.

On August 28, 2023, PREPA filed a document titled *PREPA's Motion to Clarify the August 24 Submittal and Request for Extension of Time to Comply with Portions of the August 16 Resolution and Order* ("August 28 Motion"). In its August 28 Motion, PREPA referenced that as part of footnote no. 8 in p. 6 of the August 24 Motion, it informed the Energy Bureau that the FOMB approved the Regulatory Compliance Services Corp. Contract with conditions and only for the PREPA Restructuring and Title III Services, thus eliminating the need for the \$50,000 earmarked from the legal services budget as approved by the Energy Bureau on July 19, 2023.⁹ PREPA further expressed there was no reckless omission on its part in the calculations of the remaining balanced in the legal services line item in the Non-Labor Expenses Category for the King and Spalding Contract, since the amounts were not compromised.¹⁰ Consequently, PREPA requested that the Energy Bureau reconsider the portion allowed from legal services line item in the Non-Labor Expenses Category for the King and Spalding Contract and grant PREPA approval to execute the referenced contract for the full \$100,000.¹¹

PREPA also requested additional time to comply with outstanding requirements listed in the August 14 Request for Information and the August 16 Order.

In its August 24 and August 28 Motions, PREPA asserted there was no need for the \$50,000 earmarked from legal services budget for the Regulatory Compliance Services Corp. Contract. The Energy Bureau **ORDERS** PREPA to, within **five (5) business days** of the notification of this Resolution and Order, file the amended Regulatory Compliance Services Corp. Contract to be proposed for the Energy Bureau's review and approval.

The Energy Bureau **REMINDS** PREPA that the Energy Bureau is an independent regulator with its own procedures, policies, and regulations. Our processes are separate from those accomplished in other governmental agencies, including in the FOMB. The Energy Bureau has reiterated numerous times that new and/or proposed contracts, amendments to existing contracts, or withdrawals must be duly and timely (i.e., prior to their execution) notified to the Energy Bureau for its review and approval, regardless of procedures being carried out before the FOMB.

After reviewing the August 28 Motion, the Energy Bureau **TAKES NOTICE** of the information presented and **APPROVES** the King and Spalding Contract for \$100,000 which correspond to the legal services line item from the HoldCo Non-Labor Expenses Category/Other Operating and Capital Expenditures portion of the approved FY24 Budget. Consequently, the remaining balance for legal services from the HoldCo Non-Labor Expenses Category/Other Operating and Capital Expenditures portion of the approved FY24 Budget is **\$38,000**.

The Energy Bureau **GRANTS** PREPA's request for extension until September 1, 2023 to comply with the August 14, 2023 Request for Information and August 16 Order.

The Energy Bureau **WARNS** PREPA that, in accordance Art. 6.36 of Act 57-2014:³ (i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to \$25,000 per day; (ii) any person who intentionally violates Act 57-2014, as amended, by omitting, disregarding, or refusing to obey, observe, and comply with any rule or decision of the Energy Bureau shall be punished by a fine of not less than five hundred dollars (\$500) nor over five thousand dollars (\$5,000) at the discretion of the Energy Bureau; and (iii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than ten

⁹ August 28 Motion, p. 5, ¶ 14.

¹⁰ *Id.*

¹¹ *Id.*, p. ¶ 15.

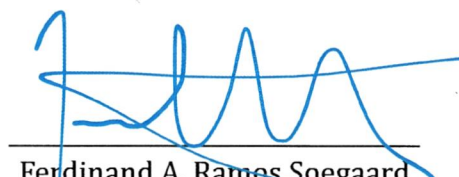


thousand dollars (\$10,000) nor greater than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

Be it notified and published.


Edison Avilés Deliz
Chairman


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner

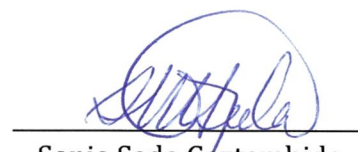

Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on August 29 2023. Also certify that on August 29, 2023, I have proceeded with the filing of this Resolution and Order; 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; legal@genera-pr.com; regulatory@genera-pr.com; jfr@sbgblaw.com; alopez@sbgblaw.com.

For the record, I sign in San Juan, Puerto Rico, today, August 29, 2023.


Sonia Seda Gaztambide
Clerk

