

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

NEPR Received: Sep 11, 2023 8:27 PM
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IN RE: THE IMPLEMENTATION OF THE
PUERTO RICO ELECTRIC POWER
AUTHORITY INTEGRATED RESOURCE
PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Motion in Compliance with Order
Regarding Quanta Services Inc. Request for
Revision to the Provision Regarding “Restricted
Parties” in the RFP’s for Tranches 1-6

**MOTION IN COMPLIANCE WITH ORDER REGARDING QUANTA SERVICES INC.
REQUEST FOR REVISION TO THE PROVISION REGARDING “RESTRICTED
PARTIES” IN THE RFP’S FOR TRANCHES 1-6**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority (“PREPA”), through its counsel of record, and respectfully submits and prays as follows:

1. On September 1, 2023, (“September 1 Order”) the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau” or “PREB”) entered Resolution and Order related to a communication from Quanta Services Inc. (“Quanta”) requesting they be eliminated from the Restricted Parties list currently included in Tranches 1-3.
2. The September 1 Order was based on the fact that in the *Request for Proposals No. 112648 Renewable Energy Generation and Energy Storage Resources Tranche 1 of 6* (“Renewable Energy RFP or RFP”) PREPA included in section 5.4(u) of the RFP, *Quanta Services, Inc.*, as a Restricted Party, making it unable to participate and benefit or make a profit from the renewable energy tranches. Section 5.4(u) stated in part:

"As part of this RFP, the following entities will be deemed **"Restricted Parties"** and neither they nor their respective directors, officers, partners, employees and persons, or legal entities related to them are eligible to participate as team

members or to otherwise assist any Proponent or team member, directly or indirectly, or participate in any way as a director, officer, employee, advisor, counsel, accountant, or other consultant or otherwise in connection with any Proponent. Each Proponent will ensure that each team member does not use, consult, include, or seek advice from any Restricted Party. The following have been identified as Restricted Parties:"

3. Since PREPA had originally included Quanta as a Restricted Party in RFP 112648, the PREB- IC has continued to include Quanta as a Restricted Party in both RFP for Tranche 2 and RFP for Tranche 3.

4. On January 27, 2021, the Energy Bureau issued a Resolution and Order ("January 27 Resolution"), in which it assigned the responsibilities and duties of conducting the Renewable Energy RFP processes to a third party ("PREB-IC") and ordered LUMA and PREPA their full collaboration with the PREB-IC and provide any needed data and analytical support required to enable successful completion of the RFP process.

5. On July 18, 2023, Quanta sent a letter to the PREB-IC regarding restrictions in various requests for proposals ("July 18 Communication"). Quanta requested revisions to the "Restricted Parties" inclusion. Quanta specifically stated that:

"...[t]hat the PREB-IC consider revising the restrictions on "Restricted Parties" for all past and current tranches of renewable energy generation and energy storage resource projects and any future RFPs to allow Quanta and similarly restricted companies to participate as contractors, sub-contractors, suppliers and vendors in the development, design, engineering, procurement, construction, supply, installation, commissioning, testing or maintenance of these projects. Please note that Quanta is not requesting that it or any of its companies or similarly situated service providers be allowed to participate in such projects as a Proponent or Resource

Provider or to otherwise own or operate generation energy resources."

6. PREPA's position as to the Energy Bureau's request is that Quanta should not be removed from the Restricted Parties list for any of the renewable energy tranches. Quanta has fifty (50%) ownership interest in LUMA Energy ("LUMA"). Thus, in matters related to LUMA's responsibilities and obligations pursuant to the T&D OMA¹, Quanta, acts for all purposes as agent of PREPA. In the particular case of renewable energy tranches, LUMA is responsible for compliance with interconnection of renewables in accordance with Applicable Law. Annex I of the T&D OMA related to Scope of Services, defines the extent of the T&D System Operation Services to be provided by LUMA to include interconnection agreements and all related activities.

7. Accordingly, LUMA is directly responsible for the works related to the interconnection process and having Quanta or its subsidiaries perform work on behalf of Proponents has a substantial potential of resulting in conflicts of interest which could be detrimental to PREPA and PREPA's relationship with LUMA. In the eventuality Quanta, as contractor for Proponent, fails to perform as intended or fails to perform in the time required, LUMA would be in a classic conflict of interest situation of either defending one of the parties to its consortium or PREPA. The Energy Bureau cannot allow even the possibility of such a scenario.

WHEREFORE, for the reasons stated above, PREPA respectfully notifies the Energy Bureau that it is not in agreement with eliminating Quanta from the Restricted Parties list for Tranches 1-6 given the unavoidable conflicts of interests involved precisely because of their stake

¹Operation and Maintenance of the Transmission and Distribution System Agreement ("T&D OMA") between PREPA, the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") and LUMA Energy, LLC and LUMA Energy Servco, LLC (collectively, "LUMA").

as part of the LUMA consortium and their obligations and responsibilities towards PREPA pursuant to the T&D OMA.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 11th day of September 2023.

/s Maralíz Vázquez-Marrero

Maralíz Vázquez-Marrero
TSPR 16,187
mvazquez@diazvaz.law

/s Joannely Marrero Cruz

Joannely Marrero Cruz
TSPR 20,014
jmarrero@diazvaz.law

DÍAZ & VÁZQUEZ LAW FIRM, P.S.C.

290 Jesús T. Piñero Ave.
Oriental Tower, Suite 803
San Juan, PR 00918
Tel.: (787) 395-7133
Fax. (787) 497-9664

CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, and a courtesy copy of the filing was sent to LUMA through its legal representatives at margarita.mercado@us.dlapiper.com and laura.rozas@us.dlapiper.com.

In San Juan, Puerto Rico, on this 11th day of September 2023.

/s Joannely Marrero Cruz
Joannely Marrero Cruz