

**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: Review of Quarterly Report for
the Fourth Quarter of Fiscal Year 2023

RESOLUTION AND ORDER

I. Background

On February 27, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("February 27 Order") through which it issued its determination on the FY2023 annual budgets and included the pre-filing requirements for FY2024 Annual Budgets. The February 27 Order states that:

- i. The Quarterly Reports are due, "including Q1, Q2, Q3, and Q4 Quarterly Reports, within 45 days after the end of each fiscal year Quarter"¹.
- ii. The Budgets to Actual Reporting requirement includes the "[T]racking of certified Budget to Actual for GridCo, GenCo and HoldCo based on template to be provided by the Oversight Board"².
- iii. GENERA PR, LLC. ("GENERA") to "... (i) file quarterly report beginning in Q3 FY 2023, detailing actual vs. budgeted Generation expenditures, including a breakout of NME expenditures..."³.

On May 22, 2023, LUMA filed a document titled *Motion to Submit Quarterly Report for the Third Quarter of Fiscal Year 2023* ("LUMA FY23 Q3 Report") that contains the quarterly information regarding the FY2023 Budget T&D System spending amounts.

On June 2, 2023, PREPA filed a document titled *Motion to Submit the Puerto Rico Power Authority's FY2023 Q3 Report* ("PREPA FY23 Q3 Report"), in which, filed its Q3 Report and stated that for the variances between the planned and actual expenses, these will be reflected in the Fourth Quarter of Fiscal Year Generation Report ("PREPA Q4 report")⁴.

On Aug 14, 2023, LUMA filed a document titled *Motion to Submit Quarterly Report for the Fourth Quarter of Fiscal Year 2023* ("LUMA FY23 Q4 Report") in which LUMA provides information on LUMA's T&D expenditures and year -to-date information and year-to-date variances from the approved budget.⁵



¹ See February 27 Order, page 28, Section G. "Additional Quarterly Reporting Requirements."

² *Id.*, page 32 Attachment A "Reporting Requirements".

³ *Id.* page 28 Section F. "Generation Budget". GENERA's Commencement Date as per the Puerto Rico Generation Facilities Operation and Maintenance Agreement, dated as of January 24, 2023, between the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3") and GENERA ("Legacy Generation OMA") was to be May 1, 2023. This date was later extended to July 1, 2023, between the parties. Therefore, PREPA is the responsible party to file the Q4 Report for Generation.

⁴ See PREPA FY23 Q3 Report, p. 2, ¶ 4.

⁵ See LUMA FY23 Q4 Report, pp. 3-4, ¶ 7.

II. Discussion and Analysis

A. LUMA FY23 Q4 Report.

1. Federally Funded Capital Expenditures – Preliminary Results

The total FY 2023 Budget for the Federally Funded Capital Expenditures as approved in the February 27 Order was \$580.7MM. LUMA represents in the LUMA FY23 Q4 Report that the actual expenditures for the full FY 2023 for this line item was \$418.1MM, a variance of \$162.6MM for Fiscal Year 2023, as shown in the table below.⁶

LUMA QUARTERLY REPORT FOR THE PERIOD ENDING ON JUNE 30, 2023 18

Transmission & Distribution Capital Expenditures — Federally Funded (\$ millions) - Preliminary Results

	Federally Funded Capital ¹						
	FY2023 Budget	Q4 Budget	Q4 Actuals	YTD Budget	YTD Actuals	YTD Variance (\$)	YTD Variance (%)
Improvement Portfolio							
Customer Experience	107.3	26.8	33.0	107.3	93.0	14.3	
Distribution	151.3	37.8	107.9	151.3	200.2	(48.9)	
Transmission	126.2	30.8	34.5	126.2	64.7	61.5	
Substations	110.6	27.6	25.3	110.6	44.5	66.1	
Control Center & Buildings	45.0	16.7	1.9	45.0	4.3	40.7	
Enabling	20.1	4.1	(8.5)	20.1	10.4	9.7	
Support Services	8.8	1.7	0.5	8.8	0.9	7.9	
Subtotal	\$ 569.3	\$ 145.7	\$ 194.5	\$ 569.3	\$ 418.1	\$ 151.3	27%
Other							
2% Reserve for Excess Expenditures	11.4	2.9	-	11.4	-	11.4	
Total Capital Expenditures	\$ 580.7	\$ 148.6	\$ 194.5	\$ 580.7	\$ 418.1	\$ 162.7	28%

This signifies a variance of 28% from the approved budget.

The Energy Bureau **FINDS** that this is a material variance to the budget and that LUMA didn't include detailed explanation for material variances on a project-by-project basis. The Energy Bureau **ORDERS** LUMA to provide, on or before ten (10) business days from the notification of this Resolution and Order, the list of i) projects/activities that comprised the total FY 2023 Budget for the Federally Funded Capital Expenditures with the budgeted amounts, ii) which projects were done and the actual expenditures for the year, iii) which projects were not done, why, and if applicable, iv) which projects were substituted and how much were the expenditures for the year.

2. Consumption and Base Revenue - Preliminary Results

The total Forecast for Base Revenue as approved in the February 27 Order for FY 2023 was \$1,170MM. LUMA represents that the actual Base Revenue for the full FY 2023 was \$1,024MM, a variance of \$146MM, as shown in the table below.⁷

	FY2023 Forecast	Q4 Forecast	Q4 Actuals	YTD Forecast	YTD Actuals	YTD Variance
Total Consumption (GWh)	16,511	4,166	4,130	16,511	15,545	(966)
Base Revenue (\$ millions) ¹	\$ 1,170	\$ 294	\$ 260	\$ 1,170	\$ 1,024	\$ (146)

¹ Base Revenue does not include revenue collected for Fuel Adjustment, Purchased Power, CILT, and Subsidies.

This signifies a variance of 12.5% from the FY 2023 Base Revenue Forecast. LUMA states they are providing the preliminary financial information subject to revision upon completion of the year-end financial closing process and may differ materially from the final numbers.⁸

⁶ LUMA FY23 Q4 Report, Exhibit 1 Q4 Report, p. 18.

⁷ LUMA FY23 Q4 Report, Exhibit 1 Q4 Report, p. 10.

⁸ *Id.*, p.10.



The Energy Bureau **FINDS** that this is a material variance to the forecast for collections and that LUMA has not explained the material variance. This variance from the forecasted revenue may, if action is not taken, cause a negative working capital issue to the system.⁹

The Energy Bureau **ORDERS** LUMA to provide, **on or before ten (10) business days from the notification of this Resolution and Order**, an explanation as to what drives the variance in Revenue from the forecast and what actions, as required in the 2017 Rate Order¹⁰ or others, LUMA intends to take to recover the Revenue shortfall.

3. Shared Services

The total FY 2023 Budget for the Shared Services Expenditures as approved in the February 27 Order was \$59.8MM. LUMA represents in the LUMA FY23 Q4 Report that the actual expenditures for the full FY 2023 for this line item was \$67.0MM, a variance/deficit of \$7.2MM, as shown in the table below.¹¹

	FY2023 Budget ¹	Q4 Budget ¹	Q4 Actuals ¹	YTD Budget ¹	YTD Actuals ¹	YTD Variance (\$)	YTD Variance (%)
Labor	4.7	1.2	1.1	4.7	3.5	1.2	
Property & Casualty Insurance	44.1	11.0	13.1	44.1	52.3	(8.2)	
IT Service Agreements	7.6	1.9	0.9	7.6	4.1	3.5	
Professional & Technical Outsourced Services	1.5	0.4	2.4	1.5	5.3	(3.8)	
Other	0.7	0.2	1.2	0.7	1.8	(1.1)	
Subtotal	\$ 58.6	\$ 14.7	\$ 18.7	\$ 58.6	\$ 67.0	\$ (8.4)	-14%
2% Reserve for Excess Expenditures	1.2	0.3		1.2			
Shared Services Total	\$ 59.8	\$ 15.0	\$ 18.7	\$ 59.8	\$ 67.0	\$ (7.2)	-12%

¹ Figures may not add due to rounding.

This signifies a variance of 12% from the approved budget. LUMA represents that “the primary driver for the \$7.2 million year-to-date variance is higher property and casualty insurance costs as a result of higher-than-expected premiums for the generation fleet as a portion of the total insurance program, as well as increased professional and technical outsourced services costs mainly related to Genera transition activities”.¹²

The Energy Bureau **FINDS** that this is a material variance, and that this deficit may, if action is not taken, cause a working capital issue to LUMA since the Shared Services expenditures is an activity that LUMA recovers from PREPA.

The Energy Bureau **ORDERS** LUMA to provide, **on or before ten (10) business days from the notification of this Resolution and Order**, what actions LUMA intends to take to recover the recovery shortfall for the shared services rendered.

B. GenCo and HoldCo Q4 Report

The February 27 Order was specific that the Quarterly Report are due “within 45 days after each fiscal year Quarter”¹³. The order was specific that the Budgets to Actual Reporting requirement includes the “[T]racking of certified Budget to Actual for GridCo, GenCo and HoldCo”¹⁴. Since GENERA's Commencement Date was July 1, 2023; PREPA is the responsible party to file the Q4 Report for Generation. In PREPA's June 2, 2023, *Motion Submitting to the*

⁹ Non-Federally Funded T&D, Generation and Other expenditures.

¹⁰ Final Resolution and Order, *In re: Puerto Rico Electric Power Authority Rate Review*, Case No. CEPR-AP-2015-0001, January 10, 2017 (“2017 Rate Order”).

¹¹ LUMA FY23 Q4 Report, Exhibit 1 Q4 Report, p. 29.

¹² LUMA FY23 Q4 Report, p. 29.

¹³ See the February 27 Order, page 28 Section G. “Additional Quarterly Reporting Requirements.”


¹⁴ *Id.*, page 32 Attachment A “Reporting Requirements”.





Energy Bureau the Q3 Report recognized it had a requirement to submit “the Fourth Quarter of Fiscal Year Generation Report (“Q4 report”)”¹⁵.

The Energy Bureau **ORDERS** PREPA to provide to LUMA, **on or before five (5) business days from the notification of this Resolution and Order**, the quarterly reporting requirements listed in the February 27 Order for GenCo, HoldCo and the Other expenses that are part of the expenditures of the System. The Energy Bureau **ORDERS** LUMA to revise such information and file within **ten (10) business days** from the notification of this Resolution and Order, in a similar presentation format in which LUMA filed its FY23 Q4 Report.¹⁶

C. Quarterly Budgets to Actual Reporting

 The Energy Bureau **REMINDS** LUMA that it is the party responsible to file each year with the Energy Bureau the total System Annual Budgets¹⁷ corresponding to the operating entities¹⁸ that operate the System. The total System budget submitted is for the expenditure needs to be funded by the revenue requirement of the 2017 Rate Order. It is in the best interest of the people of Puerto Rico to see the Quarterly Budgets to Actual Reporting requirement of the totality of the System, not just divided by each entity. In the interest of clarity, the Budgets to Actual Reporting shall include the Budget to Actual for GridCo, GenCo., and HoldCo and other expense based on templates provided by the Puerto Rico Oversight Board.¹⁹


 The Energy Bureau **ORDERS** LUMA prospectively to submit and include all actual costs funded by the Base Rate in the Budgets to Actual Reporting. To avoid doubt, LUMA must submit the Budget to Actual for GridCo, GenCo, and HoldCo and other expenses in the Report, not just the T&D Budget portion of the System. The Energy Bureau **ORDERS** PREPA and GENERA to make sure all necessary information and documentation is timely provided to LUMA for LUMA's timely preparation and filing of the required reports.

III. Conclusion

The Energy Bureau **ORDERS** PREPA and LUMA to provide the information as required in Section II *Discussion and Analysis* of this Resolution and Order.

The Energy Bureau **WARNS** LUMA, Genera, and PREPA that (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 thousand dollars (\$10,000) nor greater than twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

Be it notified and published.



¹⁵ See PREPA's June 2, 2023 “Motion to Submit the Puerto Rico Electric Power Authority's FY2023 Q3 Report” page 2 item #4.

¹⁶ Non-Federally Funded T&D, Generation and Other expenditures

¹⁷ *Id.*

¹⁸ LUMA, Genera, HydroCo, HoldCo and Other expenditures.

¹⁹ For reference only, available at <https://www.aafaf.pr.gov/wp-content/uploads/prepa-b2a-fy2023-q4-ago-23-2023.pdf> (Last verified September 14, 2023).



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 September 18, 2023. President Edison Avilés Deliz did not intervene. Also certify that on September 18, 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.rodriguezrivera@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, September 18, 2023.



Sonia Seda Gaztambide
Clerk

