

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

NEPR

Received:

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IN RE:
IMPLEMENTATION OF THE PUERTO
RICO ELECTRIC POWER AUTHORITY
INTEGRATED RESOURCE PLAN AND
MODIFIED ACTION PLAN

CASE NO. NEPR-MI-2020-0012

**SUBJECT: Motion Requesting Extension to Comply
with September 15th Order**

**MOTION REQUESTING EXTENSION TO COMPLY WITH SEPTEMBER 15TH
ORDER**

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy ServCo, LLC and LUMA Energy, LLC (collectively “LUMA”), through the undersigned legal counsel, and respectfully submit the following:

1. On April 4, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("April 4th Order") whereby it, among other matters, ordered PREPA to require proponents for the Tranche 1 RFP to use the most recent interconnection cost estimates provided by LUMA to present their Best and Final Offer (“BFO”) and determined that “[a]ny price discrepancy between the interconnection costs used for the BFO and the final interconnection cost (established by LUMA through the interconnection RFP [the “Final Interconnection Costs”]) **SHALL NOT** be assumed by the proponents”. *See* April 4th Order on page 1.

2. On September 15, 2023, the Energy Bureau issued a Resolution and Order (“September 15th Order”) in which it takes administrative notice of a letter issued by the Fiscal Oversight Management Board on September 14, 2023 approving certain amendments to the Power Purchase and Operating Agreements (“PPOAs”) for the Tranche 1 Projects and incorporates it into

this proceeding. *See* September 15th Order on page 1. In addition, the Energy Bureau notes that the Automatic Termination Date of the PPOAs between PREPA and the project proponents chosen for Tranche 1 is approaching its deadline of September 30, 2023, and issues separate sets of orders to PREPA and LUMA related to the Final Interconnection Costs. *See id.* at pages 1-2.

3. Specifically, the Energy Bureau orders PREPA to, within five (5) business days, file a report providing certain information specified in the September 15th Order including, among others, a table comparing, for each project, the interconnection cost estimates used by the proponents for the execution of the PPOA and the Final Interconnection Costs and indicating whether there is a decrease or increase regarding the final interconnection costs (“Interconnection Price Cost Discrepancy”); indicate that the Interconnection Cost Price Discrepancy not to be assumed by the Tranche 1 proponents; and indicate any BFO reduction in case of a decrease in the interconnection costs. *See id.*

4. In addition, the Energy Bureau orders LUMA to, within five (5) calendar days from the notification of the September 15th Order:

- i) **CONFIRM** that the interconnection costs for each project shall only include the costs of the works necessary for the interconnection of that project and reasonable oversight costs [(“Task (i)”)];
- ii) **INCLUDE** a detailed explanation for any [Interconnection Cost Price Discrepancies] [(“Task (ii)”)];
- iii) **INFORM** the Energy Bureau the estimated date in which LUMA would need funding for the Interconnection Cost Price Discrepancies for the Tranche 1 projects to ensure the timely development and construction of the points of interconnection for the Energy Bureau to ensure the timely availability of the funds [(“Task (iii)”)];
- iv) **PRESENT** a proposal to obtain the funds required to offset such interconnection costs discrepancy (e.g., include in the PPCA reconciliation factor to be recuperated during the 24 months after achieving subsequent closing date) [(“Task (iv)”)]; and

- v) **MODIFY** the terms of any interconnection agreement to be executed between LUMA and the Tranche 1 project proponents to be aligned with the April 4th Order (i.e., the developer will only assume the interconnection costs originally included in the BFO) [(“Task (v)”)].

See id. at page 3 (footnote excluded).

5. LUMA respectfully informs that it received the September 15th Order at the end of the business day of Friday, September 15, thereby allowing for only two (2) business days to comply with its requirements. LUMA respectfully submits that this two (2)- business day timeframe is not sufficient for LUMA to properly address the requirements of the September 15th Order.

6. The Interconnection Cost Price Discrepancies discussed in the Order will be determined by a comparison of the total costs set forth in the original Class 3 cost estimates provided by LUMA for these projects¹ with the total costs that have resulted from the RFP conducted by LUMA for the construction of the Point of Interconnection of tranche 1 projects. However, the basis of the cost discrepancies cannot be strictly ascertained by looking at the cost breakdown of the proposals, since the estimates are structured differently. Therefore, the required analysis with respect to cost discrepancies set forth in Task (ii) of the September 15th Order will have to be conducted by performing an econometric analysis. In addition, LUMA will need to investigate benchmarking data for such purposes and to address the Energy Bureau’s provision regarding the reasonability of the oversight costs (in Task (i) of the September 15th Order). To conduct this analysis, LUMA needs to conduct research and coordinate resources and efforts among different LUMA departments. LUMA respectfully submits that this two (2)-business-day

¹ As defined by AACE, Class 3 estimates are prepared to use for budgetary purposes based on basic engineering and semi-detailed description with a range of accuracy from -10% to -20% on the low side to +10% to +30% on the high side.

time frame is insufficient to allow for LUMA to properly conduct this research and coordination and to provide the Energy Bureau with the resulting information it requires to inform its decisions.

7. In addition, LUMA respectfully submits that LUMA's proposal to obtain funds to offset these price discrepancies required under Task (iv) of the September 15th Order (which LUMA anticipates will be through the PPCA) and the deadline to obtain the funding for Interconnection Cost Price Discrepancies required under Task (iii) of the September 15th Order is directly affected by the analysis to address Tasks (i) and (ii) above.

8. Therefore, LUMA respectfully submits that Tasks (i) to (iv) of the September 15th Order cannot be completed within the two (2) business days allowed under September 15th Order and anticipates it will need an additional two (2) business days- that is until Friday, September 22, 2023 to appropriately address these requests. This timeline is consistent with the timeline provided to PREPA to comply with the September 15th Order, and, therefore, LUMA respectfully submits it should not result in undue delay in this proceeding.

9. Regarding Task (v) of the September 15th Order, although LUMA can fairly quickly modify the affected interconnection agreements to provide that the developer will only assume the interconnection costs, LUMA will also need to change the payment terms of these agreements to provide for greater upfront payments to address the shift of funding sources and timing for recovery of costs through the PPCA. In order to determine these payment terms with certainty, LUMA will need to know whether the PPCA cost recovery mechanism proposed by LUMA will be approved by the Energy Bureau. Therefore, LUMA also respectfully requests the Energy Bureau to extend the deadline to complete the necessary modifications to the interconnection agreements to a term of five (5) business days, following the approval of the PPCA cost recovery proposal submitted by LUMA.

WHEREFORE, LUMA respectfully requests the Energy Bureau to **take notice** of the aforementioned and **grant** LUMA an extension of time, until Friday, September 22, 2023, to submit the information required under Tasks (i) through (iv) of the September 15th Order and an additional five (5) work-day term, commencing after the approval of the PPCA cost recovery proposal submitted by LUMA as per Task (iv) of the September 15th Order, to comply with Task (v) of the September 15th Order.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 19th of September 2023.

We hereby certify that we filed this motion using the electronic filing system of this Puerto Rico Energy Bureau and that copy of this motion was notified to PREPA counsel mvazquez@diazvaz.law and jmarrero@dazvaz.law.



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