

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

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

CASE NO.: NEPR-MI-2020-0012

SUBJECT: LUMA's Motion Requesting Extension to Comply with September 15th Order.

RESOLUTION AND ORDER

On April 4, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("April 4 Order") through which it ordered PREPA to require Tranche 1 proponents to use the most recent interconnection costs estimates, provided by LUMA¹, to present their Best and Final Offer ("BFO").²

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The Energy Bureau determined that any Interconnection Cost Price Discrepancies between the interconnection costs used to determine the BFO and the final interconnection costs, as established by LUMA through the interconnection RFP ("Final Interconnection Costs") **would not be assumed** by the proponents. The Energy Bureau determined that any price decrease would be noted and the BFO reduced.³

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The Energy Bureau also determined that any delay of the Commercial Operation Date ("COD"), not caused by the proponent, would be properly address by the Energy Bureau assuring that any delay in the completion of interconnection works shall not be adjudicated against the Resource Provider in achieving the COD in the required 24-months from the *Closing Date*.⁴

On September 14, 2023, the Fiscal Oversight Management Board ("FOMB") issued a letter approving certain amendments to the Power Purchase and Operation Agreements ("PPOAs") for the Tranche 1 projects.

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Consequently, on September 15, 2023 the Energy Bureau issued a Resolution and Order ("September 15 Order") in which it took ADMINISTRATIVE NOTICE of the FOMB September 14 letter and incorporated it into this proceeding. The Energy Bureau also noted the time constraint posed by the Automatic Termination Date of the PPOAs and **DEEMED** necessary and beneficial for the public interest to **ORDER** LUMA⁵ to, **withing five (5) calendar days from the notification of the Resolution and Order provide the following:**

- (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 costs⁶;

¹ LUMA Energy, LLC, and LUMA Energy ServCo, LLC, (collectively referred to as, "LUMA").

² See In Re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan, Case No.: NEPR-MI-2020-0012, Resolution and Order, April 4, 2023.

³ *Id.*

⁴ By September 30, 2023 certain conditions shall be met to prevent the automatic termination of the agreement ("Automatic Termination Date"). One of these conditions is the execution of and Interconnection Agreement between LUMA and the project proponents.

⁵ The September 15 Order also required PREPA to submit certain information.

⁶ By "reasonable oversight costs" the Energy Bureau understands such supervision costs shall not exceed 3 - 5 % of the construction costs.



- (ii) **INCLUDE** a detailed explanation for any interconnection cost discrepancies;
- (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;
- (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); 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 4 Order (*i.e.*, the developer will only assume the interconnection costs originally included in the BFO).

On September 20, 2023, LUMA filed a document titled *Motion Requesting Extension To Comply With September 15th Order* ("Motion") in which LUMA asked the Energy Bureau to grant an extension of time, until Friday, September 22, 2023, to submit the information required under items (i) through (iv) of the September 15 Order and an additional five (5) work-day term, commencing after the approval of the PPCA cost recovery proposal submitted by LUMA as per item (iv) of the September 15 Order, to comply with item (v) of the September 15 Order.

Upon review of LUMA's arguments, the Energy Bureau **GRANTS** LUMA until September 22, 2023, to submit the information required under all items, (i) through (v), of the September 15 Order. LUMA **must** submit a proposed modified version (and a redline reflecting modification to payment terms) of the mentioned Interconnection Agreement.

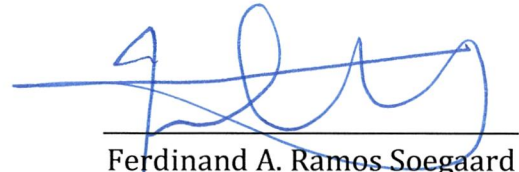
The Energy Bureau **WARNS** LUMA that any person who intentionally violates any provision of Act 57-2014, omits, neglects or refuses to obey, observe and comply with any rule or decision of the Energy Bureau shall incur a less serious and convicted offense that may be punished with imprisonment not exceeding six (6) months, or with a fine of not less than five hundred dollars (\$500) nor over five thousand dollars (\$5,000), at the discretion of the Energy Bureau. In case of recidivism, the established penalty will increase to a fine of not less than ten thousand dollars (\$10,000) nor over twenty thousand dollars (\$20,000), at the discretion of the Energy Bureau.

The Energy Bureau **WARNS** LUMA 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.




Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner


Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 20, 2023. I also certify that on September 20, 2023, a copy of this Resolution and Order was notified by electronic mail to laura.rozas@us.dlapiper.com, ana.rodriguezrivera@us.dlapiper.com; jmarrero@diazvaz.law and mvazquez@diazvaz.law; and I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, on September 20, 2023.


Sonia Seda Gaztambide
Clerk

