

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

**NEPR**

**Received:**

**Sep 22, 2023**

**11:21 PM**

**IN RE:** REVIEW OF LUMA'S INITIAL BUDGETS

**CASE NO.:** NEPR-MI-2021-0004

**SUBJECT:** Urgent Motion to Request Approval for the Proposed Contracts for Insurance Defense

**URGENT MOTION TO REQUEST APPROVAL FOR THE  
PROPOSED CONTRACTS FOR INSURANCE DEFENSE**

**COMES NOW** the Puerto Rico Electric Power Authority ("PREPA"), through its counsel of record, and respectfully submits and requests as follows:

1. On May 16, 2023, LUMA<sup>1</sup> filed a document titled *Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Proposed Annual T&D Projections Through Fiscal Year 2026* ("May 16 Motion") for the Energy Bureau of the Puerto Rico Public Service Regulatory Board's ("Energy Bureau") review and approval. The May 16 Motion included the following budget components: (i) the proposed T&D budget developed by LUMA, (ii) the proposed generation budget developed by Genera PR, LLC ("Genera") on behalf of the PREPA, for the PREPA subsidiary GENCO LLC ("GenCo"), and (iii) the proposed Budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC ("HydroCo") and PREPA PropertyCo, LLC ("PropertyCo").
2. On June 25, 2023, the Energy Bureau issued a *Resolution and Order* ("June 25 Order")

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<sup>1</sup> LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as, "LUMA").

through which it modified the Proposed Consolidated Fiscal Year 2024 submitted by LUMA and approved the modified budgets subject to compliance with various orders ("FY24" Approved Budget"). The June 25 Order directed PREPA to file for review and approval, any new contract or amendment to an existing contract, before executing or making any award of such contract or amendment.

3. On July 7 2023, in response to the June 25 Order, PREPA filed with the Energy Bureau various motions requesting approval of certain PREPA contracts ("July 7 Motions").<sup>2</sup>

4. Through the July 7 Motions, PREPA submitted the Freese and Nichols Inc. and The Claro Group LLC contracts for the Energy Bureau's review and approval. PREPA herein resubmits these contracts.

- a. Freese and Nichols Inc.- \$445,783.00 – The scope of services in Article I of this contract states that Freese and Nichols will assist PREPA with the insurance claims.
- b. The Claro Group LLC- \$393,750.00- The scope of services in Article I of this contract states that the Claro Group will assist PREPA in quantifying and preparing claims, the services include data acquisition and organization, as well as review and analysis, claim coordination, tracking and defense including claim settlement and litigation support. This litigation support includes, but is not limited to assisting

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<sup>2</sup> *Motion to Submit PREPA's Contract for Professional Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* dated July 7, 2023; *Second Motion to Submit PREPA's Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* dated July 7, 2023; *Third Motion to Submit PREPA's Contracts for Professional and Technical Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* dated July 7, 2023, ("July 7 Motions").

PREPA in defense and responding inquiries from insurance company representatives, participation in claim negotiations and settlement discussions, participation in depositions, preparation of expert reports for litigation and others.

5. PREPA also submits to the Energy Bureau's the Willis Tower Watson CAC, Inc. contract<sup>3</sup> for its review and approval.

- a. Willis Tower Watson- \$974,400. ("Willis Tower") provides PREPA with Forensic Accountants and Complex Claims Office representatives who work on Hurricane Maria claim. The scope of services in Article I of this contract states that Willis Tower will prepare PREPA's claims as a result of Hurricane María and will assist PREPA in quantifying and preparing claims packages for property damage, inventory and contents and business income losses claims, among others.

6. On September 2, 2023, PREPA submitted before the Energy Bureau a document titled *Urgent Motion to Submit the McGwire Woods Contract for the Energy Bureau's Review and Approval* ("September 2 Motion"). In the September 2 Motion, PREPA explained that the funds from the McGuire Woods LLP contract are subject to compensation through the FEMA, thus the funds for the McGwire Contract have no bearing in the FY2024 budget as approved by the Energy Bureau through the June 25 Order. PREPA further explained this in the document titled *Motion in Compliance with the September 13 Order*, filed on September 15, 2023. Notwithstanding, and even after PREPA informed the Energy Bureau of its disposition to hold a meeting in order to explain the need to have this contract approved and executed for the imminent settlement negotiations, the Energy Bureau has yet to issue a determination.

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<sup>3</sup> The Freese and Nichols contract, the Claro Group Contract and the Willis Tower Watson contract, together "the Proposed Contracts for Insurance Defense". The draft contracts are included as AnnexA. PREPA also certifies that none of the workstreams handled in the proposed contract are duplicative of works performed by LUMA or Genera.

7. Similarly to the McGuire Contract, the funds for the Proposed Contracts for Insurance Defense are not part of the Non-Labor/ Other Operating Expenses of the HoldCo or Hydro Co approved FY 2024 Budgets. PREPA respectfully informs the Energy Bureau that the general conditions of the Authority's insurance policy provide in clause 25, the following:

25. PROFESSIONAL FEES

This policy is extended to include the reasonable expenses incurred by the Insured for the professional services of adjusters, auditors, accountants, architects and engineers, (except the Assured's own employees or public adjusters) which are required in order to establish or to pursue a loss which is covered by this Policy.

8. PREPA certifies that until now the policy adjuster has classified the costs of the “PREPA Claim Prep Advisors” as “Undisputed Values for Payment Recommendations”, therefore the payment disbursements to the Claro Group and Freese and Nichols and Willis Tower are covered by the insurance policy payments.

9. The Claro Group and Freese and Nichols firms work closely with McGuire Woods consultant on PREPA’s insurance claims and since PREPA is waiting for approval to execute these contracts, there are detained workstreams by each of these consultants as explained by PREPA in Annex A-1 of the Insurance Claims Report filed on September 11, 2023 in case NEPR-MI-2020-0001 *In re: Puerto Rico Electric Power Authority Permanent Rate, as works that are currently pending*.<sup>4</sup> The Energy Bureau’s approval of these contracts within the next few days is instrumental in the success of the settlement meetings scheduled for next month between PREPA and the insurance providers.

10. PREPA cannot stress enough that not having these contracts approved severely hinders

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<sup>4</sup> *Moción para Presentar Informe de Reclamaciones Correspondientes al Mes de agosto de 2023* filed by PREPA on September 11, 2023, in case NEPR-MI-2020-0001.

PREPA's possibilities in defending its interests before the insurance providers. PREPA is counting on the reports, expert advice, and technical resources that these firms have provided in order to defend the interest of all the ratepayers and stakeholders impacted by these insurance claims.

**WHEREFORE**, PREPA respectfully requests the Energy Bureau to take **NOTICE** of the information provided, and **GRANT** PREPA approval to execute the Proposed Contracts for Insurance Defense, as well as the McGuireWoods contract.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 22<sup>nd</sup> day of September 2023.

*/s Maralíz Vázquez-Marrero*  
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## 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](mailto:margarita.mercado@us.dlapiper.com) and [laura.rozas@us.dlapiper.com](mailto:laura.rozas@us.dlapiper.com) and to Genera-PR, LLC through its legal representatives [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com); [legal@genera-pr.com](mailto:legal@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com).

In San Juan, Puerto Rico, this 22<sup>nd</sup> day of September 2023.

*/s Joannely Marrero-Cruz*  
Joannely Marrero Cruz

**Annex A**

[0157-20230922- Three Contracts for Review and Approval](#)