

**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:** Resolution and Order pertaining to *PREPA's Motion for Reconsideration of Portions of the August 16 Order and in Compliance with the August 14 Request for Information and the August 16 Order*, filed by the Puerto Rico Electric Power Authority.

**RESOLUTION AND ORDER**

On June 25, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("June 25 Resolution") through which it modified the Proposed Consolidated Fiscal Year 2024 ("FY24") Budget submitted by LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively referred to as, "LUMA") and approved the modified budgets subject to compliance with various orders in the June 25 Resolution.

Through the June 25 Resolution, the Energy Bureau ordered the Puerto Rico Electric Power Authority ("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.

On August 16, 2023, the Energy Bureau issued a Resolution and Order restating its July 19, August 3, and August 14 Resolutions and granted PREPA ten (10) days to file a table including the totality of the approved and proposed contracts for FY24, the amounts approved and proposed for those contracts, the line items from the category to which they correspond, and the remaining balance for that category considering said amounts ("August 16 Resolution"). The Energy Bureau also reminded PREPA that all executed contracts not approved by the Energy Bureau nor included in the referenced table must be terminated and no services about those contracts can be rendered. The Energy Bureau further reminded PREPA to notify the relevant agencies, including the Comptroller of Puerto Rico, of the termination of those contracts.

On September 1, 2023, PREPA filed a document titled *PREPA's Motion for Reconsideration of Portions of the August 16 Order and in Compliance with the August 14 Request for Information and the August 16 Order* ("September 1 Motion"). Through the September 1 Motion, PREPA responded to a requirement of information issued by the Energy Bureau on August 16, 2023 ("August 16 ROI"). PREPA also requested reconsideration of the August 16 Resolution. Specifically, as it pertains to our ruling that all contracts not approved by the Energy Bureau be terminated immediately.<sup>1</sup> PREPA also requested the Energy Bureau to reconsider its determination that there are no pending contracts for approval before its consideration.<sup>2</sup> PREPA argued that the cancellation of executed contracts would be detrimental to PREPA's operations.<sup>3</sup> PREPA contended that the cancellation of the ADP Inc. contract for processing payroll services would result in PREPA not fulfilling its obligation to pay its employees their salaries.<sup>4</sup> PREPA further stated that the cancellation of the Genesis Security Services Inc. Contracts would have devastating effects.<sup>5</sup> According to PREPA, these security services

<sup>1</sup> September 1 Motion, pp. 22 – 23.

<sup>2</sup> *Id.*, p. 23.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*



contracts are divided into two contracts for north and south regions and are shared with Genera PR, LLC ("Genera"); whereby Genera holds 70% of these services and PREPA has 30%.<sup>6</sup> PREPA certified that Genera would be responsible for reimbursing PREPA 70% of the amounts contracted for services rendered by Genesis.<sup>7</sup>

In its September 1 Motion, PREPA also requested that the Energy Bureau evaluate and approve the HoldCo Contracts for External Audited Services, Professional & Technical Outsourced Services, and Security as submitted in the July 7 Motions.<sup>8</sup>

Last, PREPA requested clarification of the June 25 Resolution as it pertains to the submittal of contracts before the Energy Bureau, which PREPA deemed as excessively broad.<sup>9</sup> Particularly, PREPA asked if it was expected to only submit the external consultants and professional services contracts for the Non-Labor/Other Operating Expenses categories from the FY2024 Approved Budget or was it expected to submit even the contracts for acquiring security equipment like boots for its employees.<sup>10</sup>

PREPA referenced contracts that were not part of the operation budget as they qualify for reimbursements either through the Federal Emergency Management Agency ("FEMA") or Insurance and requested clarification as to whether those contracts that do not affect the FY24 Approved Budget be also submitted for the Energy Bureau's review and approval.<sup>11</sup>

The Energy Bureau **HIGHLIGHTS** that a determination as to whether PREPA met the requirements of information set forth by the Energy Bureau in its August 16 ROI will be made through a separate Resolution and Order.

The Energy Bureau **PARTIALY GRANTS** PREPA's request for reconsideration and **REITERATES** its August 16 Resolution whereby it determined that all executed contracts not approved by the Energy Bureau must be terminated and no services about those contracts can be rendered. The Energy Bureau is **COGNIZANT** of PREPA's responsibility to maintain its employees and operations in a competent manner. Therefore, PREPA shall select those existing executed contracts that are essential for PREPA's operations and fall within the approved budget of the June 25 Resolution and submit them for the Energy Bureau's approval. Once PREPA determines which existing executed contracts shall be maintained and fall within the approved budget, the remaining executed contracts shall be terminated. In its August 16 Resolution, the Energy Bureau further reminded PREPA to notify the relevant agencies, including the Comptroller of Puerto Rico, of the termination of those contracts.

The Energy Bureau **CLARIFIES** that PREPA shall submit before the Energy Bureau for its review and approval, **ALL** existing and proposed contracts, or amendments to existing contracts, before executing or making any award of such contract or amendment, including those not subject to the FY24 Approved Budget, as they qualify for reimbursements either through the Federal Emergency Management Agency ("FEMA") or Insurance.

Below we provide some context regarding the ADP Contract and the Genesis Security Services Inc. Contracts.

On July 7, 2023, PREPA filed a document titled *Motion to Submit PREPA's Contract for Professional Services in Compliance with Portion of the June 25 Order and Urgent Request for Approval* ("July 7 First Motion"). Through the July 7 First Motion, PREPA submitted one contract between PREPA and a contractor for review and approval by the Energy Bureau.

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*, Appendix G.

<sup>8</sup> *Id.*, pp. 23 – 24.

<sup>9</sup> *Id.*, pp. 24 – 25.

<sup>10</sup> *Id.*, p. 25.

<sup>11</sup> *Id.*





On July 7, 2023, PREPA filed a document titled *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* ("July 7 Second Motion"). Through the July 7 Second Motion, PREPA submitted twenty-four (24) contracts between PREPA and multiple contractors for review and approval by the Energy Bureau, including the **Genesis Security Services Inc. Contracts**.

On July 7, 2023, PREPA filed a document titled *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* ("July 7 Third Motion"). Through the July 7 Third Motion, PREPA submitted eight (8) contracts between PREPA and multiples contractors for review and approval by the Energy Bureau, **including the ADP Contract**.

On July 11, 2023, the Energy Bureau issued a Resolution and Order ("July 11 Order") through which it determined that **PREPA did not comply** with the criteria for the Energy Bureau's review of the contracts submitted with the July 7 Motions. The Energy Bureau highlighted that to review and grant approval of these contracts, PREPA had to specify: 1) if these are the totality of the contracts to be executed during FY24 and 2) how the amounts referenced pertaining these contracts fit within the FY24 Approved Budget. Hence, the Energy Bureau granted PREPA until Friday, July 14, 2023 to identify the budgeted line items from the Non-Labor Expenses Category that the contracts fall within and make sure the referenced amounts are within the budgeted amounts for FY24 considering the totality of the contracts to be executed during FY24.

On July 14, 2023, PREPA filed a document titled *Informative Motion in Compliance with the July 11 and July 13 Orders* ("July 14 Informative Motion"). In its July 14 Informative Motion, PREPA informed that the contracts submitted with the July 7 Motions were not the totality of the contracts to be executed during FY24 and that it would submit contracts for the Energy Bureau's approval on a **rolling basis**, specifying the budget line item to which they correspond.

From July 12, 2023 onwards, PREPA has filed multiple contracts for review and approval by the Energy Bureau. Nonetheless, **PREPA has not resubmitted several contracts, including but not limited to the ADP Contract or the Genesis Security Services Inc. contracts for the Energy Bureau's review and approval, even though they have been executed, in clear breach of the Energy Bureau orders.** The Energy Bureau **ORDERS** PREPA to, **within five (5) business days**, resubmit the ADP Contract and the Genesis Security Services Inc. Contracts. The Energy Bureau **REMINDS** PREPA that such contracts will be approved only if the amounts of these contracts **fit within the corresponding line item of the FY24 Approved Budget and meet the criteria in the July 11 Order.**

About the Genesis Security Services Inc. Contracts, PREPA certified that Genera was responsible for reimbursing PREPA 70% of the amounts contracted for services rendered by Genesis. The Energy Bureau **ORDERS** Genera to, **within five (5) business days**, indicate the line item within Genera's budget (as approved in the June 25 Resolution) from which this 70% payment for security will be applied to. The Energy Bureau further **ORDERS** PREPA to **within five (5) business days**, adjust the amount for those contracts in the referenced table, under those percentages and assure that such amounts are within the June 25 Resolution approved FY24 budget.

In the table submitted with the September 1 Motion, PREPA references many contracts not yet submitted for the Energy Bureau's review and approval. Hence, the Energy Bureau **ORDERS** PREPA to submit for the Energy Bureau's review and approval, **within five (5) business days**, any other proposed contracts referenced in the table that have not yet been approved by the Energy Bureau and any contracts submitted with the July 7 Motions that PREPA still intends to execute and that have not been yet resubmitted for our review and approval, and any other contracts PREPA intends to execute not yet submitted **before** the Energy Bureau.



The Energy Bureau **WARNS** PREPA that, noncompliance with this Resolution and Order, **will result** in the imposition of fines pursuant to Article 6.36 of Act 57-2014.<sup>12</sup> As such, in this case, the Energy Bureau will impose a fine of **twenty-five thousand dollars (\$25,000) per day of non-compliance** until compliance is achieved. Hence, if the **totality of the contracts PREPA plans to execute for FY24** are not filed opportunely **within five (5) business days**, the Energy Bureau will impose PREPA a **daily fine of twenty-five thousand dollars (\$25,000) until compliance is met**.

Be it notified and published.

  
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Edison Avilés Deliz  
Chairman

  
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Sylvia B. Ugarte Araujo  
Associate Commissioner

  
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Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
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Antonio Torres Miranda  
Associate Commissioner

**CERTIFICATION**

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on September 27, 2023. Associate Commissioner Lillian Mateo Santos dissented without written opinion. Also certify that on September 27, 2023, I have proceeded with the filing of this Resolution and Order, and was notified by email to [pre@promesa.gov](mailto:pre@promesa.gov); [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com); [ana.rodriguezrivera@us.dlapiper.com](mailto:ana.rodriguezrivera@us.dlapiper.com); [julian.angladapagan@us.dlapiper.com](mailto:julian.angladapagan@us.dlapiper.com); [mvazquez@diazvaz.law](mailto:mvazquez@diazvaz.law); [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law); [legal@genera-pr.com](mailto:legal@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com).

For the record, I sign in San Juan, Puerto Rico, today, September 27, 2023.

  
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Sonia Seda Gaztambide  
Clerk



<sup>12</sup> Puerto Rico Energy Transformation and RELIEF Act, as amended (Act 57-2014”).