

**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: PREPA Urgent Motion to Submit Two Contracts for the Energy Bureau's Review and Approval

RESOLUTION AND ORDER

I. Introduction

On May 16, 2023, LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as "LUMA") 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 ("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 Puerto Rico Electric Power Authority ("PREPA") for the PREPA subsidiary GENCO LLC ("GenCo"), and the proposed Budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC ("HydroCo") and PREPA PropertyCo, LLC ("PropertyCo").

On June 25, 2023, the 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 and approved the modified budgets subject to compliance with various orders in the June 25 Resolution. The Energy Bureau further ordered 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 14, 2023, the Energy Bureau issued a Resolution and Order ("August 14 Resolution"), through which it emphasized that PREPA may not have funding available for all of the contracts it originally sought and that, therefore, in accordance with its reduced responsibilities, PREPA must effectively prioritize the contracts for which it seeks approval and demonstrate to the Energy Bureau that the contracts have been efficiently bid and negotiated, are the most cost effective contracts for necessary services and are not duplicative of work that should be done by LUMA or Genera in accordance with their respective OMAs or by PREPA's internal resources, among other requirements.

Through Resolutions issued on July 19, August 3, and August 14, 2023, the Energy Bureau ordered PREPA to submit in all future filings a table reflecting the approved and proposed contracts, 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.

On September 29, 2023, PREPA filed a document titled, *Urgent Motion to Submit Two Contracts for the Energy Bureau's Review and Approval* ("September 29 Motion"), through which, in accordance with the July 19 Resolution, PREPA submitted for Energy Bureau review and approval, Professional Services Contracts between PREPA and Universal Medical Options Inc. ("UNIMED") for the amount of \$150,000.00 and a contract between PREPA and CSA Architects & Engineers LLP ("CSA") for the amount of \$2,664,333.00. PREPA provided the proposed contracts as Annexes A and B respectively.

PREPA advises that the scope of services for the UNIMED contract comprises the provision of medical evaluation services for PREPA employees upon requirement of the Occupational



Health Division, to be paid from the Labor – Pension and Benefits Line item of the FY 2024 Approved budget.¹

PREPA advises that the scope of services for the CSA Architects & Engineers LLP contract comprises the provision of engineering services for design and specifications of the irrigation channels and laterals repairs for the Public Irrigation Districts in the South Coast, Isabella and Lajas Valley. PREPA asserts these services are necessary to enable it to continue with its plans to repair the Irrigation Systems. PREPA explains that the CSA contract corresponds to Project Worksheet (PW) No. 9510 as approved by the Federal Emergency Management Agency (“FEMA”), and that it does not affect the FY 2024 Budget. In support, PREPA provides as Annexes C and D respectively, FEMA project documentation and Certification of Funds.²

Under Energy Bureau requirement, PREPA provides as Annex E, a Schedule of Approved and Requested Contracts for the relevant budget lines.

II. Analysis and Conclusion

The Energy Bureau expresses concern regarding the information PREPA provides in its requests for Energy Bureau review and approval of contracts.

In the August 14 Resolution, the Energy Bureau established certain specific requirements for proposed contract review and approval, stating:

“As part of PREPA's revised budget proposal, the Energy Bureau requires the inclusion of robust policies and procedures for the management of external consulting engagements.

This includes:

- Defined scopes of work, deliverables, timelines, and invoicing expectations within all contractor agreements.
- Designated internal supervisors responsible for approving work, monitoring progress, verifying satisfactory completion of deliverables, and authorizing payments for each contract.
- A formal process for reviewing invoices to confirm agreement with initial contract terms and documented work records, before payment approval.
- Regular auditing of contractor relationships to identify any discrepancies in ed charges versus contracted rates and delivered services.”³

and:

“For any proposed consulting contracts, the Energy Bureau expects clear justification of why the services cannot be performed by PREPA's existing staff, LUMA, Genera, and/or the Puerto Rico Public-Private Partnership Authority (“P3A”). This justification must include an itemized description of the specific expertise, workload capacity, or other factors that require supplementary external services.

Given the Energy Bureau's mandate to ensure prudent use of ratepayer funds, unjustified reliance on external consultants is unacceptable. PREPA's proposed budgets and contracts should reflect judicious coordination between internal personnel and strictly necessary supplemental consulting engagements.”⁴

These requirements are not complied with in the proposals submitted for the two contracts for which PREPA seeks Energy Bureau approval. In view of the necessity of the UNIMED contract as asserted by PREPA for employee health matters and noting that the proposed

¹ September 29 Motion, pp. 2 – 3.

² September 29 Motion, p. 3.

³ August 14 Resolution, p. 3.

⁴ August 14 Resolution, p. 4.



CSA contract expenses will not affect the approved budgets, the Energy Bureau will not require resubmission of these contracts.

The Energy Bureau **ADMONISHES** PREPA that all required information must be included in its requests for contract approval.

The Energy Bureau **APPROVES** the UNIMED contract for \$150,000.00. The funds for this contract are to be allocated from the Labor, Pension, and Benefits line of the approved FY 2024 Budget. Based on the general information PREPA has provided, the Energy Bureau urges PREPA to revisit the level of funding for this contract, as the asserted urgent need for this contract has not been clarified. If PREPA determines that a lower level of funding is adequate, the Energy Bureau will, upon request, adjust the remaining funds in the Labor, Pension, and Benefits budget line.

The Energy Bureau notes that for the CSA contract, PREPA has provided documentation supporting its assertion that the contract will be funded through FEMA and not affect the approved budgets. The Energy Bureau **APPROVES** the CSA Contract in the not to exceed cumulative amount of \$2,664,333.00 conditioned upon PREPA using the Working Capital Advance Program, approved by FEMA, and implemented by the Central Office for Recovery, Reconstruction, and Resiliency ("COR3"), to cover the expenses associated with this contract.

The Energy Bureau **WARNS** 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.

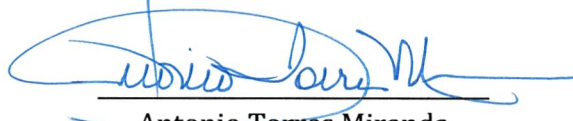
Be it notified and published.


Edison Avilés Deliz
Chairman


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 October 10, 2023. Also certify that on October 10, 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, October 10, 2023.



Sonia Seda Gaztambide
Clerk

