

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

IN RE: LUMA's INITIAL BUDGETS AND
RELATED TERMS OF SERVICE

CASE NO.: NEPR-MI-2021-0004

SUBJECT: LUMA's Petition to Vacate Certain
Reporting Requirements.

RESOLUTION AND ORDER

I. INTRODUCTION AND BACKGROUND

On May 16, 2023, LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as "LUMA") filed for review and approval with the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau"), 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"). 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.

On June 30, 2023, the Energy Bureau issued a Resolution and Order ("June 30 Resolution") through which it stated it would not entertain certain Motions for Reconsideration filed by PREPA and Genera and returned them to the filing parties, requiring that they be filed by LUMA.¹

On June 30, 2023, LUMA filed a document titled, *Submission of Motions for Reconsideration by PREPA and Genera and Notice of Intent to Request Reconsideration and Resolution and Order of June 25, 2023* ("June 30 Motion"), through which it filed for PREPA and Genera, their Motions for Reconsideration. In making this submission, LUMA expressly reserved its rights to separately address the Energy Bureau's requirement for LUMA to file PREPA's and Genera's submissions and stated that it did not prepare or participate in the development of the Motions for Reconsideration it filed for PREPA and Genera.

On September 18, 2023, the Energy Bureau issued a Resolution and Order ("September 18 Resolution"), through which it directed LUMA to prospectively file the budgets to actuals information for the system on behalf of GridCo, GenCo and HoldCo.

On September 22, 2023, the Energy Bureau issued a Resolution and Order ("September 22 Resolution"), through which it addressed the requests for reconsideration of the approved FY 2024 Budgets presented by LUMA, PREPA and Genera.

On October 2, 2023, LUMA filed a document titled *Partial Response to Resolution and Order of September 18, 2023, Request for Reconsideration and Submission of Motion by Genera* ("October 2 Motion"), through which it requested reconsideration of the Energy Bureau of the September 18 Resolution for LUMA to prospectively submit the budgets to actuals information for the Electric System on behalf of GridCo, GenCo and HoldCo.

¹ Genera filed a Motion for Reconsideration on June 30, 2023, and PREPA filed its Motion for Reconsideration on June 29, 2023.



On October 12, 2023, LUMA filed a document titled *Motion to Reconsider a Portion of the Energy Bureau's Resolution and Order of September 22, 2023* ("LUMA October 12 Motion"), through which, it requested that the Energy Bureau reconsider the determination to require that LUMA file budgets to actuals in this proceeding for the Electric System on behalf of GridCo, GenCo and HoldCo.²

In the LUMA October 12 Motion LUMA requests reconsideration of portions of the September 22 Resolution through which the Energy Bureau stated that in accordance with the T&D OMA, LUMA bears the responsibility under its obligation as agent of PREPA to do more than merely relay submissions by PREPA and Genera, maintained its requirement that LUMA file the Q4 Report, as the Q1, Q2 and Q3 Reports, within forty-five (45) days after end of Fiscal Year including all actual costs funded by the Base Rate in the Budgets to Actual Reporting and directed LUMA to submit the Budget to Actual and other expenses for GridCo, GenCo, and Holdco, rather than just for the T&D Budget portion of the System.³

In the October 12 Motion, LUMA cites the October 2 Motion in which it requested reconsideration of the Energy Bureau's directive, which required LUMA to prospectively submit budget to actuals. LUMA asserts that the T&D OMA only requires LUMA to act on behalf of PREPA in connection with LUMA's role as Operator of the T&D System and not for other matters such as HydroCo, HoldCo and GenCo expenditures. LUMA cites various sections of the T&D OMA that it asserts limit its responsibility to O&M Services under the T&D OMA. LUMA contends that the Energy Bureau's decision in this respect was arbitrary.⁴

LUMA also asserts that practical considerations support revising the Energy Bureau reporting requirements. LUMA states that the reporting requirements engender increased costs for coordination of consolidated quarterly reports that were not contemplated in the FY 2024 Consolidated Budgets due to the additional steps and external support from contractors and advisors that are required and make LUMA responsible for delays of other entities. LUMA also asserts that the requested revision in reporting is appropriate because LUMA has no role in reviewing, making determinations or preparing the budget to actual reports of GenCo, HoldCo or HydroCo as they relate to the approved budget. In addition, LUMA states that LUMA, Genera and PREPA each have their own legal representation, corporate structure, governing boards, financial policies and controls and should not be considered to be a consolidated entity for legal or administrative purposes.⁵

LUMA requests that the Energy Bureau reconsiders the order requiring LUMA to prospectively submit information on expense and spending for FY 2024 on behalf of GenCo, HydroCo and HoldCo in addition to those of GridCo.⁶

On October 12, 2023, LUMA filed a document titled, *Submission of Motion at the Request of Genera PR and Request to Vacate Order* ("October 12 Motion to Vacate"), through which LUMA submitted Genera's Motion for Partial Reconsideration and requested that the Energy Bureau vacate and set aside its June 30 Order, enter a ruling clarifying that PREPA, Genera and LUMA shall submit separately any motions, reports and information relating to their respective budgets and release LUMA from all orders that may be construed to require that LUMA submit Motions or reports for Genera or PREPA in this proceeding in connection with their approved budgets.⁷

In the October 12 Motion to Vacate, LUMA incorporated by reference the arguments it set forth in the October 2 Motion, in which LUMA contended that in accordance with the T&D

² LUMA October 12 Motion, p.4.

³ LUMA October 12 Motion, p.3.

⁴ LUMA October 12 Motion, pp. 4 – 7.

⁵ LUMA October 12 Motion, pp. 8 – 9.

⁶ LUMA October 12 Motion, p. 9.

⁷ October 12 Motion to Vacate, p. 5.



OMA, it acts as agent for PREPA only in connection with LUMA's responsibilities as Operator of the T&D System.⁸ LUMA also states that it does not act as Genera's agent, and consequently, the Energy Bureau should set aside its June 30 Order requiring LUMA to submit material on behalf of PREPA and Genera in this proceeding. LUMA further requests that the Energy Bureau clarify that each party is responsible for filing its own material in this proceeding, and that LUMA is not responsible for such filings nor in strategic determinations made by PREPA or Genera. LUMA contends that the T&D OMA requirement that it submit consolidated budgets to the Energy Bureau on behalf of the parties does not make LUMA Genera's agent nor obligate it to submit budgets to actuals or additional information in connection with the approved Generation Budget.⁹

LUMA also points to procedural considerations with regard to the Energy Bureau requirement, asserting that requiring LUMA to associate itself with Genera Motions with which it may not agree and in which it did not participate in developing, violates its right to commercial free speech. In the October 12 Motion to Vacate, LUMA expressly reserves its rights and objections, states that it did not prepare nor participate in the development of Genera's Motion and that it does not endorse or represent Genera with regard to the Genera *Motion for Reconsideration* submitted therewith.¹⁰

II. ANALYSIS AND CONCLUSION

The Energy Bureau finds the practical considerations as set forth by LUMA, for eliminating LUMA's financial reporting requirements relating to PREPA and Genera with regard to the approved budgets, to be persuasive. Under the circumstances presented, the benefits of requiring LUMA to file financial reports on behalf of PREPA and Genera, which LUMA does not participate in developing nor have authority or oversight with regard to the financial operation of those parties, do not outweigh the concern that LUMA will not be able to vet the financial information presented by Genera and PREPA, thus rendering this effort of little use to the Energy Bureau.

Although all parties should share the same goal of providing safe and reliable electric service to Puerto Rico at reasonable cost, LUMA's interests may differ from those of other parties with respect to budget allocations and LUMA should not be responsible for the expenditures or explanation of variances of others. If consensus is not reached among the parties in their submissions, although beneficial, that may not be possible, and merely having LUMA relay the submissions of others does not outweigh LUMA's concerns. Removing this requirement from LUMA as directed below will lead to a more efficient process and mitigate concerns relative to possible conflict of interest among the parties. LUMA is not responsible for validating expenditures made by PREPA or Genera or explaining variances. The Energy Bureau understands direct submission of entity-specific budgetary issues, while retaining collaboration on matters affecting multiple parties, serves the interests of regulatory efficiency and clarity.

Based upon the practical considerations LUMA has presented, the Energy Bureau **RELEASES** LUMA from all orders that require LUMA to submit financial motions or reports for Genera and/or PREPA in this proceeding in connection with the approved FY 2024 Budgets.

Genera and PREPA are responsible for filing the budget to actuals and other financial reports previously required to be filed by LUMA.

However, any motion requesting budget review or amendment must be developed jointly by PREPA, LUMA and Genera, and filed by LUMA, regardless of whether or not a party is requesting review or amendment of the approved budget. All parties must acknowledge and

⁸ October 12 Motion to Vacate, p. 2.

⁹ October 12 Motion to Vacate, p. 3.

¹⁰ October 12 Motion to Vacate, p. 4.




state their position regarding the request for review or amendment made by any party in such joint motion regardless of whether such party is requesting review or amendment of the approved budget.

For the avoidance of doubt, LUMA continues to be the sole responsible party to present to the Energy Bureau a consolidated fiscal year proposed budget and any revisions for its review and approval and LUMA shall indicate whether such request impacts the revenue requirements approved the Energy Bureau.

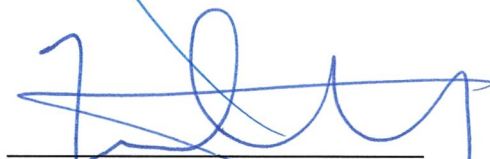
The Energy Bureau **WARNS** LUMA, Genera, and PREPA that:

- (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

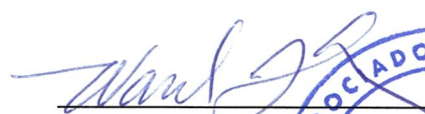

Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on October 25, 2023. Also certify that on October 25, 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; mvalle@gmlex.net; arivera@gmlex.net; 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 25 2023.


Wanda I. Cordero Morales
Interim Clerk

