

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

**IN RE:** LUMA INITIAL BUDGETS

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

**SUBJECT:** Request for explanations of variances shown on PREPA's Q4 Report for Fiscal Year 2023.

**RESOLUTION AND ORDER**

**I. Introduction**

On February 27, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("February 27 Order") through which it issued its determination on the FY2023 annual budgets and included pre-filing requirements for the FY2024 Annual Budgets. The February 27 Order instructed LUMA<sup>1</sup> and the Puerto Rico Electric Power Authority ("PREPA") as follows:

- i. LUMA to file Quarterly Reports, "including Q1, Q2, Q3, and Q4 Quarterly Reports, within 45 days after each fiscal year Quarter".<sup>2</sup>
- ii. Genera<sup>3</sup> to "... (i) file quarterly report beginning in Q3 FY 2023, detailing actual vs. budgeted Generation expenditures, including a breakout of NME expenditures..."<sup>4</sup>

On May 22, 2023, LUMA filed a document titled *Motion to Submit Quarterly Report for the Third Quarter of Fiscal Year 2023* ("LUMA FY23 Q3 Report") that contained the quarterly information regarding the FY2023 Budget T&D System spending amounts. On June 2, 2023, PREPA filed a document titled *Motion to Submit the Puerto Rico Power Authority's FY2023 Q3 Report* ("PREPA FY23 Q3 Report"), in which PREPA filed its Q3 Report and stated, "In regard to the variances between the planned and actual expenses, PREPA is currently working on a transfer of Necessary Maintenance Expenses, which will be reflected in the Fourth Quarter of Fiscal Year Generation Report".<sup>5</sup>

On August 14, 2023, LUMA filed a document titled *Motion to Submit Quarterly Report for the Fourth Quarter of Fiscal Year 2023* ("LUMA FY23 Q4 Report") in which LUMA provided information on LUMA's T&D expenditures and year -to-date information and year-to-date variances from the approved budget."<sup>6</sup>

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*

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

<sup>2</sup> See February 27 Order, page 28, Section G, "Additional Quarterly Reporting Requirements."

<sup>3</sup> GENERA PR, LLC ("Genera").

<sup>4</sup> *Id.*, at page 28, Section F, "Generation Budget". Note that Genera's Commencement Date as per the Puerto Rico Generation Facilities Operation and Maintenance Agreement, dated as of January 24, 2023 between the Puerto Rico Electric Power Authority ("PREPA"), the Puerto Rico Public-Private Partnerships Authority ("P3") and Genera ("Legacy Generation OMA") was to be May 1, 2023 which was later extended to July 1, 2023, between the parties. Therefore, PREPA is the responsible party to file the Q4 Report for Generation.

<sup>5</sup> See PREPA F23 Q3 Report, p 2, ¶ 4.

<sup>6</sup> See LUMA FY23 Q4 Report, pp. 3-4, ¶ 7.



(“October 2 Motion”) in which LUMA, among others, submitted as Exhibit 2 a document titled *PREPA’s Q4 Report*, as received from PREPA (“PREPA FY23 Q4 Report”).

II. Discussion and Analysis

A. PREPA FY23 Q4 Report

1. GenCo Labor Operating Expenses

The total FY 2023 Budget for GenCo Labor Operating Expenses was \$88MM as presented in PREPA FY23 Q4 Report. PREPA reported actuals expenses as \$74MM, a difference of \$13MM, which represents a variance of 15%, as shown in the table below.<sup>7</sup>

FY23 Monthly B2A Summary

| Summary                                  | June-23       |               |                      |                     | YTD        |            |                   |                  |
|--|---------------|---------------|----------------------|---------------------|------------|------------|-------------------|------------------|
|  | Jun-23 Budget | Jun-23 Actual | Jun-23 Variance (\$) | Jun-23 Variance (%) | YTD Budget | YTD Actual | YTD Variance (\$) | YTD Variance (%) |
| GenCo:<br>GenCo Labor Operating Expenses | \$ 7          | \$ 5          | \$ 2                 | 26.2%               | \$ 88      | \$ 74      | \$ 13             | 15.2%            |

The Energy Bureau **FINDS** that this is a material variance to the budget which requires an explanation by PREPA. The Energy Bureau **ORDERS** PREPA to provide, **on or before ten (10) business days from the notification of this Resolution and Order**, an explanation as to what drives the variance in GenCo Labor Operating Expenses from the approved Budget for FY2023.

2. Total GenCo Maintenance Projects Expense (“NME”)

The total FY 2023 Budget for NME was \$105MM as presented in PREPA’s Q4 Report. PREPA reported actuals expenses for this line item as \$83MM, a difference of \$22MM which represents a variance of 21%, as shown in the table below.<sup>8</sup>

FY23 Monthly B2A Summary

| Summary  | June-23       |               |                      |                     | YTD        |            |                   |                  |
|--|---------------|---------------|----------------------|---------------------|------------|------------|-------------------|------------------|
|  | Jun-23 Budget | Jun-23 Actual | Jun-23 Variance (\$) | Jun-23 Variance (%) | YTD Budget | YTD Actual | YTD Variance (\$) | YTD Variance (%) |
| GenCo:<br>Total GenCo Maintenance Projects Expense | \$ 9          | \$ 19         | (\$ 10)              | (113.9%)            | \$ 105     | \$ 83      | \$ 22             | 21.0%            |

According to PREPA, this variance is “[d]ue to the complexities of aggregating project costs and determining if capitalization policy and other accounting guidelines have been met, interim monthly accounting does not consistently reflect the actual progress on NME.”<sup>9</sup> PREPA points to “constrained and administrative and finance resources” as the root cause of the variance.<sup>10</sup>

The Energy Bureau **FINDS** that this is a material variance to the budget which requires further explanation by PREPA. The Energy Bureau **ORDERS** PREPA to provide, **on or before ten (10) business days from the notification of this Resolution and Order**, the list of (i) projects/activities that comprised the total FY 2023 Budget for NME with the budgeted amounts (including funds drawn as approved by the Energy Bureau from the NME Reserve), (ii) which projects/activities were completed and the actual expenditures for the year; (iii)

<sup>7</sup> See PREPA FY23 Q4 Report, 20231002 Exhibit-2\_PREPA-B2A-June-2023-vF-Revised-NEPR-MI-2021-0004.xlsx.

<sup>8</sup> Id.

<sup>9</sup> Id., tab titled *Variances Detail*, cell B15.

<sup>10</sup> Id. at cell B19.





which projects/activities were not done or completed and why; and (iv) which projects were substituted and how much were the expenditures for the year, if applicable.

3. HoldCo Labor Operating Expense

The total FY 2023 Budget for HoldCo Labor Operating Expense was \$13MM as presented in PREPA’s Q4 Report and approved by the Energy Bureau. PREPA reported actuals expenses for this line item as \$16MM, a difference of \$4MM for the Fiscal Year 2023, which represents a variance of 28%, as shown in the table below.<sup>11</sup>

FY23 Monthly B2A Summary

| Summary                         | June-23       |               |                      |                     | YTD        |            |                   |                  |
|---------------------------------|---------------|---------------|----------------------|---------------------|------------|------------|-------------------|------------------|
|                                 | Jun-23 Budget | Jun-23 Actual | Jun-23 Variance (\$) | Jun-23 Variance (%) | YTD Budget | YTD Actual | YTD Variance (\$) | YTD Variance (%) |
| HoldCo:                         |               |               |                      |                     |            |            |                   |                  |
| HoldCo Labor Operating Expenses | \$ 1          | \$ 2          | \$ (1)               | (99.0%)             | \$ 13      | \$ 16      | \$ (4)            | (28.3%)          |

The Energy Bureau **FINDS** that this is a material variance to the budget which requires a detailed explanation by PREPA. The Energy Bureau **ORDERS** PREPA to provide, **on or before ten (10) business days from the notification of this Resolution and Order**, an explanation as to what drives the variance in HoldCo Labor Operating Expenses from the approved Budget for FY2023.

4. HoldCo Non-Labor / Other Operating Expenses<sup>12</sup>

The total FY 2023 Budget for HoldCo Non-Labor / Other Operating Expenses was \$16MM as presented in PREPA’s Q4 Report and approved by the Energy Bureau. PREPA reported actuals expenses for this line item as \$23MM, a difference of around (\$7MM), which represents a variance of (42%), as shown in the table below.<sup>13</sup>

FY23 Monthly Expenses

| Expenses  | June-23       |               |                      |                     | YTD        |            |                   |                  |
|---|---------------|---------------|----------------------|---------------------|------------|------------|-------------------|------------------|
|   | Jun-23 Budget | Jun-23 Actual | Jun-23 Variance (\$) | Jun-23 Variance (%) | YTD Budget | YTD Actual | YTD Variance (\$) | YTD Variance (%) |
| Non-Labor / Other Operating Expenses              |               |               |                      |                     |            |            |                   |                  |
| Materials & Supplies                              | 0             | 0             | 0                    | 84.5%               | 0          | 0          | 0                 | 12.3%            |
| Transportation, Per Diem, and Mileage             | 0             | 0             | (0)                  | (60.6%)             | 0          | 0          | 0                 | 50.3%            |
| Retiree Medical Benefits                          | 1             | 1             | 0                    | 25.3%               | 9          | 7          | 2                 | 24.3%            |
| IT Service Agreements                             | 0             | (0)           | 0                    | 402.2%              | 1          | 1          | (0)               | (48.6%)          |
| Utilities & Rents                                 | 0             | 1             | (1)                  | (49467.4%)          | 0          | 15         | (15)              | (40612.9%)       |
| Communications Expenses                           | 0             | -             | 0                    | 100.0%              | 0          | -          | 0                 | 100.0%           |
| Professional & Technical Outsourced Services      | 0             | (0)           | 1                    | 221.9%              | 4          | 2          | 3                 | 61.8%            |
| Other Miscellaneous Expenses                      | 0             | 0             | (0)                  | (97.6%)             | 2          | (1)        | 3                 | 166.0%           |
| Total HoldCo Non-Labor / Other Operating Expenses | \$ 1          | \$ 2          | \$ (0)               | (27.5%)             | \$ 16      | \$ 23      | \$ (7)            | (42.6%)          |

The Energy Bureau **FINDS** that this is a material variance to the budget which requires a detailed explanation by PREPA. The Energy Bureau **ORDERS** PREPA to provide, **on or before ten (10) business days from the notification of this Resolution and Order**, an

<sup>11</sup> See PREPA’s Q4 Report, 20231002 Exhibit-2\_PREPA-B2A-June-2023-vF-Revised-NEPR-MI-2021-0004.xlsx, tab titled *B2A Summary*, Cell C38.

<sup>12</sup> Note that this excludes the PREPA Restructuring & Title III and FOMB Advisor Costs allocation to PREPA expenses.

<sup>13</sup> See PREPA’s Q4 Report, 20231002 Exhibit-2\_PREPA-B2A-June-2023-vF-Revised-NEPR-MI-2021-0004.xlsx, tab titled *B2A Summary*, Cell C39. Excluding the PREPA Restructuring & Title III and FOMB Advisor Costs allocation to PREPA expenses.



explanation as to what drives the variance in HoldCo Non-Labor / Other Operating Expenses from the approved Budget for FY2023.

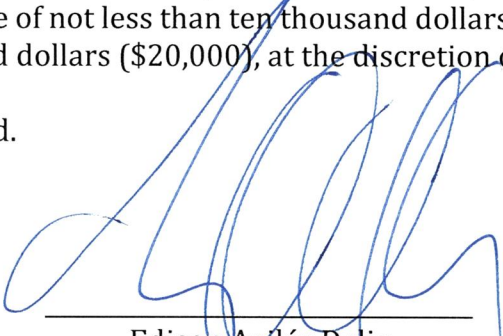
III. Conclusion

The Energy Bureau **ORDERS** PREPA to provide the information as required in Section II of this Resolution and Order **on or before ten (10) business days from the notification of this Resolution and Order.**

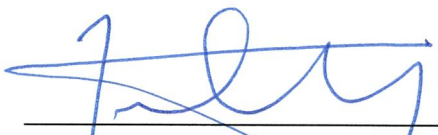
The Energy Bureau **WARNS** PREPA that:

- (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 November 3, 2023. Also certify that on November 3, 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); [mvalle@gmlex.net](mailto:mvalle@gmlex.net); [arivera@gmlex.net](mailto:arivera@gmlex.net); [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); [jlago@sbgblaw.com](mailto:jlago@sbgblaw.com).

I sign in San Juan, Puerto Rico, today, November 3, 2023.

  
Wanda I. Cordera Morales  
Interim Clerk

