

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

**IN RE: REVIEW OF THE PUERTO RICO
ELECTRIC POWER AUTHORITY'S 10-YEAR
INFRASTRUCTURE PLAN – DECEMBER 2020**

CASE NO.: NEPR-MI-2021-0002

SUBJECT: Determination on LUMA's November 7, 2023, Motion Submitting One Scope of Work, and Request for Confidentiality and Supporting Memorandum of Law.

RESOLUTION AND ORDER

I. Introduction

On March 26, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 26 Resolution") in the instant case, through which it ordered the Puerto Rico Electric Power Authority ("PREPA") to provide certain information related to the different projects under the categories of Transmission Line Projects, Transmission Substation Projects, and Distribution Substation Projects in the PREPA 10 -Year Infrastructure Plan. The Energy Bureau ordered PREPA to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP") and Modified Action Plan.¹ To streamline the process, the Energy Bureau requested PREPA to submit the specific projects to the Energy Bureau at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3") and the Federal Emergency Management Agency ("FEMA").²

On August 20, 2021, the Energy Bureau issued a Resolution and Order ("August 20 Resolution"), through which it determined that the March 26 Resolution applies equally to LUMA.^{3,4}

On August 25, 2022, issued a Resolution and Order ("August 25 Resolution") with the approval of six (6) Scope of Work ("SOW") submitted⁵ by LUMA. The projects included the SOW for the "Transmission and Distribution Automation Program Installation of Intelligent Reclosers, Single Phase Reclosers, and Fault Current Indicators".

On November 7, 2023, LUMA filed a document titled *Motion Submitting One Scope of Work, Request for Confidentiality and Supporting Memorandum of Law* ("November 7 Motion"). As Exhibit 1 to the November 7 Motion, LUMA included the FEMA Project Scope of Work for a project named *Transmission and Distribution Automation Program Installation of Three Phase Reclosers, Single Phase Reclosers and Fault Circuit Indicators and Feeder Headend Protection Devices*. As part of its filing LUMA request confidential designation and treatment to the unredacted non-public version of Exhibit 1.⁶

II. Evaluation of the November 7 Motion

Through the November 7 Motion, LUMA submitted one (1) SOW for the "Transmission and Distribution Automation Program Installation of Three Phase Reclosers, Single Phase Reclosers and Fault Circuit Indicators ("FCI") and Feeder Headend Protection Devices."

¹ Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 ("IRP Order").

² March 26 Resolution, pp. 14-15.

³ LUMA Energy, LLC, and LUMA Energy ServCo, LLC (collectively, "LUMA")

⁴ August 20 Resolution, p. 3.

⁵ July 29, 2022, and August 10, Motions.

⁶ November 7 Motion, p.5.



LUMA has determined, that in the best interest of the efficiency of the Transmission and Distribution ("T&D") System, to develop a new scope of work and/or cost estimate that supplement the T&D Project SOW that the Energy Bureau has approved⁷, which was based on a near-term reliability improvement solution and included 2,400 ea. three-phase reclosers, 4,500 ea. single-phase reclosers and 5,000 ea. FCIs.⁸

LUMA states that after initial deployment and additional engineering analysis, it was determined that many devices and automation technologies were needed to achieve proper segmentation, protection, visibility, and automation for the LUMA's T&D system⁹ and a new SOW was developed to complement and capture the additional requirements at the distribution, substation, and transmission level which includes:

1. For distribution
 - i. 2, 100 ea. three-phase reclosers
 - ii. 10,500 ea. single-phase reclosers
 - iii. 6,000 ea. FCIs
2. For substation
 - i. New microprocessor-based feeder headend relays
3. For Transmission
 - i. Over 250 ea. 38kv reclosers and enhanced fault detection system for 115kv/230kv system.

The SOW consists of installation of communication ready smarts reclosers with microprocessor-based controllers for remote monitoring, and control and; will vary per facility including the following installations: substation feeder headend protection, poles and structures (w/foundations), framing and insulators, load break switches, transformers (including lighting arresters and fuse cut-outs), conductors, guy wires and anchoring, grounding assemblies, fault interrupting equipment (fuses and sectionalizers), and any associated components.¹⁰

The estimated cost for this project represents \$469,630,000.00 and is based on a Class 5 estimate that includes materials, construction labor and equipment, engineering, permitting, management, and contingencies as provided by LUMA.

As part of the grid restoration, LUMA proposes the integration of the *Transmission and Distribution Automation Program* as a 406 Hazard Mitigation¹¹ ("HM") measure¹².

The project is aligned with the goal of repair, improve, and sustain the reliability, capacity, and resiliency of the Puerto Rico electric system. All these reconstruction efforts on the island need to be aligned with local and federal regulations, and actual codes and standards.

Upon review of Exhibit 1 of the November 7 Motion, the Energy Bureau **DETERMINES** that the project is necessary to improve the reliability and resiliency of the electrical system. The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order. This approval represents \$469,630,000.00 based on the Class 5 Cost Estimates submitted by LUMA through the November 7 Motion.

III. LUMA's Request for Confidential Information Designation and Treatment of portions of Exhibit 1 of the November 7 Motion

In the Request for Confidential Treatment, LUMA alleged that the unredacted version of the SOW in Exhibit 1 contains personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico's legal framework on privacy emanating from the

⁷ August 25, 2022, Resolution.

⁸ November 7 Motion, p. 3.

⁹ *Id.*

¹⁰ November 7 Motion, Exhibit 1, p3.

¹¹ FEMA Hazard Mitigation funding under Section 406 of the Stafford Act.

¹² November 7 Motion, Exhibit 1, p.6.



Puerto Rico Constitution and should be also protected pursuant to the Energy Bureau's Policy on Management of Confidential Information¹³, that therefore is also protected under Act 57-2014¹⁴. LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred portion of Exhibit 1. Table 1 below details the portions of Exhibit 1 which LUMA requested confidential designation and treatment.

Table 1: LUMA's Request for Confidential Information Designation and Treatment, of portions of Exhibit 1

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 1	Transmission and Distribution Automation Program Installation of Three Phase Reclosers, Single Phase Reclosers and Fault Circuit Indicators and Headend Protection Devices.	Page 1	Right to privacy (see, e.g., Const. ELA, Art. II, Sections 8 and 10)	November 7, 2023

IV. Energy Bureau Determination

The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize their approval process for the request of federal funds. The Energy Bureau approved these projects based on the information from LUMA. Should the scope of the project change or the request for the federal funds are not approved for such projects, LUMA **SHALL** immediately seek the Energy Bureau's approval of such changes.

The Energy Bureau **ORDERS** LUMA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in **Attachment A**, which shall contain the costs obligated for each project, **within ten (10) days of receipt of such approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each project in **Attachment A**, **within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

The directive established in the March 26 Resolution regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

Act 57-2014¹⁵ establishes that any person having the duty to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.¹⁶ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information stated that "the Energy Bureau, after the appropriate evaluation, believes such information should be protected".¹⁷ In such case, the Energy Bureau "shall grant such protection **in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.**"¹⁸

¹³ See, Resolution, *In re: Política sobre Manejo de Información Confidencial en los Procedimientos ante la Comisión*, Case No. CEPR-MI-2016-0009, issued on September 20, 2016.

¹⁴ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

¹⁵ *Id.*

¹⁶ Section 6.15 of Act 57-2014.



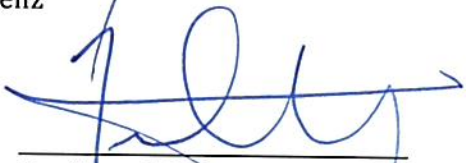
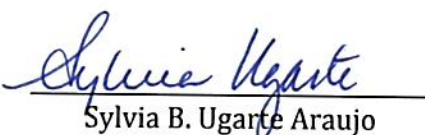

¹⁷ *Id.*



Upon review of LUMA's arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the parts of Exhibit 1 as described in Table 1 above, pursuant to Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that LUMA already submitted a redacted (*i.e.*, public) version of Exhibit 1 as describe in Table 1.

The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014¹⁹ and applicable Energy Bureau's regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it hereby 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 27, 2023. Also certify that on November 27, 2023, I have proceeded with the filing of this Resolution and Order and was notified by email to lionel.santa@prepa.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; julian.angladapagan@us.dlapiper.com; alopez@sbgblaw.com; jfr@sbgblaw.com; jlagos@sbgblaw.com.

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



Sonia Seda Gaztambide
Clerk



¹⁸ *Id.* (Emphasis added).

¹⁹ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

Attachment A
Projects Approved by the Energy Bureau

Region	Project Name	Proposed Scope of Work	Presented Estimate
All	30059 Distribution Automation Program	Transmission and Distribution Automation Program Installation of Three Phase Reclosers, Single Phase Reclosers and Fault Circuit Indicators ("FCI") and Feeder Headend Protection Devices	\$469,630,000.00
Total			\$469,630,000.00

