

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

NEPR Received: Oct 30, 2023 8:00 PM
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IN RE:

REVIEW OF LUMA’S INITIAL BUDGET

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Motion to Submit Corrective Action Plan in Compliance with Resolution and Order dated September 22, 2023

**MOTION TO SUBMIT CORRECTIVE ACTION PLAN IN COMPLIANCE WITH
RESOLUTION AND ORDER DATED SEPTEMBER 22, 2023**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW GENERA PR LLC (“Genera”), as agent of the Puerto Rico Electric Power Authority (“PREPA”),¹ through its counsels of record, and respectfully state and request the following:

1. On May 16, 2023, LUMA² filed a document with the Energy Bureau of the Puerto Rico Service Regulatory Board (“Energy Bureau”) titled *Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Proposed Annual T&D Projections Through Fiscal Year 2026* (“May 16th Motion”), in which LUMA submitted the Proposed Consolidated FY24 Budget, composed of the proposed T&D Budgets developed by LUMA, the proposed GenCo Budgets revised by Genera on behalf of PREPA for the PREPA subsidiary GenCo LLC, and the proposed budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC and PREPA PropertyCo LLC.

¹ Pursuant to the *Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement* (“LGA OMA”), dated January 24, 2023, executed by and among PREPA, Genera, and the Puerto Rico Public-Private Partnerships Authority (“P3 Authority”), Genera is the sole operator and administrator of the Legacy Generation Assets (as defined in the LGA OMA) and the sole entity authorized to represent PREPA before PREB with respect to any matter related to the performance of any of the O&M Services provided by Genera under the LGA OMA.

² LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as “LUMA”).

2. On June 25, 2023, the Energy Bureau issued a Resolution and Order titled *Determination on the FY24 Annual Budgets for the Electric Utility System – LUMA, Genera, and PREPA*. Through this order, the Energy Bureau amended the Proposed Consolidated FY24 Budget submitted by LUMA and approved the revised budgets, provided the orders included in the Resolution and Order were complied with. The June 25th Order, amongst other things, reduced Genera’s proposed labor operating expenses budget for FY2024 from \$79.5 MM to \$55.03 MM.

3. Subsequently, on June 30, 2023, Genera filed a document titled *Urgent Motion in Compliance with Resolution and Order of June 25, 2023, and for Partial Reconsideration* (“Genera’s June 30th Request for Partial Reconsideration”), requesting that the Energy Bureau reconsider the determinations made in the June 25th Order. This was in accordance with the mandates of the June 25th Order, which required Genera to “ensure that the legacy generation plants are adequately staffed to ensure reliable and efficient operations and to promptly report to any staffing shortages or difficulties in maintaining adequate personnel to staff the plants.”³

4. On June 30, 2023, the Energy Bureau issued a Resolution and Order titled *Resolution pertaining Motion for Reconsideration of the June 25 Resolution and Order on the Determination of the FY24 Annual Budgets for the Electric Utility System - LUMA, Genera, and PREPA, filed by the Puerto Rico Electric Power Authority and Urgent Motion in Compliance with Resolution and Order of June 25, 2023 and for Partial Reconsideration, filed by Genera PR, LLC*, through which it stated that it would not consider Genera’s June 30th Request for Partial Reconsideration because its submission did not comply with certain provisions of the T&D OMA⁴.

³ See page 19 of the June 25th Order.

⁴ *Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement* (“T&D OMA”), dated June 22, 2020, executed by and among PREPA, P3 Authority, and LUMA.

5. 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 of Resolution and Order of June 25, 2023* (“LUMA’s June 30th Motion”), through which LUMA submitted Motions for Reconsideration of the Energy Bureau’s FY2024 Budget Determination on behalf of PREPA and Genera and provided notice of its intention to request reconsideration on its behalf.

6. On September 22, 2023, the Energy Bureau issued a Resolution and Order titled *Determination on the Request for Partial Revision on the FY 2023 Annual Budgets by LUMA, GENERA, and PREPA* (“September 22nd Resolution”), addressing the requests for reconsideration submitted by LUMA, Genera, and PREPA in response to the Energy Bureau’s June 25th Order. Pertinent to this Motion, the September 22nd Resolution denied Genera's June 30th Partial Request for Reconsideration regarding the reduction of Genera’s proposed labor expenses budget for FY2024.

7. Furthermore, in the September 22nd Resolution, the Energy Bureau ordered Genera to submit, within 30 days of issuing the September 22nd Resolution, with the deadline being October 22, 2023, a detailed Corrective Action Plan outlining the steps Genera intends to take to align its labor costs with the approved budgets, including a timeline for each action, responsible parties, and expected outcomes.

8. On October 19, 2023, Genera submitted a document titled *Motion for Brief Extension of Time to Comply with Order to Submit Corrective Action Plan* (“October 19th Motion”), requesting an extension until October 30, 2023, to submit the required Corrective Action Plan.

9. In Compliance with the September 22nd Resolution and in accordance with the October 19th Order, Genera respectfully submits its Corrective Action Plan, attached herein as **Exhibit A**.

10. Genera respectfully requests that the Energy Bureau holds in abeyance any determination regarding compliance with the approved budgets until Genera completes items 1-5 of the Corrective Action Plan.

11. Additionally, Genera understands that the Energy Bureau will conduct a review of all expenses paid from the base rate and recovered through specific riders, pursuant to the process being followed in the case In Re: Puerto Rico Electric Power Authority Rate Review, case no. NEPR-AP-2023-0003. Genera respectfully requests that any further detailed evaluation of labor costs, employment, and hiring policies that the Energy Bureau deems necessary be conducted through said process for future budgets. Genera certifies that the proposed Corrective Action Plan includes a proposal for a reapportionment *within* the GenCo budget allocation, *not* an amendment to the approved FY24 Certified Budget. Thus, Genera is not requesting an increase in base rates.

WHEREFORE, Genera respectfully requests that this Honorable Energy Bureau **take notice** of the above for all purposes and **deem** Genera to be in partial compliance with the September 22nd Resolution in what pertains to the submittal of the Corrective Action Plan.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 30th day of October 2023.

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CERTIFICATE OF SERVICE

We hereby certify that a true and accurate copy of this motion was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System and that we will send an electronic copy of this motion to PREPA, through Lionel Santa, at lionel.senta@prepa.com; and to LUMA, through Margarita Mercado Echegaray, at margarita.mercado@us.dlapiper.com; and Ana Margarita Rodríguez Rivera, at ana.rodriguezrivera@us.dlapiper.com.

In San Juan, Puerto Rico, this 30th day of October 2023

/s/ Joaquín M. Lago González
Joaquín M. Lago González

Exhibit A
Corrective Action Plan

Docket Number: NEPR-MI-2021-0004

In Re: Review of LUMA's Initial Budgets

Re: Response in Compliance with the September 22, 2023 Order

I. Introduction

On September 22, 2023, the Puerto Rico Energy Bureau (the "PREB") issued a Resolution and Order (the "Sept 22nd Order") expressing serious concern and dissatisfaction with Genera's actions regarding the Labor Budget. The Sept 22nd Order admonished Genera and warned of dire consequences if it did not promptly address the concerns raised by PREB. PREB directed Genera to take immediate corrective actions to align its hiring and salary policies with the principles of responsible financial management.

The Sept 22nd Order was issued in response to a motion submitted by Genera through LUMA in compliance with the mandates included in the June 25, 2023, Resolution and Order (the "June 25th Order"). The June 25th Order required Genera to ensure adequate staffing for the Legacy Generation Assets (the "LGA") to ensure *reliable and efficient operations*, approving a Labor Budget of \$55MM instead of Genera's requested \$79.5MM. In the June 30th Motion, Genera complied with the Order but expressed concerns about the impact of the 30% reduction in the Labor Budget. Reducing back and middle office functions, which would be a consequence of the Labor Budget reduction by PREB, directly affects the reliability and efficiency of the operations. Genera requested that PREB reconsider the Labor Budget reduction and approve the original \$79.5MM Labor Budget.

II. Genera's Proposed FY24 Labor Budget

Genera is committed to full compliance with PREB's orders and, also, abides by its contractual obligations that stem from the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement (the "LGA OMA"). Genera is also committed to responsible financial management, and its actions are consistent with this commitment. For instance, Genera proposed a reduction of 61% to PREPA Proposed FY24 Genco budget, of which 6% was the reduction of the labor portion. In addition, Genera submitted a revision to PREPA FY24 Genco Budget with a decrease of 37% when compared to PREPA FY23 Genco budget. Furthermore, although FY24's revenues were \$53MM lower when compared to prior year, the Genera revised PREPA FY24 Genco budget *did not ask* PREB to increase rates to cover its operational expenses.

Despite Genera's efforts to promote responsible financial management, the Sept 22nd Order made serious accusations and admonishments to Genera because of its hiring and salary policies, the information it had submitted to PREB, and potential inflationary pressures on operational costs. PREB warned that failure to take corrective action to align its hiring and salary policies with the principles of responsible financial management could lead to further regulatory actions, including penalties, stricter oversight, or even reconsideration of Genera's operational privileges concerning the LGA OMA.

In light of the above, it is essential to note that PREPA proposed a GenCo FY24 Labor Budget that *was higher* than what was submitted to PREB by Genera. After Genera reviewed and made responsible adjustments, Genera requested PREB to approve a *lower* amount than what PREPA had proposed. Genera is aware that it must continue to promote responsible financial management while maintaining adequate staffing levels to ensure reliable and efficient operations. It is an important balance with the ultimate purpose to achieve reliable service at the lowest cost possible.

A summary of important facts follows:

- FY23 GenCo labor budget for FY23 was **\$84.0M**¹
 - This budget was allocated **solely for operations employees** (i.e., power plant operators, welders, maintenance employees). This budget *did not* cover back and middle office support functions.
- For FY24, PREPA GenCo proposed a labor budget of \$84.8M.
 - After Genera revised the budget, Genera **reduced** it to **\$79.5M**, thus **saving \$5.3MM** in labor costs. It must be noted that Genera's revision to the GenCo budget, as opposed to PREPA's proposal, includes back and middle office support functions,² as well as **operations employees** (i.e., power plant operators, welders, maintenance employees), thus promoting further and significantly higher labor cost savings.
- The Genera proposed FY24 GenCo Labor budget was \$4.5MM lower than PREPA's FY23 GenCo budget.
- The Genera proposed FY24 GenCo Labor budget was \$5.3MM lower than PREPA's FY24 proposed GenCo Labor budget.
- The FY24 Genera proposed GenCo Labor Budget covers **more** functions than PREPA's, at a lesser cost.

Genera has demonstrated fiscal responsibility by reducing expenses while increasing the value of those expenses. For the FY24 GenCo Budget, Genera submitted a total of \$301MM, out of which \$79.5MM was allocated to labor. This budget is \$4.5MM lower than FY23 certified budget and \$179MM lower than PREPA's proposed FY24 GenCo budget. Genera has been actively working towards reducing operational and fuel expenses by implementing several cost saving initiatives. This includes the renegotiation of several contracts.

¹ FY23 PREPA budgeted \$87.5M for the Generation labor. Considering that the approved allocation for HydroCo is 4%, the GenCo labor budget for FY23 was \$84.0M.

² The majority of these functions were at the HoldCo level.

Additionally, initiatives such as the Fuel Optimization Plan, which will generate significant savings for ratepayers, are under consideration by PREB and are expected to be implemented by Genera once approved (operationally).

Genera hired 65% of PREPA GenCo employees, all of whom received salary increases when compared to their career appointments. This hiring ensured that expertise was retained through the LGA operations to ensure continuity of service during the transition and to have the best generation workforce in Puerto Rico. Furthermore, Genera has also hired for positions that are not in the operations roster, but that directly provide services that aim to improve the reliability and efficiency of the fleet. Example of these is procurement, logistics, and legal. Genera is thus covering more functions than the GenCo budget did before, even with a lower labor budget.

Genera is proud that its workforce hired through the labor costs is 100% residents of Puerto Rico.

Genera requests that the Energy Bureau note that Genera has exercised sound fiscal responsibility. Genera never intended to mislead the Energy Bureau regarding labor costs. Genera transparently informed that salaries were increased for employees at the power plant level with positions comparable to those previously existing at GenCo. Genera did not make comparisons in the back and middle-office support functions because they were not previously at the GenCo level. Genera consistently informed that "year-one labor costs will be consistent with the year-over-year actual results." Thus, Genera respectfully requests the Energy Bureau to find that it did not fail to inform the Energy Bureau regarding significant deviations duly.

It is important to note that Genera submitted workbooks that clearly showed the expenses proposed by PREPA, those adopted or revised by Genera, and the supporting worksheets from PREPA's GenCo budget, not Genera's, which may

have caused confusion. When Genera presented revised figures, it clearly showed and signaled that Genera made revisions. For example, Genera submitted a revised workbook named GPR-PREB-Bench-06-09-23 to PREB, which adjusted the budget per the discussions held during the June 9th Technical Conference. The revised workbook did not include any changes to the Labor Budget. However, there is a tab in the revised workbook named FY24 Final Budget, which indicates that Genera had revised *PREPA* Labor Budget. This can be seen in the "Commentary" column and the note to the Labor Operating Expenses line.

(S-thousands)	GeneraPR FY2024 Budget Post- P3A Allocation	Commentary
Budget Revenues		
Projected Net Available Funds	\$ 850,050	
(+) Additional Available FEMA Funds Allocated to FY2024	\$ 130,000	
(-) Directly Attributed Other Incomes	\$ 16,716	
Total Funds to be Allocated	\$ 963,334	
Budget Expense Allocation	35.4%	
GenCo Allocation % of Generation Budget	95.4%	
GenCo Budget	\$ 301,274	
HydroCo Allocation % of Generation Budget	4.6%	
HydroCo Budget	\$ 14,527	
Generation Allocation % of Net Available Funds	31.8%	
Generation Budget (GenCo and HydroCo)	\$ 311,518	
(+) Other Income Directly Attributed to GenCo	\$ 4,982	
Total Generation Budget (GenCo and HydroCo)	\$ 315,800	
HoldCo Allocation % of Net Available Funds	3.0%	
HoldCo Budget (PREPA)	\$ 29,538	
PREPA Allocation % of Net Available Funds	34.8%	
PREPA GenCo, HydroCo and HoldCo O&M Budgets	\$ 345,338	
LUMA O&M and Other % of Net Available Funds	65.2%	
LUMA O&M, Other Budgets (excluding Fixed Fee)	\$ 638,994	
(+) Other Income Directly Attributed to GridCo	\$ 12,434	
Total GridCo Budget (LUMA)	\$ 651,428	
Total Allocated Funds	\$ 963,334	
GenCo:		
Labor Operating Expenses	\$ 79,504	
Non-Labor Operating Expenses		

Pursuant to the P3 Authority Revised FY2024 Projected Net Available Funds Allocation Methodology and Calculation communication sent on 5/12.

Genera reviewed PREPA's labor costs and compared them to its assessment of critical roles for operations and support functions. The number of open positions on the roster aligns with the mandatory operating positions and admin. support positions that Genera is working to fill. The proposed labor costs were reduced from PREPA's proposal based on the current evaluation of those open positions. See <Roster> tab.

The lines Labor Operating Expenses reference the <<Roster>> tab. A snapshot of said tab is included below.

Source: PREPA Proposed GenCo Budget Submittal to LUMA on April 19, 2023
 Source file name: "iv) DRAFT_PREPA GenCo FY24 Budget"

Entity	# of Positions	Salary and Wages	Pension Benefit	Overtime Pay	Overtime Benefits	Total
GenCo	952	41,916,101	25,246,068	15,754,582	1,890,550	84,807,300
HoldCo	0	-	-	-	-	-
Retirement (HoldCo)	0	-	-	-	-	-
Water Admin	0	-	-	-	-	-
Riego	0	-	-	-	-	-
Hydroelectric	0	-	-	-	-	-
Total	952	41,916,101	25,246,068	15,754,582	1,890,550	84,807,300

GeneraPR Estimate of Open Positions: **(\$5,303,347)**
 79,503,953

This number support item. The proposed PREPA's proposal of open positions.

EMPLOYEE NAME	EMP NUM	UNIDAD	RESP ID	DIRECTORATE NAME	POSITION NUM	POSITION RH	Org ChatY/N	Org Chart
EMPLOYEE NAME	14449	UTIER	354	DIRECTORADO GENERACION	331-384305-001	3943	0	0
EMPLOYEE NAME	24317	UTIER	354	DIRECTORADO GENERACION	330-1809106-001	18091	0	0
EMPLOYEE NAME	17390	UTIER	354	DIRECTORADO GENERACION	413-457103-001	4571	0	0
EMPLOYEE NAME	14385	UEPI	348	DIRECTORADO GENERACION	318-345307-301	3453	0	0
EMPLOYEE NAME	11750	UEPI	314	DIRECTORADO GENERACION	390-126603-301	12666	0	0
EMPLOYEE NAME	11108	UTIER	360	DIRECTORADO GENERACION	335-415609-001	4161	0	0

Once again, as the above-snapshot shows, Genera explicitly noted that the source of that file was PREPA’s and not Genera. Genera’s roster was not considered during the evaluation of the proposed FY24 System Budget. Nevertheless, Genera did submit its analysis of PREPA proposed FY24 GenCo Labor Budget and Genera’s revision. See below:

Source: Genera Internally Developed from FY2023 actual, using HR rosters provided by PREPA and updated by GeneraPR HR team.

GeneraPR | Labor Cost Analysis YoY

Head Count	FY2023	Q2-B2A			FY2024	Diff	FY2024	Total
	Run-Rate	Other EE	Manatory EE	PY HR File ⁽¹⁾				
		234	802					
GenCo Labor Operating Expenses								
1 Salaries & Wages	\$41.0	\$9.4	\$31.6	\$33.2	\$41.0	\$7.8	\$	\$50.3
2 Pension & Benefits	\$21.4	\$2.8	\$18.6	\$14.9	\$15.5	\$0.5	\$	\$18.3
3 Overtime Pay	\$15.5	\$0.7	\$14.7	\$14.9	\$9.0	(\$5.9)	\$	\$9.7
4 Overtime Benefits	\$1.8	\$0.2	\$1.6	-	-	-	\$	\$0.2
5 Christmas Bonus		-	-	\$0.0	\$0.5	\$0.5	\$	\$0.5
6 Annual Bonus		-	-	-	\$0.7	\$	\$	\$0.7
Total Labor Operating Expenses	\$79.7	\$13.1	\$66.6	\$63.0	\$66.6	\$3.5	\$	\$79.6

\$ 79.5 Labor Included in Budget

As demonstrated and reiterated in this statement, Genera has never attempted to deceive or conceal information from the Energy Bureau. Genera upholds a steadfast commitment to transparency, not only towards PREB as its regulatory body but also towards all the people of Puerto Rico.

III. Compliance with the September 22 Action Plan Order

Corrective Action Plan: Within 30 days of issuing this Resolution and Order, Genera must submit a detailed Corrective Action Plan outlining the steps it intends to take to align its labor costs with the approved budgets. This plan should include a timeline for each action, responsible parties, and expected outcomes.

GPR – PREB ORDER – 09.22.2023 – Corrective Action Plan

This plan is being presented in the public record and, as stated before, shows a Labor Budget that is still below the historical budgets presented for GenCo (under its applicable allocation). Further, the Corrective Action Plan herein presented avoids closing positions (including mandatory hires) and removing budgeted positions, which in turn avoids the disruption of Genera's business plan to comply with its obligations stated in the LGA OMA. The Corrective Action Plan also ensures that Genera retains and continues to hire personnel with the expertise needed to have a more reliable and efficient LGA until the new generation resources are integrated and the LGA is retired. Genera's Corrective Action Plan follows PREB's order and is transparent in nature, highlighting Genera's accountability. Accountability is achieved through two primary methods: first, by adhering to the regulator's directives, and second, by fulfilling the contractual obligations outlined in the LGA OMA.

Below is the Corrective Action Plan that will be implemented:

Item	Action	Timeline	Regulator, Stakeholder or Party with Authority or Responsibility to Take Action	Genera Expected Outcome
1.	Present Corrective Action Plan to PREB	Oct 30, 2023	Genera	PREB will approve the Corrective Action Plan
2.	Implement corrective action measure: reduce from the proposed Labor Budget salaries of positions that will be removed.	Oct 31 – Nov 5, 2023	Genera	Genera will complete the task
3.	Revise the NME budget to reduce capital Non-Federally Funded Projects Budget and move them to the Federally-Funded Projects Budget	Nov 5, 2023	Genera	Genera will complete the task
4.	Revise the Labor Budget to remove positions that amount to an	Nov 5, 2023	Genera	Genera will complete the task

	approximate reduction of ~ \$3.7 MM			
5.	Present the revised FY24 GenCo budget to PREB to request approval of reapportionment, including (1) reduction in the proposed Genera FY24 Labor Budget, (2) increase in the approved FY24 Certified Labor Budget, (3) reduction in the FY24 Non-Federally Funded Projects Budget and (4) increase of the Federally Funded Projects Budget	Nov 6, 2023	Genera	Genera will complete the task
6.	PREB approval of the proposed reapportionments within the FY24 Certified GenCo budget	Determined by PREB	PREB	PREB will approve the reapportionments as requested by Genera

7.	Genera submittal of PREB revised FY24 Certified GenCo budget order to FOMB	One (1) business day after PREB notification	Genera	Genera will submit accordingly
8.	Genera submittal of PREB revised FY24 Certified GenCo budget to LUMA requesting consolidation and submittal to FOMB for certification	Three (2) business days after it becomes final and unappealable	Genera	Genera will submit accordingly
9.	LUMA submittal of PREB revised FY24 Certified GenCo budget to LUMA requesting consolidation and submittal to FOMB for certification	Determined by LUMA	LUMA	Luma will submit accordingly
10.	FOMB will approve reapportionments approved by PREB and the revised FY24 Certified PREPA Budget	Determined by FOMB	FOMB	FOMB will certify the revised FY24 Certified PREPA Budget