

**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
Gonzalez & Martinez Law Offices P.S.C.
Contract 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, for the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") review and approval, 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 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 July 19, 2023, the Energy Bureau issued a Resolution and Order ("July 19 Resolution") in which it approved PREPA's request to the González and Martínez Offices P.S.C. contract in the amount of \$350,000.¹

On August 14, 2023, the Energy Bureau issued a Resolution and Order ("August 14 Resolution"),² 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 OMAs³ or by PREPA's internal resources, among other requirements.

On July 19, 2023 ("July 19 Resolution"), August 3, 2023 ("August 3 Resolution") and August 14, 2023 ("August 14 Resolution"), the Energy Bureau issued such Resolutions and Orders through which it 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.

¹ July 19 Resolution, p. 3.

² See, Resolution and Order, *In Re: Review of LUMA's Initial Budgets*, Case No.: NEPR-MI-2021-0004, August 14, 2023 (August 14 Resolution).

³ Operation and Maintenance Agreements ("OMAs").



On September 22, 2023, the Energy Bureau issued a Resolution and Order (“September 22 Resolution”), through which, the Energy Bureau increased the HoldCo Operating Budget in the amount of \$3.673 MM for certain specific uses, subject to reporting requirements. The Energy Bureau also warned PREPA it must prioritize its expenditures and adhere to the approved budgets. The Energy Bureau also warned PREPA that it must not resubmit without new supportive material, budgets which are essentially the same or similar to budgets that the Energy Bureau has reviewed and for which it has issued a determination.

On November 7, 2023, PREPA filed a document titled, *Motion in Compliance with Orders and Request for Approval of Revised Proposed Budget* (“November 7 Motion”) through which PREPA submitted for Energy Bureau review and approval several contracts PREPA proposed to execute in FY 2024 and requested that the approved FY 2024 budget be amended to increase its allocation. PREPA noted that the list of contracts it presented for approval is not complete and will be supplemented as additional information becomes available.

On November 28, 2023, PREPA filed a document titled, *Urgent Motion for Approval of the Gonzalez & Martinez Law offices P.S.C. Contract* (“November 28 Motion”), through which, PREPA submitted for Energy Bureau review and approval, a request to increase to the Legal Services Contract between PREPA and González & Martínez Law Offices, P.S.C. (“G&M Law”) contract (“G&M Law Contract”) not to exceed amount from \$0.350 MM to \$1.5 MM. PREPA noted that a request to increase the funding for the G&M Law Contract was made in its November 7 Motion and requested through the November 28 Motion that the instant request be addressed on a separate and expedited basis.⁴

In the November 28 Motion, PREPA stressed the urgency of approval for the requested contract increase. PREPA noted that on November 11, 2023, the Diaz & Vázquez Law Firm P.S.C. (“D&V Law”), withdrew as PREPA’s counsel of record in this proceeding and on the same date, G & M Law became PREPA’s new counsel of record. PREPA related that G & M Law is now in charge of managing all Non-Title III matters formerly handled by D & V Law, in addition to matters it was already managing on behalf of PREPA. PREPA enumerated G & M Law responsibilities, which it characterizes as time-sensitive and time-consuming. Among the cited responsibilities are periodic reporting and response to Information Requests from the Financial Oversight Management Board (“FOMB”).⁵

Through the November 28 Motion, PREPA asserted that the additional requested funding is necessary for G & M Law to continue its representation of PREPA and notes that the funding for the requested increase is available in its approved budget.⁶ PREPA also stated that its Board of Directors has authorized the increase and attached the authorizing Resolution.⁷

II. Analysis and Conclusion

The Energy Bureau is concerned with the frequent characterization by PREPA of its requests for contract approval as urgent. The Energy Bureau has repeatedly warned PREPA, that it must prioritize the contracts for which it seeks approval, to stay within its approved budgets, and directed PREPA to provide a full list of the contracts for which it will seek approval within its approved budgets.

PREPA has not provided, in either the November 7 Motion or November 28 Motion, the 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, as required by the July 19 Resolution, August 3 Resolution, and the August 14 Resolution. Although PREPA provided the proposed contract and other supporting material in the November 7 Motion, PREPA’s

⁴ November 28 Motion, p.2, ¶ 12.

⁵ November 28 Motion, p. 5, ¶ 16.

⁶ November 28 Motion, p. 6 ¶ 18.

⁷ November 28 Motion, p. 6 ¶ 19.



contention that this request is urgent does not relieve it of its responsibility to provide all of the information the Energy Bureau has requested to facilitate its contract review.

In view of the necessity PREPA asserts for this contract and based on the information presented, the Energy Bureau **APPROVES** the requested increase for the G & M Contract in the amount of \$1.15 MM for a total contract amount of \$1.50 MM, which will be allocated from the HoldCo Non-Labor Legal Services budget line.

The Energy Bureau **WARNS** LPREPA 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 December 5, 2023. Also certify that on December 5, 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@sbglaw.com; alopez@sbglaw.com; jlago@sbglaw.com.

For the record, I sign in San Juan, Puerto Rico, today, December 5, 2023.





Sonia Seda Gaztambide
Clerk