

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

**NEPR**

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**IN RE:** REVIEW OF LUMA'S INITIAL  
BUDGETS

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

**URGENT REQUEST TO INCREASE BUDGET FOR SECURITY CONTRACTS**

**TO THE HONORABLE ENERGY BUREAU:**

**COMES NOW** the Puerto Rico Electric Power Authority ("PREPA") through its undersigned legal representation and, very respectfully, informs and requests as follows:

**I. INTRODUCTION<sup>1</sup>**

1.1 Consistent with the Energy Bureau of the Puerto Rico Public Service Regulatory Board's ("Energy Bureau") mandates, PREPA has reduced its reliance on manned guarding and patrolling to the bare minimum in all its facilities and sites, while also striving towards enhancing its electronic surveillance systems. Further, PREPA has carried out all necessary proceedings to obtain efficient security services at the lowest price. Additionally, and also consistent with the Energy Bureau's mandates and public policy, PREPA has reduced its security contracts to the minimum required to reasonably protect its employees and property.

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<sup>1</sup> The documents marked as **Exhibits 1** and **2** of this motion are submitted as confidential because they contain sensitive information pertaining to PREPA's security guards. The public availability of this information could jeopardize PREPA's security operations.

1.2 Despite PREPA's efforts, the operational budgets approved by the Energy Bureau in the June 25<sup>th</sup> Resolution (as defined below) are still insufficient to cover PREPA's basic security needs.

1.3 As will be explained in the ensuing paragraphs, PREPA needs an additional budget of **\$1,220,295.00** (\$366,088.00 for the HoldCo budget, and \$854,207.00 under HydroCo the budget) to cover the amended Genesis Contracts (as defined below) and **\$125,000.00** (\$37,500.00 under the HoldCo budget and \$87,500.00 under HydroCo budget) to cover its maintenance contract with Protective Security Systems for the remaining part of FY24. These amounts are significantly lower than previous requests for budget revision and are the result of PREPA's cost cutting efforts and commitment and ongoing efforts to guarantee efficient use of its reduced budget.

1.4 The **urgent** intervention of the Energy Bureau is required. If no additional budget is authorized for these contracts, particularly the amended Genesis Contracts, PREPA will be forced to operate with no security measures in place. The lack of security personnel and proper maintenance of the security equipment would, *inter alia*: (a) expose PREPA to unprecedented liability from illegal trespassing and other illegal activities, (b) put PREPA's employees at risk and expose PREPA to labor claims and disputes, and (c) leave PREPA's assets vulnerable to all sorts of criminal activity, resulting in unanticipated losses and/or expenses to PREPA.

1.5 As will be fully explained in the upcoming paragraphs, the financial risks of shutting down PREPA's security systems and services far exceed the fiscal savings of not authorizing the additional budget requested.

1.6 For the reasons set forth herein, PREPA moves the Energy Bureau to approve an increase of **\$404,000.00** to the Security line-item of the HoldCo Non-Labor Budget, and an increase of **\$942,000.00** to the Security line-item of the HydroCo Non-Labor Budget, to be specifically allocated to cover the amended Genesis Contracts (as defined below) and the Protective Security System Maintenance Contracts (as defined below) for the remaining part of FY24.

## II. RELEVANT FACTUAL BACKGROUND

2.1 On November 9<sup>th</sup>, 2021, PREPA published RFP 00003252, to obtain security services for its generation facilities in the Northern region of Puerto Rico; and RFP 00003253, to obtain security services for its generation facilities in the Southern region of Puerto Rico.

2.2 After the required bidding process was completed, both RFPs were awarded to Bridge Security Services, Inc., as the lowest bidder with the following proposals: \$4,111,893.76 for the Southern Region ("Southern Region Award"); and \$3,912,324.00 for the Northern Region.

2.3 One of the losing bidders in the RFP, Genesis Security Services, Inc. ("Genesis Security"), sought administrative review of the Southern Region Award.

2.4 On March 31<sup>st</sup>, 2022, the Court of Appeals entered Judgment in Case No. KLRA202200038 whereby it concluded that Bridge Security Services, Inc. failed to comply with all of the requirements of the bidding process and set aside the Southern Region Award.

2.5 As a result of the above Judgement, on October 4<sup>th</sup>, 2022, Genesis Security was awarded the contract for security services in the Southern area, as the

second lowest bidder with a proposal of \$4,390,048.00.

2.6 On October 21<sup>st</sup>, 2022, Genesis Security and PREPA executed Contract 2023-P00077 for security services in the Southern Region ("Southern Region Contract").

2.7 With respect to the Norther Region RFP, Bridge Security Services, Inc. was unable to provide the required security services and, as such, on November 9<sup>th</sup>, 2022, PREPA also awarded the contract for the Northern Region to the second lowest bidder, Genesis Security, with a proposal of \$4,152,934.24.

2.8 On November 10<sup>th</sup>, 2022, Genesis Security and PREPA executed Contract 2023-P00084 for security services in the Northern Region ("Northern Region Contract") (the Southern Region Contract and the Northern Region Contract will be jointly denominated hereafter, where appropriate, the "Genesis Contracts").

2.9 On May 16<sup>th</sup>, 2023, LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly hereafter, "LUMA") filed a document titled *Submission of Consolidated Annual Budget for Fiscal Year 2024 and Annual T&D Projections through Fiscal Year 2026* ("May 16<sup>th</sup> Motion"). In said motion, LUMA submitted: (i) the proposed T&D budget developed by LUMA, (ii) the proposed generation budget developed by Genera PR, LLC ("Genera") on behalf of PREPA, for the PREPA subsidiary GENCO LLC ("GenCo"), and (iii) the proposed budget developed by PREPA for its holding company, HoldCo ("HoldCo"), and its subsidiaries PREPA HydroCo LLC ("HydroCo") and PREPA PropertyCo, LLC.

2.10 In the May 16<sup>th</sup> Motion, PREPA requested a budget of \$41.071MM for its HoldCo Non-Labor Operating Expenses; and \$8.455MM for its HydroCo Non-Labor

Operating Expenses. From these total amounts, it requested \$2,662,000.00 under the HoldCo Security line-item; and \$2,645,000.00 under the HydroCo Security line-item, for a total of \$5,307,000.00 (hereinafter, the "Original Security Budget Request").<sup>2</sup> The specific distribution of the requested amounts was the following:

PREPA's Original Budget Request – Security line-items		
Contract	Requested Amount under HoldCo	Requested Amount under HydroCo
Genesis Southern Region Contract	\$1.317MM	\$1.309MM
Genesis Northern Region Contract	\$1.237MM	\$1.230MM
Protective Security Systems	\$68,000.00	\$67,000.00
CCG Consultants, LLC	\$40,000.00	\$40,000.00
Total	\$2.662MM	\$2.646MM

2.11 The amounts sought under the Original Security Budget Request contemplated regular security services, as well as emergency security services that could be needed due to hurricanes or other extraordinary events.

2.12 On June 25<sup>th</sup>, 2023, the Energy Bureau issued a *Resolution and Order* ("June 25<sup>th</sup> Resolution") whereby it modified and approved the *Consolidated Annual Budgets for Fiscal Year 2024*, subject to compliance with various orders. The approved HoldCo Non-Labor Operating Budget was \$11.772MM (from the \$41.071MM requested); while the approved HydroCo Non-Labor Operating Budget was \$5.470MM (from the 8.455MM requested).

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<sup>2</sup> It is worth noting that the Genesis Contracts were distributed between the HoldCo and HydroCo budgets in their entirety because, at that time, it was unclear whether Genera would be able to assume its part of the contract as part of the transition.

2.13 After conducting an internal distribution of the approved budget, PREPA was able to allocate \$797,000.00 for the HoldCo Security line-item, and \$1.712MM for the HydroCo Security line-item (hereinafter the "Approved Security Budget").

2.14 In a preliminary effort to cover all its security needs, while seeking budget revision from the Energy Bureau, PREPA distributed the Approved Security Budget as follows:

PREPA's Distribution of the Approved Security Budget		
Contract	HoldCo	HydroCo
Genesis Southern Region Contract	\$139k	\$865k
Genesis Northern Region Contract	\$570k	\$729k
Protective Security Systems	\$40k	\$118k
CCG Consultants, LLC	\$47k	-
Total	\$797,000.00	\$1.712MM

2.15 Unfortunately, the Approved Security Budget was insufficient for PREPA to cover all its security needs.

2.16 As part of the transition, it was agreed that, effective July 1<sup>st</sup>, 2023, Genera would become responsible for 70% of the Genesis Contracts, while PREPA would remain responsible for the remaining 30%.

2.17 Consistent with the foregoing, on June 30<sup>th</sup>, 2023, Genesis Security and PREPA amended the Genesis Contracts to: (a) extend their effective dates until June 30<sup>th</sup>, 2024; and (b) distribute payment obligations between Genera (70%) and PREPA (30%).

2.18 On that same date, that is, June 30<sup>th</sup>, 2023, LUMA submitted PREPA's *Motion for Reconsideration of the June 25<sup>th</sup> Resolution*. See *Submission of Motions for Reconsideration by PREPA and Genera [...]*, Exhibit 2 (hereinafter the "*Motion for Reconsideration*"). In the *Motion for Reconsideration*, PREPA petitioned a budget increase under the HoldCo and HydroCo Security line-items, in addition to the Approved Security Budget, in the following amounts:

Motion for Reconsideration – Additional Budget Requested for Security		
Contract	Additional Requested Amount under HoldCo	Additional Requested Amount under HydroCo
Genesis Southern Region Contract	\$155k	\$578k
Genesis Northern Region Contract	\$635k	\$488k
Protective Security Systems	\$45k	\$80k
CCG Consultants, LLC	\$53k	-
Total	\$888k	\$1.145MM

2.19 The variance between PREPA's Original Security Budget Requests and its June 25<sup>th</sup> revised security Budget requests were due in part to the following events:

- a. Effective July 1<sup>st</sup>, 2023, Puerto Rico's minimum wage increased from \$8.50 to \$9.50, which caused Genesis Security to increase its fees for all security guards.
- b. Effective July 1<sup>st</sup>, 2023, Genera would become responsible for 70% of the Genesis Contracts, while PREPA would remain responsible for the other 30%. However, facilities that were supposed to fall under Genera's responsibility, such as Bechara, Corozal, Guaynabo (COE), and certain parking lots, were reassigned to PREPA for it to cover 100% of its security services.
- c. OSHA and other applicable regulations required PREPA to provide security guards with portable restrooms and security huts.
- d. Unanticipated security needs such as official activities by PREPA's Governing Board and/or Executive Director.

2.20 After a series of procedural events not pertinent to the issue at hand, on September 22<sup>nd</sup>, 2023, the Energy Bureau partially granted PREPA's *Motion for Reconsideration* ("September 22<sup>nd</sup> Resolution") and increased HoldCo's Non-Labor Budget by \$3.673MM, "to include reimbursement to Genera for EPA required remedial work, external contracts, and other work considered necessary and prioritized by PREPA". See September 22<sup>nd</sup> Resolution, p. 20. The Energy Bureau found without merit any arguments in the *Motion for Reconsideration* not specifically discussed therein.

2.21 Following other procedural incidents, on November 7<sup>th</sup>, 2023, PREPA filed its *Motion in Compliance with Orders and Request for Approval of Revised Proposed Budget* ("November 7<sup>th</sup> Motion"). In its motion, PREPA submitted both the original and the Amended Genesis Contracts. Additionally, it requested the Energy Bureau to increase HoldCo's and HydroCo's Security line-items in the following amounts:

November 7 <sup>th</sup> Motion – Additional Budget Requested for Security		
Contract	Additional Requested Amount under HoldCo	Additional Requested Amount under HydroCo
Genesis Southern Region Contract	\$155k	\$578k
Genesis Northern Region Contract	\$635k	\$488k
Protective Security Systems	\$45k	\$80k
CCG Consultants, LLC	\$53k	-
Total	\$888k	\$1.145MM



2.22 In response to the November 7<sup>th</sup> Motion, on December 8<sup>th</sup>, 2023, the Energy Bureau issued a *Resolution and Order* whereby it increased the HoldCo Non-Labor Budget from \$11,772,000.00, as authorized in the June 25<sup>th</sup> Resolution, to \$18,072,000.00 ("December 8<sup>th</sup> Resolution"), to be allocated as specified therein. However, the Energy Bureau expressly rejected PREPA's request for additional budget for security services and contracts. Regarding this particular matter, the December 8<sup>th</sup> Resolution states as follows:

PREPA requests an increase of \$0.888MM<sup>17</sup> to its HoldCo Non-Labor Security budget. This requested increase comes when PREPA's responsibilities and the number of essential facilities for which it must provide security have significantly decreased. The Energy Bureau is cognizant of the need for adequate security for the facilities for which PREPA remains responsible, however, PREPA has not provided adequate support for the significant increase it is requesting.

PREPA has provided no new information on specific threats or shifts in risk levels, and the Energy Bureau's past determinations regarding the adequacy of current budget levels to support key protective measures and services, will not be revised. Rather than increased patrolling or manned guarding, the Energy Bureau urges PREPA to focus on enhancing perimeter defenses using effective barriers and surveillance systems suited to repel and detect intrusion attempts. Approved funds in the HydroCo NME budget exist for these purposes and PREPA is expected to prioritize these funds. PREPA did not provide adequate details on any security gaps, that demonstrate an actual elevation in credible risks.

Therefore, Energy Bureau **DENIES** PREPA's request for additional funding for its HoldCo Non-Labor Security budget line **ORDERS** PREPA to ensure the prioritization of technologies and vigilance practices to secure its facilities.

2.23 For the reasons set forth herein, PREPA, very respectfully, moves the Energy Bureau to reconsider its December 8<sup>th</sup> Resolution.

### III. DISCUSSION

#### A. Genesis Security

1.7 As the above procedural background shows, PREPA held two competitive bidding processes to obtain reliable security services at the lowest price. Genesis Security ultimately prevailed in both RFPs as the lowest bidder that complied with all the requirements.

1.8 Under the amended Northern Region Contract, PREPA has 16 sites where security guards are needed. In some of these locations, OSHA and other applicable regulations require PREPA to provide additional services such as portable restrooms and security huts. Attached as **Exhibit 1** (Confidential) is a detailed list of the security services provided by Genesis Security under the amended Northern Region Contract, with the following information:

- a. the site where the security services are offered,
- b. the exact job post of the security guard,
- c. types of security services offered (ex. unarmed security guard, portable restroom and/or security hut),
- d. weekly schedule of the security services,
- e. work shifts,
- f. number of hours worked per week,
- g. cost of security service per hour,
- h. cost of security service per weekly,
- i. whether the services are offered during holidays,
- j. TWIC,
- k. minimum amount of security guards to cover all shifts, and
- l. site address.

1.9 Under the amended Southern Region Contract, PREPA has 11 sites where security guards are needed. Like in the Northern Region, OSHA and other applicable regulations require PREPA to provide additional services such as portable restrooms and security huts. Attached as **Exhibit 2** (Confidential) is a detailed list of

the security services provided by Genesis Security under the amended Southern Region Contract, which also includes the above-mentioned information.

1.10 Except for Riego Guayama, where there are two (2) security guards per shift due to the size of the perimeter, all other sites have only one (1) security guard per shift. In other words, PREPA has reduced the presence of security guards in its sites to the required bare minimum. This reduction in security personnel per site is the result of PREPA's effort to maximize its resources, while also protecting its employees, property, and the general well-being.

1.11 Each security guard is responsible for access control and supervision of entry gates, as well as patrolling designated areas. Said security services are critical to protect PREPA's employees and property, as well as to prevent recurrent situations that pose a significant liability or risk to PREPA, such as:

1. **Trespassing in dangerous and life-threatening areas:** PREPA's security guards have intercepted unauthorized visitors who have trespassed into PREPA's lands to access PREPA's irrigation canals, water dams and/or reservoirs as part of private and even commercial touristic expeditions. These areas were not designed to be accessed by the public. By intercepting these individuals, the security guards have protected the trespassers from potential harm, as well PREPA from potential liability.
2. **Illegal discharges into PREPA's irrigation canals, water dams and reservoirs:** PREPA's security guards have intercepted and dissuaded attempts by trespassers to illegally dump chemicals, such as used car oil, into water bodies under PREPA's control, thus protecting PREPA's assets and the environment.
3. **Illegal invasion and occupation of PREPA's real property and land:** PREPA's security guards have identified efforts by trespassers to occupy PREPA's lands to build illegal homes and auto-mobile workshops, among others. As a result, PREPA has been able to take legal action to stop these activities.
4. **Illegal garbage disposal in PREPA's irrigation canals, reservoirs, dams, and lands:** PREPA's security guards have intercepted and dissuaded attempts by trespassers to create illegal dumps and/or dump waste into water bodies under PREPA's control and PREPA's lands. These efforts have protected

PREPA's assets, saved PREPA money for remedial work, and protected the environment.

1.12 Consistent with the Energy Bureau's mandate to prioritize crucial services, following the December 8<sup>th</sup> Resolution PREPA decided to postpone its contract with CCG Consultants, LLC for next fiscal year, and allocated said unused budget to the amended Genesis Contracts. Further, PREPA analyzed the payment history on the amended Genesis Contracts and projected that, to cover the bare minimum security services identified in **Exhibits 1** and **2** until June 30<sup>th</sup>, 2024, it needs an additional budget of **\$1,220,295.00**; \$366,088.00 for the HoldCo budget, and \$854,207.00 under HydroCo the budget. The reduction in the budget required to fund the amended Genesis Contracts for the remaining part of FY24 is driven, in great part, by the lack of emergency situations in the first semester of FY24, particularly during the hurricane season. Since no emergency services have been required thus far, PREPA has been able to eliminate these projected expenses and adjust its security budget accordingly.

#### **B. Protective Security Systems Maintenance Contract**

1.13 Consistent with the Energy Bureau's public policy, PREPA has and continues to implement technology that will allow it to continue operating with minimum security guards, while expanding its capabilities to protect and monitor its assets, facilities, and lands.

1.14 Protective Security Systems provides PREPA with conservation, maintenance, and repairment services for all its security equipment, including, but not limited to, controlled access gates and systems in all PREPA facilities, and all

components of the closed-circuit television system (hereinafter, the “Maintenance Contract”).<sup>3</sup> The Maintenance Contract is necessary to guarantee proper operation of all access gates, magnetic security systems for pedestrian gates, and magnetic security systems for internal accesses in the hydro-electric plants and all other PREPA facilities. For the Protective Security Systems Maintenance Contract, PREPA needs an additional budget of **\$125,000.00**: \$37,500.00 under HoldCo and \$87,500.00 under HydroCo.

1.15 PREPA highlights that proper operation of these security systems is essential for it to maintain minimum patrolling and manned guarding.

#### **IV. CONCLUSION**

1.16 In denying PREPA's request for additional budget for security services, the December 8th Resolution concluded that “PREPA ha[d] not provided adequate support for the significant increase it [was] requesting.” PREPA very respectfully submits that the information proffered in this motion, including the one contained in **Exhibits 1** and **2**, provides adequate support for the budgetary increases sought herein.

1.17 Consistent with the Energy Bureau's mandates, PREPA has reduced its reliance on manned guarding and patrolling to the bare minimum in each one of its facilities and sites, while also working towards enhancing its electronic surveillance systems. The budgetary increases sought herein to cover the amended Genesis

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<sup>3</sup> In addition to the Maintenance Contracts, PREPA is also in the process of executing other contracts with Protective Security System to acquire equipment and infrastructure for capital improvements under the HydroCo Necessary Maintenance (NME) budget. These capital improvements will help PREPA enhance its perimeter defenses through effective surveillance systems that detect, record, and dissuade intruders.

Contracts and the Maintenance Contract for the remaining part of FY24 are reasonable and justified.

1.18 As the above procedural background shows, in the May 16<sup>th</sup> Motion, PREPA originally sought \$2.662MM under its HoldCo budget, and \$2.645MM under its HydroCo budget for its security services. Following the authorization of the Approved Security Budget in the June 25<sup>th</sup> Resolution, PREPA sought, both in the *Motion for Reconsideration* and the November 7<sup>th</sup> Motion, an increase of \$888k under its HoldCo budget (for a total of \$1.685MM), and an increase of \$1.145MM under its HydroCo budget (for a total of \$2.857MM) for its security services.

1.19 After careful consideration, in the instant motion PREPA is only seeking an increase of **\$404,000.00** to the Security line-item under the HoldCo Non-Labor Budget (for a total of \$1.201MM), and an increase of **\$942,000.00** to the Security line-item of the HydroCo Non-Labor Budget (for a total of \$2.654MM). PREPA's requests for additional funding is both reasonable and substantiated.

1.20 If no additional budget is authorized by the Energy Bureau for these contracts, particularly the amended Genesis Contracts, PREPA will be forced to operate with no security measures in place. As previously mentioned, this would expose PREPA to unprecedented liability, put its employees at risk, and leave its assets vulnerable to all sorts of nefarious criminal activity. The financial downside of shutting down PREPA's security systems and services, is far outweighed by the additional and limited budget amounts sought herein.

1.21 For the reasons set forth herein, PREPA moves the Energy Bureau to approve an increase of **\$404,000.00** to the HoldCo Non-Labor Budget, and an

increase of **\$942,000.00** to the HydroCo Non-Labor Budget, to be specifically allocated to cover the amended Genesis Contracts and the Protective Security System Maintenance Contracts for the remaining part of FY24. See **Exhibit 3** – HoldCo Budget – Security line-item and **Exhibit 4** – HydroCo Budget – Security line-item.

**WHEREFORE**, PREPA respectfully requests the Energy Bureau to **GRANT** the instant motion, and **APPROVE** an increase of **\$404,000.00** to the HoldCo Non-Labor Budget, and an increase of **\$942,000.00** to the HydroCo Non-Labor Budget, to be specifically allocated to cover the amended Genesis Contracts and the Protective Security System Maintenance Contract.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 25<sup>th</sup> day of January 2024.

**CERTIFICATE OF SERVICE:** We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>, which automatically notifies all attorneys of record with copy of the filed motion.

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