

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

IN RE: IMPLEMENTATION OF THE PUERTO RICO ELECTRIC POWER AUTHORITY INTEGRATED RESOURCE PLAN AND MODIFIED ACTION PLAN

CASE NO.: NEPR-MI-2020-0012

SUBJECT: Tranche 1 Interconnection Costs

RESOLUTION AND ORDER

I. PROCEDURAL BACKGROUND

On February 2, 2022 the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) issued a Resolution and Order approving eighteen (18) renewable energy projects as part of Tranche 1 of the renewable energy procurement contemplated in the Puerto Rico Electric Power Authority (“PREPA”) Approved Integrated Resource Plan and Modified Action Plan.

On June 13, 2022, the Energy Bureau issued a Resolution and Order (“June 13 Resolution”) authorizing PREPA to finalize negotiations with Tranche 1 respondents for nine (9) battery energy storage system (“BESS”) proposals totaling 490 MW of 4-hour duration capacity. In the June 13 Resolution the Energy Bureau determined that the urgency of need for capacity resources supported the authorization, for reliability, resiliency, and renewable energy integration purposes, and to prevent delay of the planned retirement of the oldest and most polluting of PREPA’s existing fossil-fueled facilities. In the June 13 Resolution the Energy Bureau also approved PREPA’s request for authorization to finalize negotiations with a 17 MW virtual power plant (“VPP”) capacity provider.

On April 4, 2023, the Energy Bureau issued a Resolution and Order (“April 4 Order”) through which it ordered PREPA to require Tranche 1 proponents to use the most recent interconnection costs estimates, provided by LUMA¹, to present their Best and Final Offer (“BFO”)².

The Energy Bureau also determined in the April 4 Order that any Interconnection Cost Price Discrepancies between the interconnection costs used to determine the BFO and the final interconnection costs, as established by LUMA through the interconnection RFP (“Final Interconnection Costs”), would not be assumed by the proponents. The Energy Bureau determined that any price decrease would be noted and the BFO reduced.³

On September 15, 2023 the Energy Bureau ordered PREPA to submit a report confirming receipt of information from LUMA on Tranche 1 interconnection costs (“September 15 Order”). The September 15 Order also required PREPA to file information on the interconnection costs used by Tranche 1 proponents for their BFO, and file information on the final interconnection costs for Tranche 1 from LUMA’s estimate. The September 15 Order required PREPA to indicate the “Interconnection Cost Price Discrepancy” that would not be assumed by Tranche 1 resource proponents. The September 15 Order also indicated that interconnection costs were to include only “reasonable oversight costs”, understood by the Energy Bureau to be supervision costs that shall not exceed 3% to 5% of the construction costs of the interconnection.

¹ LUMA Energy, LLC, and LUMA Energy ServCo, LLC, (collectively referred to as, “LUMA”)

² Resolution and Order, *In Re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Action Plan*, Case No.: NEPR-MI-2020-0012, April 4, 2023.

³ *Id.*



The September 15 Order also required LUMA to file information responsive to requests of information (i) through (v) from the Order. Part of the requested information was to include confirming interconnection costs including any discrepancies and presentation of “a proposal to obtain the funds required to offset such interconnection costs discrepancy”⁴, for which the Energy Bureau suggested LUMA use the Power Purchase Charge Adjustment (“PPCA”) factor.

On September 20, 2023 the Energy Bureau issued a Resolution and Order granting LUMA an extension to September 22, 2023 to file the information required from the September 15 Order.

On September 22, 2023 PREPA submitted its *Motion in Compliance with the September 15 Resolution and Order* (“PREPA September 22 Motion”) and LUMA submitted its *Motion to Comply with Resolution and Order of September 15, 2023, as Modified by Resolution and Order of September 20, 2023* (“LUMA September 22 Motion”). The September 22, 2023 submittals included filing (under seal of confidentiality) information on the Tranche 1 interconnection costs, and the discrepancy in cost between the interconnection costs used by proponents in their BFO submittals and LUMA’s estimate of final interconnection costs.

LUMA included as Confidential Exhibit 1 to the LUMA September 22 Motion, submitted under seal of confidentiality, responses to tasks i) through v) requested by the Energy Bureau in the September 15 Order.

On September 26, 2023, the Energy Bureau determined that LUMA had complied with the September 15, 2023 request of information, and approved the proposed amendments to the interconnection agreements between LUMA and Tranche 1 project proponents.

On October 25, 2023 LUMA submitted a *Memorandum of Law in Support of Confidential Treatment of Attachments to Response Submitted by LUMA on October 25, 2023 to Energy Bureau’s Informal Request for Information of October 10, 2023* (“October 25 Memorandum”). LUMA requested confidential treatment for its Bid Evaluation and Award Approval (“BEAA”) document, and for its Annex A, an attachment to LUMA’s response to the October 10, 2023 request for information about the LUMA Interconnection Works Cost Estimate Methodology. Annex A has a worksheet with LUMA Interconnection Works cost estimates and estimated costs for interconnection facilities for each of Tranche 1 and Tranche 2 projects.

On December 6, 2023 LUMA submitted an *Informative Motion on Execution of Tranche 1 Interconnection Agreements, Request for Determination Regarding Interconnection Costs and Request for Confidential Treatment* (“December 6 Motion”). In the December 6 Motion LUMA requested approval to use the PPCA to cover interconnection cost discrepancies. LUMA also requested approval of moving forward to conclude an EPC (Engineering, Procurement and Construction) agreement with an EPC provider based on a Bid Evaluation and Award Approval (“BEAA”) document for an EPC RFP.

The December 6 Motion included two Exhibits. Exhibit 1 was a list of fourteen (14) interconnection agreements executed as of December 1, 2023. Exhibit 2 consisted of additional information responding to Energy Bureau requests of information on four topic areas: 1) LUMA Interconnection Works Cost Estimates Methodology, 2) Sectionalizer Facilities Requirement Change between Tranche 1 and Tranche 2, 3) Accounting for LUMA Interconnection Works, and 4) BEAA documentation for Energy Bureau approval. LUMA requested confidential treatment of Exhibit 2.

On December 7, 2023, LUMA filed a *Motion to Submit Executed Interconnection Agreements and Request for Confidential Treatment* (“December 7 Motion”). The December 7 Motion included submittal of confidential Exhibit 1, consisting of thirteen (13) interconnection

⁴ September 15 Order, page 2.



agreements for Tranche 1 projects and one (1) interconnection agreement for a non-Tranche 1 project (*i.e.*, *Ciro One*).

II. DISCUSSION AND FINDINGS

The information provided by LUMA and PREPA in the September 22, 2023 submittals provides a mostly complete, current rendering of the costs of anticipated interconnection for the Tranche 1 renewable resource and battery energy storage projects. However, PREPA notes a critical lack of clarity, and the Energy Bureau requires more information from both LUMA and PREPA to finalize the precise values to be used in the planned adjustment to the PPCA values for collection of incremental interconnection costs.

PREPA's indication that it is "unable to categorically confirm"⁵ the final interconnection cost values in LUMA's data must be addressed and further verified by LUMA. Also, the current interconnection costs contained in the Tranche 1 PPOA and ESSA contracts between providers and PREPA must also be verified by PREPA.

Act 57-2014⁶ establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.⁷ 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".⁸ 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."⁹

III. CONCLUSION

The Energy Bureau **ORDERS** PREPA to confirm in a confidential filing, **within 5 days of the notice of this Resolution and Order**, to the Energy Bureau the component of interconnection cost included in each of the PPOA and ESSA contracts for the tranche 1 projects.

The Energy Bureau **ORDERS** LUMA to confirm, or otherwise explain, **within 5 days of the notice of this Resolution and Order**, that the "EPC Lump Sum" column in the table of Exhibit 1 of LUMA September 22 Motion in response to Energy Bureau September 15 Order question number (ii), concerning Interconnection Cost Discrepancies, represents its current estimate of the cost of interconnection using its EPC provider.¹⁰

Furthermore, the Energy Bureau **ORDERS** LUMA to confirm, or otherwise explain, **within 5 days of the notice of this Resolution and Order**, that the "POI Class 3 Estimate" column in the table of Exhibit 1 of LUMA September 22 Motion in response to Energy Bureau September 15 Order question number (ii), concerning Interconnection Cost Discrepancies,

⁵ PREPA September 22 Motion at page 3, paragraph 8.

⁶ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

⁷ Section 6.15 of Act 57-2014.

⁸ *Id.*

⁹ *Id.* (Emphasis added).

¹⁰ LUMA September 22 Motion, Exhibit 1, response to RFI-LUMA-MI-2020-0012-20230915-PREB-002.



represents the value of interconnection cost recovery currently contained in the PREPA PPOA and ESSA contracts for Tranche 1.¹¹

The Energy Bureau also **ORDERS** LUMA to confirm, or explain otherwise, that the dollar amounts included in the executed interconnection agreements, submitted through the December 7 Motion, for interconnection costs to Tranche 1 providers are the same as those included in Exhibit 1 of LUMA September 22 Motion in response to Energy Bureau September 15 Order question number (ii), and listed in the "Total" column of the "Interconnection Studies Cost Estimate" section of the table, and that they represent only a portion of the total interconnection cost estimate.

The Energy Bureau also **ORDERS** LUMA to explain, **within 5 days of the notice of this Resolution and Order**, in detail and provide a workpaper for the calculations it used to determine its estimate of a need to collect \$0.007/kWh¹² beginning this year to cover incremental interconnection costs. In this explanation LUMA must address how the computation includes the values contained in the table of Exhibit 1 of LUMA September 22 Motion in response to Energy Bureau September 15 Order question number (ii), concerning Interconnection Cost Discrepancies.¹³

The Energy Bureau **TAKES NOTICE** of LUMA's December 6 and December 7 Motions.

The Energy Bureau **APPROVES** use of the Purchase Power Charge Adjustment ("PPCA") to cover interconnection cost discrepancies and **ORDERS** LUMA to prepare an estimate of the portion of the expenditures, to be recovered through the PPCA, for interconnection costs for Q2 of 2024 based on existing construction schedules for the development of all Tranche 1 interconnection projects and submit its proposal in the Permanent Rate Docket #NEPR-MI-2020-0001 by **February 15, 2024**.

The Energy Bureau **APPROVES** LUMA's plan to conclude an EPC agreement on the basis of a Bid Evaluation and Award Approval ("BEAA") document to allow negotiation with the EPC provider selected for Tranche 1 interconnection works.

The Energy Bureau **DIRECTS** PREPA and LUMA to make additional filings to the Energy Bureau to provide clarifying information about the interconnection costs for tranche 1 renewable energy and battery storage projects, as noted.

The Energy Bureau **ACCEPTS** the requests for confidentiality filed through the December 6 Motion and December 7 Motion. Upon review of PREPA's arguments and the applicable law the Energy Bureau **GRANTS** confidential designation and treatment to Exhibit 2 of the December 6 Motion and Exhibit 1 of the December 7 Motion, the fourteen (14) interconnection agreements, pursuant to the provisions of Article 6.15 of Act 57-2014 and Act 80-2011.

Be it notified and published.



¹¹ *Id.*

¹² LUMA September 22 Motion, Exhibit 1, response to RFI-LUMA-MI-2020-0012-20230915-PREB-003.

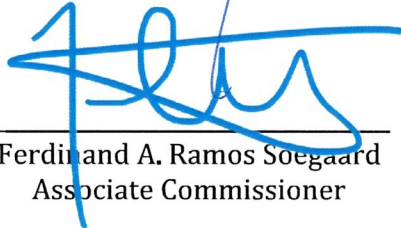
¹³ LUMA September 22 Motion, Exhibit 1, response to RFI-LUMA-MI-2020-0012-20230915-PREB-002.




Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau have agreed on February 5, 2024. Associate Commissioner Antonio Torres Miranda did not intervene. I also certify that in February 5, 2024 a copy of this Resolution and Order was notified by electronic mail to arivera@gmlex.net; mvalle@gmlex.net; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com; and I have moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today February 5, 2024.



Sonia Seda Gaztambide
Clerk

