

**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 January
23, 2024 Motion in Compliance with
Resolution and Order of January 18, 2024 to
Show Cause for Incompliance.

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 October 4, 2021, LUMA filed a document titled *Motion Submitting Update List of Transmission and Distribution Projects and Thirty-Eight Scopes of Work* ("October 4 Motion"). Among the Scope of Works ("SOWs") submitted, LUMA included the "Monacillo -TC" project, with a Class 5 Estimate of \$1.0M.⁵

On October 18, 2021, the Energy Bureau issued a Resolution and Order ("October 18 Resolution") approving all the SOWs for the projects included in the October 4 Motion.

On December 21, 2023, LUMA filed a document titled *Motion Submitting Amended Scope of Work and a Request for Confidentiality and Supporting Memorandum of Law* ("December 21 Motion"). As Exhibit 1 of the December 21 Motion LUMA submitted the SOW for the project "550950 – FAASt [Monacillo TC] (substations)" with a Class 5 Estimate of \$105.23M⁶ and explained that the project SOW, is an amendment to the "Monacillo-TC" project approved on the October 18 Motion.

On December 27, 2023, LUMA filed a document titled *Motion Submitting Three FEMA Approvals of Projects, Request for Confidential Treatment and Supporting Memorandum of Law* ("December 27 Motion"). As Exhibit 1 of the December 27 Motion, LUMA submitted the FEMA approved SOWs of three (3) projects, including the "FAASt-EPC- [Monacillo TC] (substations)".

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 See October 4 Motion, Exhibit 1 "Monacillo TC SOW", p.7.

⁶ See December 21 Motion, Exhibit 1 "550950- FAASt [Monacillo TC] (Substations) SOW", p.8.



On January 18, 2024, the Energy Bureau issued a Resolution and Order and Show Cause for Incompliance (“January 18 Resolution”) by which approved the project “550950 – FAAS [Monacillo TC] (substations)” of the December 21 Motion and ordered LUMA to show cause for why not imposing on them a fine of \$2,500 for incompliance with the October 18 Resolution⁷.

On January 23, 2024, LUMA filed a document titled *Motion in Compliance with Resolution and Order of January 18, 2024, to Show Cause for Incompliance* (January 23 Motion”). LUMA included as Exhibit 1 its explanation of the incompliance with the October 18 Motion.

II. Evaluation and Analysis

Through the January 23 Motion, LUMA explained the extensive process through which any initial scope of work for a federally funded project goes through at LUMA for finally getting it through the filings, reviews, and approval process. LUMA stated that FEMA’s compliance process includes twenty sequential steps and many stages which LUMA endeavors to fully complete and while meeting established timelines⁸. LUMA recognizes that given the multiple iterations, the project was not resubmitted to the Energy Bureau in a timely fashion for approval as required by the October 18 Resolution and that was an oversight that LUMA is working hard to address to prevent such occurrence in the future⁹

III. Energy Bureau Determination


Upon review of the merits of the explanation presented on Exhibit 1 of the January 23 Motion, the Energy Bureau **DETERMINES** to put on hold the imposition of the \$2,500 fine for incompliance with the October 18 Resolution.

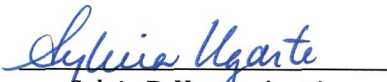
The directive established in the March 26 Resolution regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

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 57-2014¹⁰ and applicable Energy Bureau’s regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it notified and published.



Edison Avilés Deliz
Chairman

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

⁷ See October 18 Resolution, p.2 ¶ 3.

⁸ See January 23 Motion, Exhibit 1, p.1.

⁹ Id, p.2.

¹⁰ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.



CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau have agreed on February 12, 2024. Associate Commissioners Lillian Mateo Santos and Antonio Torres Miranda did not intervene. I also certify that on February 12, 2024 a copy of this Resolution and Order was notified by electronic mail to arivera@gmlex.net; 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, legal@genera-pr.com, regulatory@genera-pr.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 12, 2024.



Sonia Seda Gaztambide
Clerk

