

**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
February 2, 2024, Urgent Motion on One
Scope of Work, and Request for
Confidentiality and Supporting Memorandum
of Law.

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 February 2, 2024, LUMA filed a document titled *Urgent Motion Submitting One Scope of Work and a Request for Confidentiality and Supporting Memorandum of Law* ("February 2 Motion"). LUMA submitted as Exhibit 1, one (1) Scope of Work ("SOW") for "Vieques and Culebra Microgrid" T&D Project.

II. Evaluation of the February 2 Motion

Through the February 2 Motion LUMA states that has developed an SOW for implementing two (2) distinct microgrid installations on the islands of Vieques and Culebra, and that these installations are designed to serve as hazard mitigation measures, capable of providing power to vital infrastructure on the islands in the event of similar damages to the main source of power, as well as acting as a redundancy of the existing grid.⁵

LUMA indicates that the new facilities will include the construction of a new microgrid system on both islands Vieques and Culebra and would include Microgrid Controllers ("MGC"), Solar PV, Battery Energy Storage Systems ("BESS"), and upgraded fuel thermal capabilities. The Vieques Microgrid facilities will be located under one (1) site, and the Culebra Microgrid will be divided into three (3) sites: (i) Site 1-MGC and BESS, (ii) Site 2- Solar PV, and (iii) Site 3- existing thermal Generators to be upgraded.⁶ LUMA states that also, will require Telecommunications Upgrades for the microgrids systems.

¹ Final Resolution and Order, *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 February 2 Motion, p. 3-4.

⁶ See February 2 Motion, Exhibit 1, p. 4-8.



The systems components’ minimum capacities are described in table 1.

Table 1: Description of the Project

Major Components	Design Target	Vieques	Culebra
BESS	Minimum Capacity	8 MW / 8 MWh	4 MW / 4 MWh
Solar PV	Minimum Capacity	12 MW	3 MW
Thermal Generation	Minimum Capacity	10 MW	Control Upgrades only

Each Solar PV array and BESS will be interconnected at 38 kV feeder upstream of the existing distribution substations for both islands with sizes proportional to the level of demand and with energy to serve load demand.

LUMA cost estimates⁷ for the projects are:

- 1. Vieques Microgrid: \$81,410,371
- 2. Culebra Microgrid: \$40,846,080

The projects are aligned to repair, improve, and sustain the reliability, capacity, and resiliency of the Puerto Rico electric system. All these reconstruction efforts on the island need to be aligned with local and federal regulations, and actual codes and standards.

Upon review of Exhibit 1 of the February 2 Motion, the Energy Bureau **DETERMINES** that the projects are necessary to improve the reliability and resiliency of the electrical system. The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order. This approval represents **\$122,256,451.00** based on the Class 5 Cost Estimates submitted by LUMA through the February 2 Motion.

III. LUMA’s Request for Confidential Information Designation and Treatment of portions of Exhibit 1 of the February 2 Motion

In the Requests for Confidential Treatment, LUMA alleged that the unredacted version of the SOW in Exhibit 1 has confidential information associated with Critical Energy Infrastructure Information (“CEII”) as defined in federal regulations⁸ and, personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico’s legal framework on privacy emanating from the Puerto Rico Constitution and should be also protected pursuant to the Energy Bureau’s Policy on Management of Confidential Information⁹, that therefore is also protected under Act 57-2014¹⁰. LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred portion of February 2 Motion Exhibit 1. Table 1 below details the portions for which LUMA requested confidential designation and treatment.



⁷ Based on AACE “Association for the Advancement of Cost Engineering” Class 5 Cost Estimates.

⁸ See December 28 Motion p. 6.


⁹ See Resolution, *In re: Política sobre Manejo de Información Confidencial en los Procedimientos ante la Comisión*, Case No. CEPR-MI-2016-0009, issued on September 20,2016.


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


Table 1: LUMA’s Request for Confidential Information Designation and Treatment, portions of December 28 Motion Exhibit 1.



Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 1	Vieques and Culebra Microgrid	Page 1	Right to privacy (<i>see, e.g.</i> , Const. ELA, Art. II, Sections 8 and 10)	February 2, 2024
		Page 4,5 and 8	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674	February 2, 2024

IV. Energy Bureau Determination

 The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize their approval process for the request of federal funds. The Energy Bureau approved these projects based on the information from LUMA. Should the scope of the project change or the request for the federal funds are not approved for such projects, LUMA **SHALL** immediately seek the Energy Bureau’s approval of such changes.

 The Energy Bureau **ORDERS** LUMA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in **Attachment A**, which shall have the costs obligated for each project, **within ten (10) days of receipt of this approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each project in **Attachment A, within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

 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.


 Act 57-2014¹¹ establishes that any person having the duty to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.¹² 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”.¹³ 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.”¹⁴

Upon review of LUMA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the parts of Exhibit 1 as described in Table 1 above, pursuant to Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that LUMA already submitted a redacted (*i.e.*, public) version of both Exhibit 1 as described in Table 1.

¹¹ *Id.*

¹² Section 6.15 of Act 57-2014.

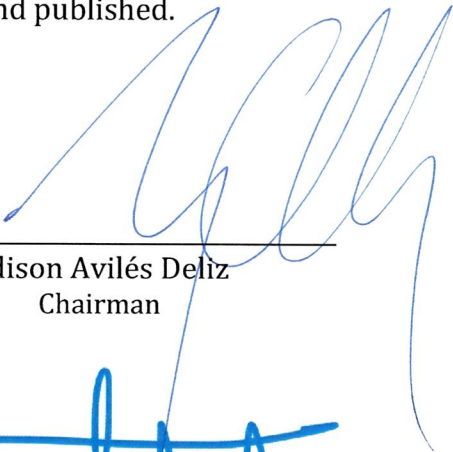
¹³ *Id.*

¹⁴ *Id.* (Emphasis added).

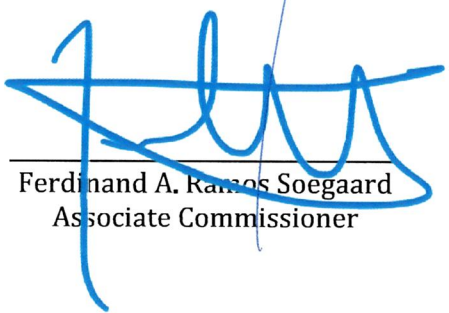


The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014¹⁵ and applicable Energy Bureau’s regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it notified and published.



Edison Avilés Deliz
Chairman



Ferdinand A. Ramos Soegaard
Associate Commissioner



Lillian Mateo Santos
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 15, 2024. Associate Commissioner Antonio Torres Miranda did not intervene. I also certify that on February 15, 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 15, 2024.



Sonia Seda Gaztambide
Clerk



¹⁵ Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

Attachment A
Projects Approved by the Energy Bureau

Region	Project Name	Proposed Scope of Work	Presented Estimate
Vieques and Culebra	Vieques and Culebra Microgrid	Construction of Vieques Microgrid	\$81,410,371.00
		Construction of Culebra Microgrid	\$40,846,080.00
Total			\$122,256,451.00

