

**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:** Amendments to the December 8 Resolution, FY2025 Annual Budget Filing, and FEMA Temporary Emergency Generation Cost Share.

**RESOLUTION AND ORDER**

**I. Introduction and Procedural Background**

On May 31, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("May 31 Resolution"), through which, the Energy Bureau ordered LUMA<sup>1</sup> to file, not later than August 1, 2023, a formal rate review for rates effective July 1, 2024.

M  
On February 27, 2023, the Energy Bureau issued a Resolution and Order, through which the Energy Bureau ordered LUMA to file, on or before March 15, 2023, the FY 2024 Annual Budgets Proposal.

Sm  
On February 28, 2023, the Energy Bureau issued a Resolution and Order ("February 28 Resolution"), through which, the Energy Bureau corrected the date for filing of the FY 2024 Budget Proposal, from March 15, 2023 to April 15, 2023.

THB  
On May 16, 2023, LUMA filed 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"), pursuant to which, LUMA submitted to the Energy Bureau the proposed T&D Budgets developed by LUMA, the proposed GenCo Budgets developed by GENERA PR, LLC ("Genera"), and the proposed HydroCo and HoldCo Budgets developed by the Puerto Rico Electric Power Authority ("PREPA"). LUMA requested that the Energy Bureau review and approve the Consolidated System Annual Budgets for FY2024, including the T&D Operating and Capital Budgets, the GenCo Budget, the allocation of the HydroCo Budget and HoldCo Budget, as well as other expenditures in the May 16 Motion.

ASH  
On June 25, 2023, the Energy Bureau issued a Resolution and Order ("June 25 Resolution") through which it modified the proposed FY 2024 Budgets and approved the Budgets as modified, subject to compliance with orders and reporting requirements. The Energy Bureau determined that the August 1, 2023 filing date for the filing of a formal rate review for rates effective July 1, 2024 would be rescheduled to a date to be determined through a separate Resolution and Order by the Energy Bureau.<sup>2</sup>

AM  
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 \$3.673MM for certain specific uses, subject to reporting requirements. The Energy Bureau also warned PREPA it must adhere to the approved budgets, and not resubmit without new supportive material, budgets which are the same or similar to budgets that the Energy Bureau has reviewed and for which it has issued a determination.

On December 8, 2023, the Energy Bureau issued a Resolution and Order ("December 8 Resolution"), through which, the Energy Bureau, after a detailed analysis, increased the Non-Labor Operating Budget for HoldCo (PropertyCo) to a maximum of \$18.072MM<sup>3</sup> and

<sup>1</sup> LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as "LUMA")

<sup>2</sup> This determination was also notified through Resolution and Order, *In Re: Puerto Rico Electric Power Authority, Resolution and Order Initiating Rate Review*, NEPR-AP-2023-0003. June 30, 2023.

<sup>3</sup> See, December 8 Resolution, Attachment A.



maintained HydroCo's Operating Budget as approved in the September 22 Resolution. The December 8 Resolution reflected the approved budget in Attachments A through D.<sup>4</sup>

On January 25, 2024, PREPA filed a document titled, *Urgent Request to Increase Budget for Security Contracts* ("January 25 Motion"), through which it requested "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)".<sup>5</sup>

On February 5, 2024, PREPA filed a document titled, *Motion for Budget Revision to pay the settlement of the MALDONADO-LAUREANO Case* ("February 5 Motion"). Through the Motion, PREPA requested that the Energy Bureau authorize the use of cash in hand to cover the Settlement reached in the Maldonado-Laureano case, for a one-time payment of \$635,000.00 to settle the case in its entirety.

On February 20, 2024, the Energy Bureau issued a Resolution and Order ("February 20 Resolution"), through which, the Energy Bureau granted PREPA's FY2024 budget revision requested in the February 5 Motion, increasing the HoldCo Non-labor Budget to reflect an increase of \$635,000.00.<sup>6</sup>

On March 1, 2024, the Energy Bureau issued a Resolution and Order ("March 1 Resolution"), through which, the Energy Bureau partially approved the January 25 Motion and authorized a reallocation of \$350,000.00 from the HydroCo Maintenance Projects Expenses budget line to the HydroCo Non-Labor/Other Operating Expenses Security budget line.

On March 13, 2024, PREPA filed a document titled, *Urgent Motion for Budget Revision to Purchase the Temporary Generation System* ("March 13 Motion"), through which, PREPA requests that the Energy Bureau Revise the HoldCo FY 2024 Budget and authorize an increase in the amount of \$30,659,875.65 to cover the 10% of the purchase price of the Temporary Generation System not contemplated in the Project Worksheet (P/W) 11628, as explained further below.

In support of its request, PREPA explains that in October 2022, the Federal Emergency Management Agency ("FEMA") installed seventeen (17) temporary generation units ("Temporary Generation Units") under the Direct Federal Assistance ("DFA") and through the US Army Corps of Engineers ("USACE"), as an emergency measure to temporarily address the instability of Puerto Rico electric grid caused by Hurricane Fiona. The Temporary Generation Units are currently located at the San Juan and Palo Seco power Plants and operated by USACE, through contracts with Weston Solutions, Inc. which in turn subcontracted New Fortress Energy ("NFE").<sup>7</sup>

PREPA relates that it was informed by FEMA that it would stop operating the Temporary Generation Units on March 15, 2024. PREPA seeks to acquire the Temporary Generation Units due to the continuing need for the additional power capacity that the Temporary Generation Units add to the grid, to guarantee dependable power generation and protect Puerto Rico's generation capacity. Since NFE is not the owner of three (3) of the seventeen (17) generation units, PREPA will purchase fourteen (14) units, available for purchase, of the seventeen (17) installed units ("Temporary Generation System").<sup>8</sup>

<sup>4</sup> December 8 Resolution, pp. 17-20.

<sup>5</sup> January 25 Motion, p. 14.

<sup>6</sup> February 20 Resolution, p. 6.

<sup>7</sup> March 13 Motion, p. 3.

<sup>8</sup> March 13 Motion, p. 3.




PREPA states that the cost of the Temporary Generation System will be covered through a reimbursement commitment from FEMA (P/W 11628) to provide funding in the amount of 90% of the purchase price, with the remaining 10% to be covered by PREPA and that the Puerto Rico Department of Housing, the Puerto Rico Fiscal Agency and Financial Advisory Authority and the Puerto Rico Office of Management and Budget advised that the funds are unavailable from other sources. The 10% of the purchase price for the Temporary Generation System, in the amount of \$30,659,875.65 is not currently included in PREPA's FY 2024 Budget.<sup>9</sup>


PREPA warns of possible dire consequences if it failed to purchase the Temporary Generation System, of its criticality to ensure uninterrupted electric service to the people of Puerto Rico and the harm that would result to ongoing efforts to transform and modernize Puerto Rico's electric system.

## II. Discussion


### A. Amendments to the December 8 Resolution

 The February 20 Resolution and the March 1 Resolution amended the December 8 Resolution. The February 20 Resolution amended Attachment A and Attachment D of the December 8 Resolution to reflect the \$635,000.00 litigation settlement budget increase and the March 1 Resolution amended Attachment B of the December 8 Resolution to reflect the \$350,000.00 security contract budget reallocation. Attachment C is unchanged. For clarity, in this Resolution, the Energy Bureau **AMENDS** Attachments A, B, and D of the December 8 Resolution to reflect the modifications approved in the February 20 Resolution and the March 1 Resolution.

### B. FY 2025 Annual Budget Filing

 The Energy Bureau fully expects that in view of the One Year Budget Examination procedure established for the FY 2023 Budget Examination in accordance with the 2017 Rate Order, that LUMA will submit the consolidated FY2025 Budget proposal within the same timeframe, however, for the avoidance of doubt, the Energy Bureau **ORDERS** LUMA, GENERA and PREPA that the FY 2025 Budget Proposal shall be submitted **on or before April 15, 2025**.

### C. FEMA Temporary Emergency Generation Cost-Share

 The Energy Bureau takes very seriously the need to ensure safe and reliable electric service to the people of Puerto Rico and recognizes the necessity of maintaining the additional generating capacity that is provided by the temporary emergency generating units that PREPA seeks to purchase. In addition, the benefit provided by FEMA through its funding of 90% of the purchase cannot be overstated and payment by PREPA of 10% of the cost must be facilitated.

The Energy Bureau **APPROVES** an amendment to increase the FY 2024 HoldCo (PropertyCo) Operating & Maintenance Expenses Budget in the amount of \$30,659,875.65 to enable PREPA to specifically cover the 10% cost share of the purchase price of the Temporary Emergency Generation units, to be funded outside base rate revenues through directly allocated cost recovery income and additional available funding through surplus cash to maintain current permanent rates as set in the 2017 Rate Order. For the avoidance of doubt, the \$30,659,875.65 increase is earmarked for the 10% cost share of the fourteen Temporary Generation System.

<sup>9</sup> March 13 Motion, p. 4.



The Energy Bureau is concerned, that because PREPA is only purchasing fourteen of the seventeen temporary emergency generating units with the approved funding, the full 350MVA plus 50MVA of backup generation will not be available and, therefore, provide inadequate capacity for the system needs PREPA has described and for which available funding exists.<sup>10</sup>

The Energy Bureau further **AMENDS** Attachment D to reflect the approved additional funds for the HoldCo FY 2024 Operating & Maintenance Expenses Budget earmarked for payment of PREPA's 10% cost share for acquisition of the Temporary Emergency Generation units.

### III. Conclusion

*M* The Energy Bureau **ORDERS** LUMA to file the FY 2025 consolidated annual budget proposals **on or before April 15, 2024**.

The Energy Bureau **ORDERS** Genera and PREPA to cooperate as necessary to enable LUMA to file the FY 2025 consolidated annual budget proposal **on or before April 15, 2024**.

*Smr* The Energy Bureau **ORDERS** LUMA to file consolidated annual budget proposals for fiscal years FY2026 onward, **on or before April 15 of the preceding fiscal year**, unless and until the Energy Bureau orders otherwise.

*JAB* The Energy Bureau **APPROVES** an amendment to increase the FY 2024 HoldCo (PropertyCo) Operating & Maintenance Expenses Budget in the amount of \$30,659,875.65 to specifically enable PREPA to cover the 10% cost share of the purchase price of the Temporary Generation System facilitated under FEMA P/W 11628, to be funded outside base rate revenues through directly allocated cost recovery income and additional available funding through surplus cash to maintain current permanent rates as set in the 2017 Rate Order.

*ASB* The Energy Bureau **ORDERS** PREPA to provide, **within three (3) business days from the notification of this Resolution and Order**, the current encumbered and unencumbered balances in the FEMA Reimbursement Account.

The Energy Bureau **WARNS** LUMA, Genera, and PREPA that:

- AM*
- (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 notified and published.

<sup>10</sup> See FEMA P/W 11628 obligation, 4339DR-PR.



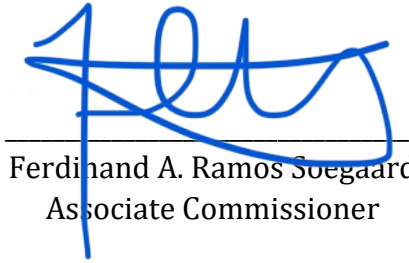




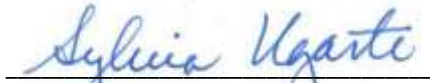
Edison Avilés Deliz  
Chairman



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 March 14, 2024. Also certify that on March 14, 2024, I have proceeded with the filing of this Resolution and Order and was notified by email to [pre@promesa.gov](mailto:pre@promesa.gov); [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com); [ana.rodriguezrivera@us.dlapiper.com](mailto:ana.rodriguezrivera@us.dlapiper.com); [julian.angladapagan@us.dlapiper.com](mailto:julian.angladapagan@us.dlapiper.com); [mvalle@gmlex.net](mailto:mvalle@gmlex.net); [arivera@gmlex.net](mailto:arivera@gmlex.net); [legal@genera-pr.com](mailto:legal@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com).

I sign in San Juan, Puerto Rico, today, March 14, 2024.



Sonia Seda Gaztambide  
Clerk



**ATTACHMENT A**  
REVISED FY 2024 HoldCo (PropertyCo) Operating Budget – March 2024

**Revised FY 2024 HoldCo (Property Co) Operating Budget**  
(\$ in 000s)

	<u>MAY 16 Petition</u>	<u>JUNE 25 R&amp;O</u>	<u>SEPT. 22 R&amp;O</u>	<u>Dec. 8 R&amp;O</u>	<u>CURRENT R&amp;O</u>
LABOR OPERATING EXPENSES	\$ 9,598	\$ 7,565	\$ 7,565	\$ 9,598	\$ 9,598
NON-LABOR	\$ 41,071	\$ 11,772	\$ 15,445	\$ 18,072	\$ 18,707
NME	\$ 2,698	\$ 645	\$ 645	\$ 645	\$ 645
SHARED SERVICES	\$ -	\$ 1,993	\$ 1,993	\$ 1,993	\$ 1,993
<b>TOTAL OPERATING BUDGET</b>	<b>\$ 53,367</b>	<b>\$ 21,975</b>	<b>\$ 25,648</b>	<b>\$ 30,308</b>	<b>\$ 30,943</b>



**ATTACHMENT B**  
Revised FY 2024 HydroCo Operating Budget – March 2024

**Revised FY 2024 HydroCo Operating Budget**  
(\$ in 000s)

	<u>MAY 16 Petition</u>	<u>JUNE 25 R&amp;O</u>	<u>SEPT. 22 R&amp;O</u>	<u>Dec. 8 R&amp;O</u>	<u>CURRENT R&amp;O</u>
LABOR OPERATING EXPENSES	\$ 4,398	\$ 4,398	\$ 4,398	\$ 4,398	\$ 4,398
NON-LABOR	\$ 8,455	\$ 5,470	\$ 5,470	\$ 5,595	\$ 5,945
NME	\$ 5,471	\$ 2,471	\$ 2,471	\$ 2,471	\$ 2,121
SHARED SERVICES	\$ -	\$ 1,181	\$ 1,181	\$ 1,181	\$ 1,181
<b>TOTAL OPERATING BUDGET</b>	<b>\$ 18,324</b>	<b>\$ 13,520</b>	<b>\$ 13,520</b>	<b>\$ 13,645</b>	<b>\$ 13,645</b>



## ATTACHMENT D

### REVISED FY 2024 Electric Utility Budgets - March 2024

#### Revised FY 2024 Electric Utility Annual Budgets Summary

(\$ in 000s)

	APPROVED <sup>1</sup>	September 2023 REVISION <sup>2</sup>	December 2023 REVISION <sup>3</sup>	March 2024 REVISION <sup>1</sup>
<b>1 TRANSMISSION AND DISTRIBUTION</b>	<b>\$636,591</b>	<b>\$662,958</b>	<b>\$662,958</b>	<b>\$662,958</b>
2 T&D Operating Expenditures	545,447	560,283	560,283	560,283
3 T&D Non-Federally Funded Capital Expenditures	91,144	91,144	91,144	91,144
4 Energy Efficiency Programs	0	11,531	11,531	11,531
<b>5 GENERATION</b>	<b>\$337,549</b>	<b>\$337,549</b>	<b>\$332,889</b>	<b>\$332,889</b>
6 GenCo Operating and Capital Expenditures	324,029	324,029	319,244	319,244
7 HydroCo Operating and Capital Expenditures	13,520	13,520	13,645	13,645
<b>8 HOLDCO (PROPERTYCO) OPERATING AND CAPITAL EXPENDITURES</b>	<b>\$21,975</b>	<b>\$25,648</b>	<b>\$30,308</b>	<b>\$30,943</b>
<b>9 OPERATION AND MAINTENANCE FEES - PRIVATE OPERATORS</b>	<b>\$181,702</b>	<b>\$151,662</b>	<b>\$151,662</b>	<b>\$151,662</b>
10 LUMA Fees	129,162	129,162	129,162	129,162
11 Genera Fees	52,540	22,500	22,500	22,500
<b>12 FEDERAL COST SHARE</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$30,660</b>
13 Temporary Emergency Generation Acquisition	0	0	0	30,660
<b>14 BANKRUPTCY TITLE III ADVISOR COSTS</b>	<b>\$30,150</b>	<b>\$30,150</b>	<b>\$30,150</b>	<b>\$30,150</b>
<b>15 FOMB ADVISOR COSTS</b>	<b>\$32,822</b>	<b>\$32,822</b>	<b>\$32,822</b>	<b>\$32,822</b>
<b>16 BAD DEBTS</b>	<b>\$59,450</b>	<b>\$59,450</b>	<b>\$59,450</b>	<b>\$59,450</b>
<b>17 TOTAL NON-FEDERALLY FUNDED ELECTRIC UTILITY EXPENDITURES</b>	<b>\$1,300,239</b>	<b>\$1,300,239</b>	<b>\$1,300,239</b>	<b>\$1,331,534</b>
<b>Notes</b>				
<sup>1</sup> June 25, 2023 Resolution and Order				
<sup>2</sup> \$188,437 funded outside base rate revenues through directly allocated cost recovery income and additional available funding through surplus cash to maintain current permanent rates as set in the 2017 Rate Order.				
<sup>3</sup> \$215,732 funded outside base rate revenues through directly allocated cost recovery income and additional available funding through surplus cash to maintain current permanent rates as set in the 2017 Rate Order.				
<b>FEDERALLY FUNDED CAPITAL EXPENDITURES</b>				
<b>18 T&amp;D FEDERALLY FUNDED CAPITAL EXPENDITURES</b>	<b>\$802,587</b>			
<b>19 GENERATION FEDERALLY FUNDED CAPITAL EXPENDITURES</b>				
20 GenCo	\$14,190			
20 HydroCo <sup>4</sup>	\$1,789,000			
<b>Notes</b>				
<sup>4</sup> Total federally funded capital expenditures approved by the Energy Bureau through May 23 for recovery work in dams and hydroelectric plants related to disasters impacting the island since 2017.				

