

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

IN RE: LUMA'S RESPONSE TO HURRICANE
FIONA

CASE NO.: NEPR-MI-2022-0003

SUBJECT: Resolution and Order regarding
Urgent Informative Motion, filed by the
Puerto Rico Electric Power Authority.

RESOLUTION AND ORDER

On January 14, 2024, the Puerto Rico Electric Power Authority ("PREPA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Urgent Motion Submitting for Review and Approval of the Scope of Work for the Transfer/Ownership to PREPA of the Temporary Generation Units* ("January 14 Motion"). Through the January 14 Motion, PREPA informed that on January 5, 2024, the Federal Emergency Management Program ("FEMA") sent a letter to the Puerto Rico Central Office for Recovery, Reconstruction, and Resiliency ("COR3") approving the negotiation of the acquisition of the temporary generation units installed in the Palo Seco Steam Plant (150MW) and the San Juan Power Plant (200MW) ("Temporary Units").¹ Further, it indicated that FEMA would provide funding for the acquisition of the Temporary Units.² PREPA seeks the Energy Bureau's approval of the initial Scope of Work for the acquisition and ownership to PREPA of the Temporary Units. Particularly, PREPA requested that the Energy Bureau evaluate and grant leave to conduct all tasks necessary to transfer ownership of the Temporary Units to PREPA; grant leave to continue working with all the associated permitting activities to continue dispatching the Temporary Units until the Integrated Resource Plan revision process makes a different determination; and grant leave to continue supporting COR3 with the federal processes available to have the costs of the Temporary Units reimbursed with federal funds.³

On February 21, 2024, the Energy Bureau approved the initial Scope of Work ("SOW") for the acquisition of the temporary generation units (350MW) through December 31, 2025 and warned PREPA that, once approved by FEMA, the final Scope of Work, shall be submitted before the Energy Bureau for its review and approval ("February 21 Resolution").

On March 5, 2024, PREPA filed a document titled *Urgent Motion In Compliance with Resolution and Order* ("March 5 Motion"). Through the March 5 Motion, PREPA submitted the Project Worksheet ("PW") and/or final SOW approved by FEMA, which was included as Exhibit 1-A to the March 5 Motion. PREPA indicated that in the approved PW, FEMA included the same inventory list contained in the initial SOW submitted by PREPA and previously approved by the Energy Bureau.⁴ PREPA emphasized that after COR3 finished its negotiations for the acquisition of the temporary units, an Asset Purchase Agreement ("APA") was drafted that excluded some of the equipment originally included in the equipment inventory list ("Excluded Equipment").⁵ PREPA indicated that COR3 further advised that the Excluded Equipment would be acquired through a leasing agreement, for a nominal amount, between New Fortress Energy ("NFE") and Genera PR, LLC ("Genera").⁶ Moreover, PREPA stated that it had requested some amendments to the APA draft.⁷

¹ January 14 Motion, p. 11.

² *Id.*

³ *Id.*, p. 21.

⁴ March 5 Motion, p. 3, ¶ 6.

⁵ *Id.*, ¶ 7.

⁶ *Id.*, pp. 3 – 4, ¶ 9.

⁷ *Id.*, p. 4, ¶ 10.



Particularly, PREPA requested including language in the APA to ensure that the \$1.00 lease survives regardless of whether or not NFE continues as the gas supplier and regardless of whether or not Genera continues as the operator of the Legacy Generation Assets, thus eliminating any risk that the leased equipment is removed from the units during the term of their temporary operation.⁸ Wherefore, PREPA requested the Energy Bureau to take notice of the March 5 Motion, and deem that it complied with the February 21 Resolution.

On March 8, 2024, the Energy Bureau issued a Resolution and Order in which it highlighted that in its March 5 Motion PREPA represented that the SOW approved by FEMA and filed before the Energy Bureau was not the final SOW. Consequently, the Energy Bureau deemed that it was in no position to find PREPA in compliance with the February 21 Resolution. As such, the Energy Bureau reiterated its February 21 Resolution and ordered PREPA to file the final SOW approved by FEMA before the Energy Bureau for its review and approval.

On March 13, 2024, PREPA filed a document titled *Urgent Informative Motion* ("March 13 Motion"). In its March 13 Motion, PREPA informed that NFE confirmed to COR3 that they do not possess three (3) of the seven (7) Gen 8 Model generators at the Palo Seco temporary generation site and that their current owner was unwilling to sell those three (3) units to NFE.⁹ PREPA stated that NFE offered to switch out those three (3) units with three (3) Gen 6 Model generators.¹⁰ PREPA further indicated that, given that the exchange would not be for identical models, FEMA only authorized the acquisition of the fourteen (14) onsite units that are part of the existing seventeen (17) generator system.¹¹ Given the aforementioned, PREPA anticipated changes to the PW and the draft of the Asset Purchase Agreement.¹²

The Energy Bureau **TAKES NOTICE** of latest developments regarding the acquisition of the Temporary Generation Units as stated in the March 13 Motion. The Energy Bureau **GRANTS** PREPA **one (1) business day** to validate whether the Temporary Generation Units in Palo Seco and San Juan to be acquired by PREPA will have at least a nominal capacity of 350 MW or whether the total generation capacity is expected to be less than 350 MW, in light of the recent developments reported through the March 13 Motion.

The Energy Bureau **WARNS** PREPA that noncompliance with this Resolution and Order will result in the imposition of fines pursuant to Article 6.36 of Act 57-2014.¹³

Be it notified and published.



⁸ *Id.*, ¶ 11.

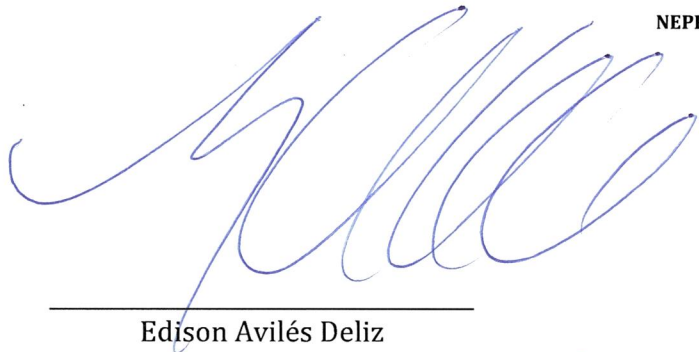
⁹ March 13 Motion, pp. 2 – 3, ¶ 8.

¹⁰ *Id.*, p. 3, ¶ 9.

¹¹ *Id.*; Exhibit 1 to the March 13 Motion.

¹² *Id.*, ¶ 10.

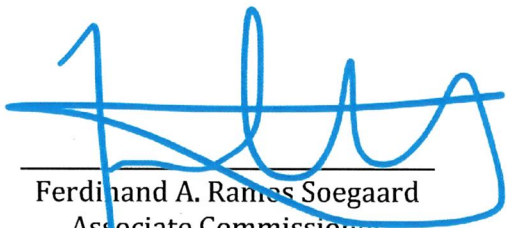
¹³ *Puerto Rico Energy Transformation and RELIEF Act*, as amended (Act 57-2014”).



Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramires 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 have agreed on March 15, 2024. I also certify that in March 15, 2024 a copy of this Resolution and Order was notified by electronic mail to arivera@gmlex.net; mvalle@gmlex.net; valeria.belvis@us.dlapiper.com; margarita.mercado@us.dlapiper.com; laura.rozas@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 March 15, 2024.


Sonia Seda Gaztambide
Clerk
