

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



EDWARD A. GODOY ALTAMIRA
PETITIONER

CASE NO.: NEPR-RV-2022-0017

vs.

SUBJECT: Final Resolution and Order

LUMA ENERGY SERVCO, LLC
RESPONDENT

FINAL RESOLUTION AND ORDER

I. Introduction and Factual Background

On January 15, 2021, the Petitioner, Edward A. Godoy Altamira, filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a complaint against the Puerto Rico Electric Power Authority ("PREPA"), regarding the formal revision of an electric bill issued on October 5, 2020, Case No.: NEPR-RV-2021-0006. The complaint requested that PREPA be ordered to eliminate the charge of \$2,036.56 described as "Corrected Bill" in the October 5, 2020, bill or, that PREPA be ordered to provide a detailed breakdown of the charges that appear on the disputed bill.

After multiple procedural incidents, on March 21, 2022, the Energy Bureau issued Final Resolution and Order ("March 21 Order"), whereby it ordered that PREPA and/or LUMA Energy ServCo, LLC provide the Petitioner with a detailed breakdown of the charges that appear as "Corrected Bill" in the October 5, 2020, bill in accordance with Section 3.03 of Regulation 8863.¹

In response to the March 21 Order, on April 8, 2022, LUMA notified the Petitioner of a written notice in which it provided a detailed breakdown regarding the calculation errors of the charges associated to the referred "Corrected October 5, 2020, Bill". The letter sent to the Petitioner contained a monthly detail of bills issued from October 4, 2018, to October 2, 2020, the amounts invoiced in the original bills, and the corrected charges, increasing the total amount owed from \$126.48 to \$2,241.91. LUMA further warned the Petitioner that if he was not satisfied with its decision, he had until April 28, 2022, to file a request for reconsideration.

On April 26, 2022, the Petitioner requested that LUMA reconsider its April 8, 2022, decision. Said objection was based, in essence, on the allegation that the period of one hundred and twenty (120) days from the issuance of the bill that LUMA had to notify the Petitioner in writing of any calculation errors in the charges had already elapsed by the date it sent the calculation errors notice. As such, the Petitioner argued that LUMA could no longer claim retroactive charges for such computational errors, in accordance with Act 272-2002 and Section 3.03 of Regulation 8863.

On May 25, 2022, LUMA denied the Petitioner's request for reconsideration and warned him of his right to initiate a formal review process before the Energy Bureau within thirty (30) days from the date of notice of the final decision.

On June 20, 2022, the Petitioner filed before the Energy Bureau a *Formal Revision of Electric Power Bill*, Case No.: NEPR-RV-2022-0017. The new complaint requested that LUMA be ordered to eliminate the itemized adjustment charge of \$2,241.91 invoiced in the "Corrected October 5, 2020, Bill". The Petitioner maintained that, in accordance with Act 272-2002 and Section 3.03 of Regulation 8863, LUMA was unable to notify calculation errors in the charges

¹ Known as *Regulation on the Procedure for Bill Review and Suspension of Electric Service Due to Failure to Pay*, November 23, 2016 ("Regulation 8863").

as the one hundred and twenty (120) days from the issuance of the bills referenced in the “Corrected October 5, 2020, Bill” had elapsed.

After multiple procedural incidents, on August 1 and August 24, 2022, the Energy Bureau held an administrative hearing on the matter. The Petitioner appeared at the hearing *pro se*. LUMA was represented by attorney Juan Méndez, while Jesús Aponte Toste, Supervisor for LUMA’s Billing Department, appeared as a witness.

II. Applicable Law and Analysis

a. Jurisdiction of the Energy Bureau

Section 6.4 (a)(3) of Act 57-2014² states that the Energy Bureau shall have primary and exclusive jurisdiction over cases and disputes regarding noncompliance with the public policy on energy of the Commonwealth of Puerto Rico. To that end, Article 1.2(p) establishes as public policy that “electricity bill or service disputes shall be resolved equitably and diligently.”

Section 6.3 (pp) of Act 57-2014 establishes that the Energy Bureau shall have the power and duty to “file recourses, issue orders, and seek and grant any legal remedies that may be necessary to enforce the provisions of this Act, as well as its rules, regulations, orders, and determinations”. To that end subsection (4) of said Section (pp) establishes, inter alia, that the Energy Bureau can direct that all actions shall be taken in compliance with the provisions of this Act, the regulations of the Energy Bureau, or any other legal provision whose interpretation and compliance is under the jurisdiction of the Energy Bureau. Furthermore, Section 3.01 of Regulation 8543³ establishes that every person with standing may file a claim before the Energy Bureau in relation to any matter under its jurisdiction.

Also, Section 12.01 of Regulation 8543 establishes that “the Energy Bureau may issue any order or resolution if it is necessary to give effect to the purposes of Act 57-2014, as amended, to compel compliance with any law whose interpretation and implementation is subject to the jurisdiction of the Energy Bureau, and to enforce its rules, regulations orders and decisions.”

b. Disputes of Electricity Bills

In Section 6.27(a)(1) of Act 57-2014, supra, it is established that “Any customer may dispute an electricity bill and request an investigation by the certified electric power company within thirty (30) days from the date on which said bill was mailed or sent to the customer by electronic mail. To object to the bill and request the corresponding investigation, the customer shall pay the amount corresponding to the average of the undisputed bills corresponding to the last six (6) months. The certified electric power company shall not be required to initiate such an investigation until the amount corresponding to the average of the undisputed bills has been paid. Public entities or instrumentalities shall have forty-five (45) days to dispute their bills and request an investigation by the electric power service company.” Section 6.27(a)(2) establishes that the objection and request for investigation may be notified to the certified electric power company by certified mail, telephone, fax, or electronic mail, provided that such objection and request are submitted through the specific contacts provided therefor by the certified electric power company, and that the date of the remittal of the objection and request for investigation can be established with certainty.

c. Act 272-2002

Act 272-2002 amended subsection (l) of Section 6 of Act No. 83 of May 12, 1941, as amended, known as the “Puerto Rico Electric Power Authority Act,” to establish a maximum term of one hundred and twenty (120) days from the date of issue of the electricity bill to notify

² Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended (“Act 57-2014”).

³ Known as *Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedure*, December 18, 2014 (“Regulation 8543”).



customers of billing errors. Once said term elapses, the Authority may not claim retroactive charges for said billing errors, such as those of an administrative or operational nature, or for an erroneous reading of electric power service consumption meters. This shall only apply to residential customers; it shall not apply to commercial, industrial, or institutional customers, or any other class of customer, or to periodic charges or adjustments included in the rate approved by the Energy Bureau or the Transition Charges of the securitization structure. **In those cases where customers keep the meters out of the readers' visual reach, or in an event of force majeure, such as hurricanes, among others, which prevent the reading of meters, this measure shall not apply to electricity bills issued based on consumption estimates.**

d. Section 3.03 of Regulation 8863

Similarly, Section 3.03 of Regulation 8863 states that all electric service companies shall have a maximum period of one hundred twenty (120) days from the date of issuance of the electric power bill to notify residential customers in writing of any calculation errors in the charges. Once said period has elapsed, the electric service company may no longer claim retroactive charges for computational errors in the charges, such as administrative or operational errors, or errors in the reading of electric power consumption meters of measuring devices. Section 3.03 further states that such provisions shall not apply to commercial, industrial, or institutional customers, or customers of any other nature. Nor will they be applicable to the charges or periodic adjustments provided in the rate approved by the Energy Bureau or the transition charges stemming from the securitization structure.

Section 3.03 of Regulation 8863 also references that its provisions shall not apply to bills issued based on estimates: (1) in those cases where those customers who do not have digital meters keep their meters in places that are not visible to the personnel that takes readings; or (2) where force majeure events, such as hurricanes, among others, have occurred which prevent the reading of meters of any kind.

e. Analysis

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The Petitioner raised the legal issue of Act 272-2002 that LUMA had one hundred and twenty (120) days to claim any calculation errors in the charges of the electric bills. LUMA alleged that the dispositions of Act 272-2002 did not apply to the present case before the Energy Bureau as the electric meter in the residence was not accessible to LUMA's personnel to make any reading or verification of the same.

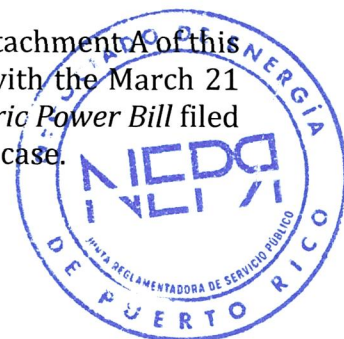
2/11
The Petitioner had a digital meter with remote reading capabilities whose readings stopped in or about October 2018. In light of the aforesaid, from October 2018 to October 2020, the Petitioner received **estimated bills** for the minimum charge of \$3.00-\$4.00. In October 2020, the electric meter was exchanged, and readings started in a regular matter.

It is uncontested that the charges associated to the Corrected October 5, 2020, Bill correspond to **estimated** bills issued from October 4, 2018, to October 2, 2020. It is further uncontested that the electric meter was not accessible in the street to LUMA's personnel that takes readings.

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As previously discussed, in cases in which the client keeps the meters out of the readers' visual reach **Act 272-2002 shall not apply to invoices issued based on consumption estimates.** As such, the one hundred and twenty (120) term and other provisions established through Act 272-2002 are not applicable to the instant proceeding. LUMA may claim the charges included in its "Corrected October 5, 2020, Bill" attached to the April 8, 2022 letter for bills based on consumption estimates dated 10-04-2018 through 10-02-2020.

↑
III. Conclusion

Based on the Findings of Facts and the Conclusions of Law contained in Attachment A of this Resolution and Order, the Energy Bureau **DEEMS** that LUMA complied with the March 21 Order. Therefore, the Energy Bureau **DENIES** the *Formal Revision of Electric Power Bill* filed by the Petitioner on June 20, 2022, and **ORDERS** the closing of the instant case.



Any party adversely affected by this Final Resolution and Order may file a motion for reconsideration before the Energy Bureau, pursuant to Section 11.01 of Regulation 8543 and the applicable provisions of Act 38-2017, as amended, known as the Uniform Administrative Procedure Act of the Government of Puerto Rico ("LPAU", for its Spanish acronym). Said motion must be filed within twenty (20) days from the date in which copy of this Final Resolution and Order is notified and such notice is filed in the case docket by the Energy Bureau's Clerk. Any motion for reconsideration must be filed at the Energy Bureau Clerk's Office, located at the World Plaza Building, 268 Muñoz Rivera Ave., San Juan, PR 00918. A copy of the motion as filed must be sent by email to all the parties notified of this Final Resolution and Order within the twenty (20) days established herein.

The Energy Bureau shall have fifteen (15) days from the date on which such motion is filed to consider it. If the Energy Bureau rejects it forthright or fails to consider it within said period of fifteen (15) days, the term to seek judicial review shall begin on the date in which the Energy Bureau notifies its rejection or the date in which said fifteen (15) days expire, whichever occurs first. If the Energy Bureau considers the motion, the term to seek judicial review shall commence from the date a copy of the notice of the Energy Bureau's resolution definitively resolving the motion for reconsideration is notified and copy of such notice is filed by the Energy Bureau Clerk. The Energy Bureau shall have ninety (90) days from the date the motion for reconsideration was filed to issue a final determination. If the Energy Bureau considers the motion for reconsideration but fails to take any action with respect to such motion within ninety (90) days of its filing, it shall lose jurisdiction and the term to seek judicial review shall commence upon the expiration of said ninety (90) day term, unless the Energy Bureau, for just cause and within those ninety (90) days, extends the term to resolve for a period that shall not exceed thirty (30) days.

In the alternative, any affected party may file a petition for review before the Court of Appeals within a term of thirty (30) days from the date a copy of the notice of this Final Resolution and Order was notified and copy of such notice was filed by the Energy Bureau's Clerk. Filing and notice of a petition for review before the Court of Appeals shall be made pursuant to the applicable provisions of Regulation 8543, the LPAU and the Rules of the Puerto Rico Court of Appeals.

Be notified and published.




Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on April 4, 2024. Associate Commissioner Antonio Torres Miranda did not intervene. I also certify that today, April 5, 2024, I have proceeded with the filing of the Final Resolution and Order issued by the Puerto Rico Energy Bureau. I also certify that on April 5, 2024 a copy of this Final Resolution and Order was notified by electronic mail to the following: juan.mendez@lumapr.com, egodoy@prtc.net, and by regular mail to:

Luma Energy Servco, LLC
Lcdo. Juan Méndez Carrero
PO Box 364267
San Juan, PR 00936-4267

Edward A. Godoy Altamira
10440 Queens Blvd. Apt. 21D
Forest Hills, NY 11375-3692

For the record, I sign this in San Juan, Puerto Rico, today April 5, 2024.





Sonia Seda Gaztambide
Clerk

Attachment A

Findings of Facts:

1. On January 15, 2021, the Petitioner filed before the Energy Bureau a complaint against PREPA, regarding the formal revision of an electric bill issued on October 5, 2020, Case No.: NEPR-RV-2021-0006.
2. The complaint requested that PREPA be ordered to eliminate the charge of \$2,036.56 described as "Corrected Bill" in the October 5, 2020, bill or, that PREPA be ordered to provide a detailed breakdown of the charges that appear on the disputed bill.
3. On March 21, 2022, the Energy Bureau issued Final Resolution and Order ("March 21 Order"), whereby it ordered that PREPA and/or LUMA Energy ServCo, LLC provide the Petitioner with a detailed breakdown of the charges that appear as "Corrected Bill" in the October 5, 2020, bill in accordance with Section 3.03 of Regulation 8863.
4. In response to the March 21 Order, on April 8, 2022, LUMA notified the Petitioner of a written notice in which it provided a detailed breakdown regarding the calculation errors of the charges associated to the referred "Corrected October 5, 2020, Bill".
5. The letter sent to the Petitioner contained a monthly detail of bills issued from October 4, 2018, to October 2, 2020, the amounts invoiced in the original bills, and the corrected charges, increasing the total amount owed from \$126.48 to \$2,241.91. LUMA further warned the Petitioner that if he was not satisfied with its decision, he had until April 28, 2022, to file a request for reconsideration.
6. On April 26, 2022, the Petitioner requested that LUMA reconsider its April 8, 2022, decision, alleging that the period of one hundred and twenty (120) days from the issuance of the bill that LUMA had to notify the Petitioner in writing of any calculation errors in the charges had already elapsed by the date it sent the calculation errors notice. As such, the Petitioner argued that LUMA could no longer claim retroactive charges for such computational errors, in accordance with Act 272-2002 and Section 3.03 of Regulation 8863.
7. On May 25, 2022, LUMA denied the Petitioner's request for reconsideration and warned him of his right to initiate a formal review process before the Energy Bureau within thirty (30) days from the date of notice of the final decision.
8. On June 20, 2022, the Petitioner filed before the Energy Bureau a *Formal Revision of Electric Power Bill*, Case No.: NEPR-RV-2022-0017. The new complaint requested that LUMA be ordered to eliminate the itemized adjustment charge of \$2,241.91 invoiced in the "Corrected October 5, 2020, Bill". The Petitioner maintained that, in accordance with Act 272-2002 and Section 3.03 of Regulation 8863, LUMA was unable to notify calculation errors in the charges as the one hundred and twenty (120) days from the issuance of the bills referenced in the "Corrected October 5, 2020, Bill" had elapsed.
9. On August 1 and August 24, 2022, the Energy Bureau held an administrative hearing on the matter. The Petitioner appeared at the hearing pro se. LUMA was represented by attorney Juan Méndez, while Jesús Aponte Toste, Supervisor for LUMA's Billing Department, appeared as a witness.
10. Based on their testimony, the Petitioner had a digital meter with remote reading capabilities whose readings stopped on or about October 2018.
11. From October 2018 to October 2020, the Petitioner received estimated bills for the minimum charge of \$3.00-\$4.00.
12. In October 2020, the electric meter was exchanged, and readings started in a regular matter.



13. The charges associated to the Corrected October 5, 2020, Bill correspond to estimated bills issued from October 4, 2018, to October 2, 2020.
14. The electric meter was not accessible in the street to LUMA's personnel that takes readings.

Conclusions of Law:

1. Act 272-2002 establishes a maximum term of one hundred and twenty (120) days from the date of issue of the electricity bill to notify customers of billing errors. Once said term elapses, the Authority may not claim retroactive charges for said billing errors, such as those of an administrative or operational nature, or for an erroneous reading of electric power service consumption meters. This shall only apply to residential customers; it shall not apply to commercial, industrial, or institutional customers, or any other class of customer, or to periodic charges or adjustments included in the rate approved by the Energy Bureau or the Transition Charges of the securitization structure. In those cases where customers keep the meters out of the readers' visual reach, or in an event of force majeure, such as hurricanes, among others, which prevent the reading of meters, this measure shall not apply to electricity bills issued based on consumption estimates.
2. Similarly, Section 3.03 of Regulation 8863 states that all electric service companies shall have a maximum period of one hundred twenty (120) days from the date of issuance of the electric power bill to notify residential customers in writing of any calculation errors in the charges. Once said period has elapsed, the electric service company may no longer claim retroactive charges for computational errors in the charges, such as administrative or operational errors, or errors in the reading of electric power consumption meters of measuring devices. Section 3.03 further states that such provisions shall not apply to commercial, industrial, or institutional customers, or customers of any other nature. Nor will they be applicable to the charges or periodic adjustments provided in the rate approved by the Energy Bureau or the transition charges stemming from the securitization structure. Section 3.03 of Regulation 8863 further references that its provisions shall not apply to bills issued based on estimates: (1) in those cases where those customers who do not have digital meters keep their meters in places that are not visible to the personnel that takes readings; or (2) where force majeure events, such as hurricanes, among others, have occurred which prevent the reading of meters of any kind.
3. The Petitioner had a digital meter with remote reading capabilities whose readings stopped in or about October 2018. From October 2018 to October 2020, the Petitioner received estimated bills for the minimum charge of \$3.00-\$4.00. In October 2020, the electric meter was exchanged, and readings started in a regular matter.
4. The charges associated to the Corrected October 5, 2020, Bill correspond to estimated bills issued from October 4, 2018, to October 2, 2020.
5. The electric meter was not accessible in the street to LUMA's personnel that takes readings.
6. In cases in which the client keeps the meters out of the readers' visual reach Act 272-2002 shall not apply to invoices issued based on consumption estimates. As such, the one hundred and twenty (120) term and other provisions established through Act 272-2002 are not applicable to the instant proceeding.
7. LUMA may claim the charges included in its "Corrected October 5, 2020, Bill" attached to the April 8, 2022, letter for bills based on consumption estimates dated 10-04-2018 through 10-02-2020.

