

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

**NEPR**

**Received:**

**Apr 22, 2024**

**10:03 PM**

IN RE: REVIEW OF LUMA'S INITIAL  
BUDGETS

CASE NO.: NEPR-MI-2021-0004

**MOTION IN COMPLIANCE WITH JANUARY 23<sup>RD</sup>, 2024 RESOLUTION AND ORDER**

TO THE HONORABLE ENERGY BUREAU:

**COMES NOW** the Puerto Rico Electric Power Authority ("PREPA") through its undersigned legal representation and, very respectfully, informs and requests as follows:

**I. Relevant Procedural Background**

1.1 On January 23<sup>rd</sup>, 2024, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a *Resolution and Order* ("January 23<sup>rd</sup> Order"). Per the January 23<sup>rd</sup> Order:

Section 24 of Act 83 of May 2, 1941, as amended, and provisions within Act 58 of April 30, 1928, stat[e] that PREPA must recover expenses directly from irrigation services and the Government of Puerto Rico must reimburse the regulated entity for any outstanding irrigation district obligations that are unable to be addressed through user fees or independent district budgets.

See January 23<sup>rd</sup> Order, p. 3.

1.2 Based on the foregoing, the Energy Bureau required PREPA to:

- a. disclose ... reconciliations of irrigation district shortfalls with the Government of Puerto Rico payments toward mandated

reimbursements pursuant to underlying Acts. Any gaps or deficiencies shall also be explained; and

- b. inform the Energy Bureau of its measures to unwind the current ratepayer SUBA-NHH subsidy and comprehensively conform to long-established laws providing for adequate revenue sources to cover irrigation funding obligations.

1.3 On February 16<sup>th</sup>, 2024, PREPA requested an extension of time, until March 14<sup>th</sup>, 2024, to comply with the January 23<sup>rd</sup> Resolution (“First Extension of Time”).

1.4 On February 22<sup>nd</sup>, 2024, the Energy Bureau granted the First Extension of Time.

1.5 On March 13<sup>th</sup>, 2024, PREPA requested a second extension of time, until April 3<sup>rd</sup>, 2024, to submit its Motion in Compliance with the January 23<sup>rd</sup> Resolution (“Second Extension of Time”).

1.6 On March 21<sup>st</sup>, 2024, the Energy Bureau granted the Second Extension of Time.

1.7 On April 2<sup>nd</sup>, 2024, PREPA requested a final extension of time until April 22<sup>nd</sup>, 2024, to comply with the January 23<sup>rd</sup> Order.

1.8 In compliance with the January 23<sup>rd</sup> Order, PREPA submits the instant motion.

## **II. Discussion**

2.1. In compliance with the January 23<sup>rd</sup> Order, PREPA certifies that, pursuant to the records of the Irrigation Division, which is part of its Operations

Department, as well as the records of its Finance Department, there is no registry showing that the Puerto Rico Central Government has made payments or reimbursements to PREPA in connection with the Irrigation Districts during, at least, the last 20 years. See **Exhibit A** – Certification. As such, PREPA is unable to provide reconciliations on this matter.

2.2. In further compliance with the January 23<sup>rd</sup> Order, PREPA informs that it will request the mandated reimbursements from the Puerto Rico Department of Treasury (Hacienda) pursuant to Act 83 and Act 58, as its proposed measure to unwind the current Subsidy Adjustment Non-Help for Humas (“SUBA-NHH”).

2.3. It is unclear why past PREPA administrations failed to request or stopped requesting the mandated reimbursements identified in the January 23<sup>rd</sup> Order. Based on PREPA’s investigation thus far, past administrations were unaware that Act 83 and Act 58 authorized PREPA to seek such mandated reimbursements from the Government of Puerto Rico.

2.4. Notwithstanding, and in light of the Energy Bureau’s interpretation of Act 83 and Act 58 in the January 23<sup>rd</sup> Order, PREPA asserts its commitment to request these mandated reimbursements from the Puerto Rico Department of Treasury (Hacienda) in an effort to reduce or even eliminate its reliance on the SUBA-NHH subsidy.

2.5. PREPA’s ability to unwind the current SUBA-NHH subsidy is contingent, of course, upon its success in obtaining the mandated reimbursements from the Government of Puerto Rico. In the event the Government of Puerto Rico refuses

or fails to effectuate the mandated reimbursements pursuant to Act 83 and Act 58, PREPA will not be able to reduce, much less eliminate, its reliance on the SUBA-NHH subsidy.

2.6. After careful consideration and consistent with the public policy of the Government of Puerto Rico, PREPA informs that it will **not** increase the rates to the Irrigation District's non-agricultural customers, nor the Puerto Rico Aqueduct and Sewage Authority ("PRASA") as a measure to unwind the SUBA-NHH subsidy.<sup>1</sup> PREPA is strongly committed to implementing measures that will increase recovery of additional funds and/or reduce unnecessary expenses, as long as these measures do not require further rate increases to the People of Puerto Rico. PREPA stands against measures that appear to alleviate consumer burdens in their power bill, only to increase customer burdens in the water bill.

**WHEREFORE**, PREPA respectfully requests the Energy Bureau to take **NOTICE** of the information submitted herein and deem the January 23<sup>rd</sup> Order as **COMPLIED WITH**.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 22<sup>nd</sup> day of April 2024.

**CERTIFICATE OF SERVICE:** We hereby certify that this document was filed with the Office of the Clerk of the Energy Bureau using its Electronic Filing System

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<sup>1</sup> The rates for agricultural customers are established by statute. See *In Re: Puerto Rico Electric Power Authority Rate Review*, Case No. CEPR-AP-2015-0001, Final Resolution and Order, January 10, 2017, p. 135.

at <https://radicacion.energia.pr.gov/login>. We also certify that a true and exact copy of this document was notified to the following parties through attorneys of record: Genera PR LLC through Jorge Fernández Reboredo, [jfr@sbgblaw.com](mailto:jfr@sbgblaw.com); Alejandro López Rodríguez, [alopez@sbgblaw.com](mailto:alopez@sbgblaw.com); Joaquín M. Lago González, [jlago@sbgblaw.com](mailto:jlago@sbgblaw.com); and at the following email addresses [legal@genera-pr.com](mailto:legal@genera-pr.com); [regulatory@genera-pr.com](mailto:regulatory@genera-pr.com); and LUMA Energy LLC and LUMA Energy ServCo, LLC through Margarita Mercado Echegaray, [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com); Julian Anglada Pagán, [julian.angladapagan@us.dlapiper.com](mailto:julian.angladapagan@us.dlapiper.com).

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