

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

NEPR

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IN RE: REVIEW OF LUMA'S INITIAL
BUDGETS

CASE NO.: NEPR-MI-2021-0004

**MOTION FOR BUDGET REVISION TO PAY SETTLEMENT OF THE
OLIVERAS AND ESTELA CASE**

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. Introduction

1.1 PREPA very respectfully request the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") to revise the FY2024 PREPA HoldCo Non-Labor Budget to include an increase to the *Other Income* line item by \$2,000,000.00, to cover a settlement reached in the Oliveras and Estela Case (as defined below). As explained in the ensuing paragraphs, the settlement reached in this case is in the best interest of both PREPA and the rate payers.

II. Relevant Procedural Background

a. Fiscal Year 2024 ("FY 24") HoldCo Budget – Case No. NEPR-MI-2021-0004

2.1 On June 25th, 2023, the Energy Bureau issued a *Resolution and Order* ("June 25th Resolution") whereby it modified and approved the *Consolidated Annual*

Budgets for Fiscal Year 2024,¹ subject to compliance with various orders.

2.2 After other procedural incidents, on September 22nd, 2023, the Energy Bureau entered a *Resolution and Order* ("September 22nd Order") whereby it, among other things, revised the FY24 HoldCo Non-Labor Budget and increased it by \$3.673MM, from \$11.772MM to \$15.445MM, subject to certain reporting requirements.

2.3 On December 8th, 2023, the Energy Bureau issued a *Resolution and Order* whereby it increased the HoldCo Non-Labor Budget ("December 8th Resolution") to \$18.072MM.

2.4 On December 12th, 2023, the Fiscal Oversight and Management Board ("Oversight Board") certified the First Revised PREPA FY2024 Budget, as approved by the Energy Bureau in the December 8th Resolution.

2.5 On February 20th, 2024, the Energy Bureau revised PREPA's HoldCo budget and increased it in the amount of \$635,000.00 to pay for the settlement of the Maldonado-Laureano Case ("February 20th Resolution").

2.6 On March 13th, 2024, the Oversight Board certified the Second Revised PREPA FY2024 Budget, as approved by the Energy Bureau in the February 20th Resolution.

2.7 On March 14th, 2024, the Energy Bureau revised PREPA's HoldCo budget

¹ The *Consolidated Annual Budgets for Fiscal Year 2024*, submitted by LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly hereafter, "LUMA"), were comprised of the following: (i) the proposed T&D budget developed by LUMA, (ii) the proposed generation budget developed by Genera PR, LLC ("Genera") on behalf of the PREPA, for the PREPA subsidiary GENCO LLC ("GenCo"), and (iii) the proposed Budget developed by PREPA for its holding company, HoldCo, and its subsidiaries PREPA HydroCo LLC ("HydroCo") and PREPA PropertyCo, LLC ("PropertyCo").

and increased it in the amount of \$30,659,875.65, to be funded through PREPA's FEMA reimbursement account, for the acquisition of fourteen (14) of the seventeen (17) installed units that comprise the Temporary Generation System and create a new budget line item called "Cost-Share (10%) Acquisition of Temporary Generators" to reflect the allocation for the acquisition of the Temporary Generation System.

2.8 On March 14th, 2024, the Energy Bureau issued a Resolution and Order whereby it approved the abovementioned budget increase for the acquisition of the Temporary Generation System ("March 14th Resolution").

2.9 On March 15th, 2024, the Oversight Board certified the Third Revised PREPA FY2024 Budget, as approved by the Energy Bureau in the March 14th Resolution.

b. George Oliveras-Vázquez and Others v. PREPA, case no. SJ2020CV03569

2.10 On July 10th, 2020, plaintiffs George Oliveras, Mr. Ramón Estela, and their respective spouses and conjugal partnerships ("Plaintiffs") filed a Complaint against PREPA in case no. SJ2020CV03569 ("Oliveras and Estela Case"). In essence, Plaintiffs allege that on January 30th, 2020, Co-Plaintiff Mr. Oliveras – while performing plumbing work on the roof of his first cousin's house - made contact with a high-voltage electrical wire owned by PREPA which resulted in the above the knee amputation of both his legs. Also with Mr. Oliveras on the roof was Co-Plaintiff, and owner of the property, Mr. Estela. When he saw his cousin receiving the electrical discharge, it is alleged that he tackled Mr. Oliveras, causing them both to topple over the roof, while

in the process receiving serious burns and fractures (the "Accident"). Plaintiffs allege that the electrical wire did not meet the safety clearances required by the National Electric Safety Code (NESC), thus representing a dangerous and hazardous condition that should have been remediated by PREPA.

2.11 Prior to the occurrence of the Accident, PREPA was already aware of the dangerous and hazardous condition that the electrical wire posed. Specifically, approximately twenty (20) years prior to the Accident, another and different electrical accident had transpired on the same roof and with the same wire.

2.12 In 1999, PREPA was served with another lawsuit, in the Maldonado-Tosado v. AEE case, Civil No. K DP1999-1432 ("Maldonado-Tosado Complaint") where it was alleged that the very same wire that caused the Accident was not up "to the standards required by the National and Local Electrical Safety Codes and because of such negligence plaintiff Maldonado Tosado suffered second-degree burns".

2.13 In its response to the Maldonado-Tosado Complaint, PREPA - by means of a counterclaim - accepted that the wire was dangerously close to the roof, that the proximity of the wire exposed third parties to coming into contact with the electrical line and that the occurrence of the accident on the roof was entirely foreseeable. Notwithstanding these admissions, PREPA never (1) relocated the line; (2) ordered that the illegal construction be taken down; (3) or insulated the wire with an insulator.²

² The Maldonado-Tosado Complaint was resolved via judgment entered on October 26, 2001. PREPA is not seeking any remedies regarding Maldonado-Tosado Complaint in this motion. The only reason the Maldonado-Tosado Complaint is discussed in this motion is because of its implications on the Oliveras and Estela Case.

2.14 After careful review of PREPA's exposure regarding liability, as well as the applicable case law involving awards for damages similarly suffered by all Plaintiffs, the Oliveras and Estela Case was valued with a potential adverse judgement range over \$7,000,000.00. This includes: (i) an uncontested Life Care Plan valued by an economist at \$4,036,475; (ii) Future Salaries valued by a CPA at \$393,092; (iii) Emotional Pain & Suffering suffered by all Plaintiffs at \$1,000,000.00; (iv) and the Physical Pain and Suffering suffered by Mr. Oliveras and Mr. Estela valued at \$2,000,000.00.³

2.15 Given a potential adverse judgment of over \$7,000,000 in the Oliveras and Estela Case, PREPA's Governing Board understood the Settlement to be in the best interest of PREPA and its rate payers and approved it by way of Resolution 5115 on March 13th, 2024. See **Exhibit A** – Resolution 5115.

2.16 Considering the benefits of the aforementioned settlement, and that there is no current budget for the proposed agreement, it is respectfully requested that this Energy Bureau revise the FY2024 PREPA HoldCo Non-Labor Budget to include an increase to the *Other Income* line item by \$2,000,000.00 to cover the Settlement of the Oliveras and Estela Case.

WHEREFORE, PREPA respectfully requests the Energy Bureau to **GRANT** the instant motion and, consequently, **REVISE** the FY2024 PREPA HoldCo Non-Labor Budget to include an increase to the *Other Income* line item by \$2,000,000.00, to cover the Settlement of the Oliveras and Estela Case.

³ It is important to note that the law firm that represented PREPA during the discovery in the Oliveras-Vázquez case was Díaz and Vázquez Law Offices, PSC, and not González & Martínez Law Offices, PSC.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 24th 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 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; Alejandro López Rodríguez, alopez@sbgblaw.com; Joaquín M. Lago González, jlago@sbgblaw.com; and at the following email addresses legal@genera-pr.com; regulatory@genera-pr.com; and LUMA Energy LLC and LUMA Energy ServCo, LLC through Margarita Mercado Echegaray, margarita.mercado@us.dlapiper.com; Julian Anglada Pagán, julian.angladapagan@us.dlapiper.com.

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