

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



IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY RATE REVIEW

CASE NO.: NEPR-AP-2023-0003

SUBJECT: Milestones and Deadlines.

**RESOLUTION AND ORDER**

**I. Procedural Background**

On June 30, 2023, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order initiating this proceeding ("June 30 Resolution"). Through the June 30 Resolution, the Energy Bureau ordered a three-phase process to review rates<sup>1</sup> and ordered LUMA Energy, LLC, and LUMA Energy ServCo, LLC (jointly referred to as, "LUMA") to file on October 4, 2023, a report on the filing requirements for the rate review ("Phase I Report"). Among other things, LUMA was directed to explain how the filing would address the Puerto Rico Electric Power Authority's ("PREPA") Legacy Debt and the PREPA pension obligation costs.

On October 4, 2023, LUMA filed a document titled *Motion in Compliance with June 30, 2023, Resolution and Order* ("October 4 Motion"), in which LUMA included, as Exhibit 1, its 2023 Rate Review Phase I Report as required through the June 30 Resolution. Pertaining the PREPA Legacy Debt and pension obligations, LUMA highlighted that once the debt adjustment plan is confirmed by the Title III Court, PREPA and the Federal Oversight and Management Board for Puerto Rico ("FOMB") would develop and submit to the Energy Bureau, either within the current proceeding or separately, the materials, information, and documentation necessary and in support of any request for the calculation and inclusion of any charges in customer bills designed to collect revenues for payment of PREPA's Legacy Debt and pension obligations.

On October 24, 2023, the Energy Bureau issued a Resolution and Order ("October 24 Resolution") with the first requirement of information ("1<sup>st</sup> ROI") seeking clarifications from LUMA, GENERA PR, LLC ("Genera"), and PREPA on the Phase I Report. The October 24 Resolution required LUMA, Genera, and PREPA to file on or before November 3, 2023 its responses to the 1<sup>st</sup> ROI.

On November 3, 2023, LUMA submitted a document titled *Motion Submitting Responses to First Requirement of Information in Compliance with October 24th Resolution and Order* ("November 3 Motion"), in which LUMA presented as Exhibit 1 its responses to the 1<sup>st</sup> ROI. Exhibit 2 of the November 3 Motion includes Genera's responses to the 1<sup>st</sup> ROI. LUMA included as Exhibit 3 of the November 3 Motion a document titled *Updated Phase I Report* ("Updated Phase I Report") and included as Exhibit 4 a Revised Appendix A, Phase II Filing Schedules. As Exhibit 5 of the November 3 Motion, LUMA filed a redline that compares the Phase I Report filed on October 4, 2023 with the Updated Phase I Report.

On November 3, 2023, PREPA filed a document titled *Notice of Appearance and Motion for Extension of Time to Comply with the October 24 Resolution and Order* ("PREPA November 3 Motion"), in which it informed that new legal counsel was recently hired and requested additional time to respond to the 1<sup>st</sup> ROI.

On November 8, 2023, the Energy Bureau issued a Resolution and Order taking notice of PREPA's legal representation and granting PREPA until November 10, 2023 to comply with the October 24 Resolution.

<sup>1</sup> Phase I: Review of filing requirements and coordination between parties; Phase II: Review of partially complete rate filing; and Phase III: Formal review of complete rate request (including bankruptcy court final decision).



On November 10, 2023, PREPA submitted a document titled *Motion in Compliance with Resolution and Order*, whereby it responded to the 1<sup>st</sup> ROI.

After an initial assessment of LUMA's Phase I Report, on March 15, 2024, the Energy Bureau issued a Resolution and Order ("March 15 Resolution") through which it scheduled a Virtual Technical Conference for April 17, 2024, to address the extent to which the accounting information prepared for LUMA, PREPA, and Genera conforms to the guidance in the Federal Energy Regulatory Commission Uniform System of Accounts ("FERC's USOA"). The Energy Bureau also ordered LUMA to provide responses to the items identified in Attachment One of the March 15 Resolution.

Through the March 15 Resolution, the Energy Bureau divided Phase II of the rate review process into a two-step review of revenue requirement and rate design and established milestones for the rate review process. Additionally, the Energy Bureau provided the following guidance on related dockets:

- ✓ *Fiscal Year 2025 Annual Budget* - LUMA should file the Annual Budget for FY2025 using the same guidelines and process that have been established in Case No.: NEPR-MI-2021-0004. Review of the FY2025 budget is necessary since it will provide the underlying information for LUMA's portion of the new revenue requirement that will be established in the rate case docket.
- ✓ *Integrated Resource Plan ("IRP")* - In developing the revenue requirement for this rate review, LUMA should use all relevant information and projected capital expenditures from the IRP under consideration in Case No.: NEPR-AP-2023-0004.

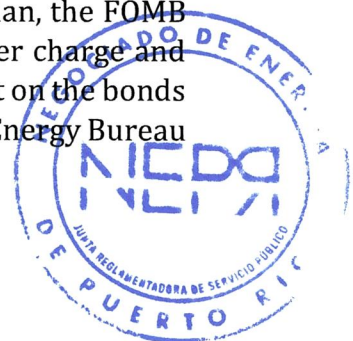
On April 8, 2024, LUMA filed a document titled *Request for Continuance of Technical Conference and Motion Submitting Responses to Attachment One to the Resolution and Order of March 15, 2024* ("April 8 Motion"). In its April 8 Motion, LUMA requested continuance of the April 17 Technical Conference to allow the parties to finalize the proposed FY2025 Consolidated System Budget and the proposed revenue requirement, before preparing for a Technical Conference to discuss accounting remediation activities. LUMA requested the April 17 Technical Conference be held after the consolidated FY2025 Budget Proposal was filed and proposed revenue requirement. LUMA also submitted Genera and PREPA's responses to Attachment One to the March 15 Resolution.

On April 9, 2024, the Energy Bureau issued a Resolution and Order through which it cancelled the Technical Conference scheduled for April 17, 2024 until further notice.

## II. PREPA's Title III Proceedings

In the June 30 Resolution, the Energy Bureau recognized that PREPA's ongoing Title III case directly affects this rate proceeding. Further, pursuant to the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement, among PREPA and LUMA (as amended, supplemented or modified, the "Supplemental Agreement"), the Service Commencement Date under the Operation and Maintenance Agreement ("OMA") under which LUMA will manage PREPA's transmission and distribution system ("T&D System"), shall not occur until all Service Commencement Date Conditions have been satisfied or waived, including that Title III Exit shall have occurred. The Service Commencement Date Conditions and the Title III Exit impacts PREPA's revenue requirement.

While the precise timing of resolution of PREPA's Title III case remains uncertain, since the June 30 Resolution, the FOMB filed and sought confirmation of an amended plan of adjustment for the PREPA Legacy Debt ("Amended Plan"). In the Amended Plan, the FOMB has proposed a "Legacy Charge" – defined as a hybrid fixed monthly customer charge and volumetric charge, to be included in PREPA's rates to pay principal and interest on the bonds that shall be issued under the Amended Plan. The Amended Plan requires the Energy Bureau





to review and approve the Legacy Charge (or to the extent necessary the Title III Court or applicable appellate court orders).

As stated by LUMA in its Phase I Report filed with the October 4 Motion, **PREPA's pension obligations will be addressed in the Amended Plan.** As such, any information about the inclusion of charges in customer bills designed to collect revenues for payment of PREPA's Legacy Debt and pension obligations **is subject to the confirmation of the Amended Plan.**

The Title III Court's final decision on the Amended Plan will directly affect this proceeding because, once confirmed, future electricity rates will need to incorporate a Legacy Charge (as may be amended or modified), while also funding the operators of Puerto Rico's electricity system -PREPA, LUMA, and Genera- and PREPA's pension obligations. The Energy Bureau will need to review the revenue requirement including the Legacy Charge and PREPA's pension obligations along with the rest of the revenue requirement components, including the rate-design, as part of the rate review request.

From March 4 to March 18, 2024, the Title III Court held hearings ("Confirmation Hearings") in which it considered evidence and arguments to determine whether to confirm the Amended Plan. The Title III Court considered the matter, requiring parties to file updated findings of facts and conclusions of law in support of or opposed to the confirmation of the Amended Plan on April 1, 2024, and objections thereto on April 5, 2024. Based on available information, it is expected that the Title III Court will issue its decision on the Amended Plan soon.

While the timing of the conclusion of PREPA's Title III proceeding remains uncertain, the Energy Bureau determines that to have an integral handling of the rate case it is in the best interest of ratepayers, when considering procedural economy and use of resources, to modify the timeline of this proceeding. Therefore, the Energy Bureau **SETS ASIDE** the deadlines and milestones established in the March 15 Resolution until the Title III Court has rendered its decision on the confirmation of the Amended Plan, so that all matters associated with PREPA's exit from Title III may be considered simultaneously.

Notwithstanding the foregoing, LUMA, Genera, and PREPA **SHALL** not discontinue any internal efforts and tasks (e.g., data or information gathering, revision or update of studies or analysis, etc.) necessary to prepare and present the most robust and complete rate review request. Furthermore, the Energy Bureau **RESERVES** the right to provide, via separate resolution, updated guidance, milestones and deadlines associated and/or restructure the phases for the rate review process at any time, whether before or after any order from the Title III Court related to the Amended Plan.

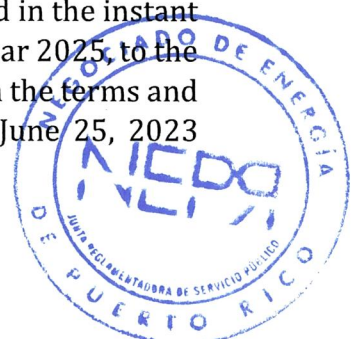
Finally, the Energy Bureau **ORDERS** PREPA to provide notice to the Energy Bureau of any order of the Title III Court confirming or denying confirmation of the Amended Plan, within **five (5) business days of the issuance of such order.**

### III. Guidance on Related Dockets

On April 7, 2024, LUMA filed a document titled *Informative Motion on Status of FY2025 Budget Allocation Discussions and Request for Additional Time to Conclude Discussions on the Fiscal Year 2025 Consolidated System Budget* ("April 7 Motion"), through which it requested that the Energy Bureau grant additional time, until May 15, 2024, to file the FY2025 Consolidated Budget.

On April 9, 2024, the Energy Bureau issued a Resolution and Order through which it granted LUMA's request to extend the deadline to file the proposed FY2025 Consolidated Annual Budgets up to and including **May 15, 2024.**

Given our determination to set aside the milestones and deadlines established in the instant proceeding, the Energy Bureau provides the following guidance. For Fiscal Year 2025, to the extent possible, LUMA, PREPA, and Genera, **SHALL** continue to operate within the terms and conditions of the 2017 Rate Order, similar to what was approved in the June 25, 2023





Resolution and Order, and subsequently amended under the Budget Procedure.<sup>2</sup> However, the Energy Bureau **WARNS** LUMA, PREPA, and Genera that if the FY2025 Budget has substantial differences with the terms and conditions of the FY2024 Budget, it **SHALL** submit such modifications, on or before **May 15, 2024**. LUMA, PREPA, and Genera **SHALL** continue to operate under the terms and conditions of the approved FY2025 Budget until the Title III Court issues a final decision on the Amended Plan and the rate review process concludes, unless the need for a provisional rate is justified. The Energy Bureau **REMINDS** LUMA that its FY2025 Budget shall include sources of funding to cover the PREPA Employment Retirement System.

The Energy Bureau also notes that the development of an updated Integrated Resource Plan ("IRP") is ongoing pursuant to the current IRP Procedure.<sup>3</sup> In developing the revenue requirement for this rate review, LUMA must use all relevant information and projected capital expenditures from the IRP under consideration. Pursuant to the Energy Bureau's December 20, 2023 Resolution and Order in Case No.: NEPR-AP-2023-0004, LUMA is due to file the 2024 IRP on **June 28, 2024**. The additional time for this rate proceeding will better align with the completion of the 2024 IRP.

#### IV. Conclusion

In the interest of administrative economy and the expeditious, orderly, and economical resolution of this proceeding, the Energy Bureau **SETS ASIDE** Phase II and Phase III including all deadlines and/or milestones established through the March 15 Resolution, until further notice from the Energy Bureau.

The Energy Bureau **ORDERS** PREPA to provide notice to the Energy Bureau of any order of the Title III Court confirming or denying confirmation of the Amended Plan, within **five (5) business days** of such order.

The Energy Bureau **RESERVES** the right to provide updated guidance and deadlines, restructure the phases of the rate review process at any time, whether before or after any order of the Title III Court related to the Amended Plan.

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

- (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,<sup>4</sup> 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.

The Energy Bureau **ORDERS** its Clerk to notify the present Resolution and Order in the instant case and under *In Re: Review of LUMA's Initial Budgets*, Case No.: NEPR-MI-2021-0004

<sup>2</sup> *In re: LUMA Initial Budgets and Related Terms of Service*, Case No. NEPR-MI-2021-0004 ("Budget Procedure").

<sup>3</sup> *In re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No. NEPR-AP-2023-0004 ("IRP Procedure").

<sup>4</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended ("Act 57-2014").


and *In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, Case No.: NEPR-AP-2023-0004.

Be it notified and published.

  
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Edison Avilés Deliz  
Chairman

  
\_\_\_\_\_  
Lillian Mateo Santos  
Associate Commissioner

  
\_\_\_\_\_  
Ferdinand A. Ramos Sogaard  
Associate Commissioner

  
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Sylvia B. Ugarte Araujo  
Associate Commissioner

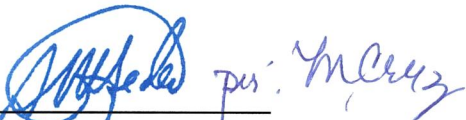
  
\_\_\_\_\_  
Antonio Torres Miranda  
Associate Commissioner

**CERTIFICATION**

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on April 12, 2024. Also certify that on April 12, 2024, I have proceeded with the filing of this Resolution and Order and was notified by email to mvalle@gmlex.net; arivera@gmlex.net; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; jfr@sbgblaw.com; alopez@sbgblaw.com; regulatory@genera-pr.com; [legal@genera-pr.com](mailto:legal@genera-pr.com); hriviera@jrsp.pr.gov; pre@promesa.gov; margarita.mercado@us.dlapiper.com; julian.angladapagan@us.dlapiper.com; mvalle@gmlex.net; arivera@gmlex.net; legal@genera-pr.com; regulatory@genera-pr.com; jfr@sbgblaw.com; alopez@sbgblaw.com.

I sign in San Juan, Puerto Rico, today, April 12, 2024.



  
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Sonia Seda Gaztambide  
Clerk