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

IN RE: REVIEW OF LUMA'S INITIAL BUDGETS	**CASE NO.:** NEPR-MI-2021-0004 **SUBJECT:** Resolution and Order for Motion Submitting Amendment to FY2024 T & D Budget, filed by LUMA on March 28, 2024.

RESOLUTION AND ORDER

I. Introduction and Procedural Background

On February 14, 2024, LUMA Energy Management, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA"), filed a document titled, *Informative Motion Submitting Courtesy Copy of Notice to the Puerto Rico Public-Private Partnership Authority* ("February 14 Motion"), through which, LUMA provided a courtesy copy of a notice to the Puerto Rico Public-Private Partnership Authority ("P3A"), advising of LUMA's intention to request an amendment to the FY 2024 Budget. LUMA asserted that the February 14 Motion was submitted in compliance with Energy Bureau resolutions affirming its expectation that budget amendment requests should be timely expected and promptly notified to the Energy Bureau.

On March 28, 2024, LUMA filed a document titled, *Motion Submitting Amendment to FY2024 Budget* ("March 28 Motion"), through which LUMA requested that the Energy Bureau approve an amendment and reallocation of the FY 2024 Budget. LUMA asserts that the amendment and reallocation do not result in any increase or change to customer rates and that LUMA's aggregate T&D Budget of $651 million remains unchanged and consistent with the funding approved in the Energy Bureau's September 22 Order.[1]

LUMA explains that the budget amendment seeks to reallocate $36 million from LUMA's Operating Budget to LUMA's Non-Federally Funded Capital Budget, with the reallocated funds to be distributed among Distribution, Substation, Control Center & Buildings, Enabling and Support Services Improvement Portfolios.[2] This is a reduction of 7% to GridCo Operating Expenditures and an increase of 40% to GridCo Non-Federally Funded Capital Expenditures. The proposed amendment increases the Customer Experience Budget by $0.630 million (1%) and increases the Improvement Portfolios of the Non-Federally Funded Capital budget by $2.500 million (9%) for Distribution, $19.200 million (119%) for Substations, $5.00 million (135%) for Control Center and Buildings, $9.00 million (38%) for Enabling and $0.470 (6%) for Support Services.[3]

LUMA explains that the $2.5 million increase to Distribution Automation reflects cost increases for automated devices, thus enabling LUMA to continue their installation and increase its use. The reallocation to the Substations Portfolio increases the Substation Rebuilds Program by $16.7 million, thereby, enabling LUMA to acquire and commission a 230/115kv transformer for the Bayamón Transmission Center, without which LUMA asserts, the system is one contingency away from catastrophic failure. It also increases Substation Reliability by $2.5 million to support investment in high voltage equipment replacements to enable LUMA to continue to improve the reliability of the electric system and strengthen infrastructure ahead of the upcoming hurricane season.[4] The reallocation to

[1] March 28 Motion, p. 3.

[2] March 28 Morion, p. 2.

[3] March 28 Motion, Exhibit 1, p. 5.

[4] March 28 Motion, Exhibit 1, p. 6.

NEGOCIADO DE ENERGÍA DE PUERTO RICO NEPR JUNTA REGLAMENTADORA DE SERVICIO PÚBLICO the Enabling Portfolio increases the T&D Fleet program by $9 million to replace vehicles that have become obsolete or have reached the end of their useful life and will enable eligibility for FEMA reimbursement for vehicles deployed to emergency response events. The reallocation to the Control Center and Buildings Portfolio increases Facilities Development and Implementation by $5 million for the planned acquisition of an airplane hangar to replace the hangar LUMA is renting in San Juan which will be subject to a rent increase in FY 2025. This will increase operational readiness and provide long-term cost savings. The reallocation to the Support Services Portfolio increases the IT OT Asset Management Program by $1 million to support the replacement of obsolete equipment to ensure LUMA's business operations and continuity and reallocate $0.630 million in the Electric Vehicle implementation Support Services program from the Non-Federally Funded Capital Budget to the Customer Experience Operating Expenditures Budget to properly categorize the funds as expenses and not a fixed asset investment.[5]

LUMA also states it will reallocate funds within the Operating Budget to increase Vegetation Management by $6 million, thus increasing that budget from $50 million to $56 million. LUMA explains this reallocation is made pursuant to Section 7.3(c) of the Puerto Rico Transmission and Distribution System Operation and Management Agreement ("T&D OMA")of June 22, 2020 which grants LUMA, "complete flexibility, subject to compliance with Contract Standards and prior consultation with, but not subject to approval by, Administrator or PREB to (i) reallocate, expenditures within the approved Operation Budget,...in order to address changed operational or commercial circumstances or new legal or regulatory requirements and ...in such manner that the reallocations do not exceed five percent (5%) of the Budget in which such reallocations are made or the expenditures are not postponed for a period longer that one (1) year."[6] LUMA explains that the additional funds for Vegetation Management will be reallocated from expenses for labor, material, and professional services. LUMA asserts that the main reason for the increase is to ramp up the workforce to expedite vegetation management work that will improve LUMA's readiness for the upcoming Atlantic hurricane season and higher electric demand due to warmer weather.[7]

II. Discussion

LUMA's request to amend the approved FY 2024 Budget, to reallocate funds from the Operating Budget to the Capital Budget, Non-Federally Funded, reflects LUMA's adherence with Energy Bureau orders emphasizing the importance of timely expecting and requesting budget amendments and with Section 7.3(e) of the T&D OMA. The proposed budget amendment is in accordance with the applicable Rate Order, does not result in an increase to customer rates and the budget remains within approved expenditure limits. LUMA explained its justifications for the components of the proposed amendment and the Energy Bureau finds that the explanations LUMA has provided adequately support approval of the proposed amendment.

LUMA's proposed reallocation of $6 million for Vegetation Management within its approved FY 2024 Operating Budget, is about 1% of the Operating Budget. Under Section 7.3(c) of the T&D OMA, LUMA may reallocate funds within either the approved Operating Budget, the approved Capital Budget - Federally Funded or the approved Capital Budget – Non-Federally Funded, provided the reallocations do not exceed 5% of the budget in which such reallocation is made. However, LUMA does not specify from which line(s) within the Operating Budget, the reallocation(s) for Vegetation Management is made; whether from Customer Experience, Operations, Utility Transformation or Support Services. This shortcoming must be remedied as the impact to a specific budget line within the Operating Budget may exceed 5% or otherwise significantly impact that budget line. Notwithstanding, the Energy Bureau, finds that improvements to the Vegetation Management program,

[5] March 28 Motion, Exhibit 1, p. 7.

[6] March 28 Motion, p. 3.

[7] March 28 Motion, Exhibit 1, p. 2.

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especially to prepare for the hurricane season, is in the interest of system reliability, and is a proper purpose for the requested reallocation.

The Energy Bureau notes that, as stated on earlier occasions, it is not bound by the T&D OMA. LUMA, however, must follow its provisions, and the Energy Bureau determines with reference to the five percent (5%) threshold set forth for reallocations within the individual budgets. Although the Energy Bureau here uses the five percent (5%) set forth in the T&D OMA as the criteria pursuant to which Energy Bureau approval is required, this is not to be implicitly or explicitly interpreted to mean that the Energy Bureau, in the future, may not require compliance with a different standard.

A significant shortcoming in LUMA's March 28 Motion, is that, although LUMA adequately supports the reasons for reallocation of funds *to* the Improvement Portfolios and Vegetation Management, LUMA fails to provide the same level of support for its determination that the budget lines *from* which the approximately $42 million[8] is being moved, remain adequately funded. LUMA stated, "The FY 2024 favorable variance in Operations operating expenses is driven by lower-than-expected operating costs in salaries, wages, benefits, materials and supplies, transportation, per diem, and mileage due to active management of operating costs as well as resources being redeployed to storm response and outage restoration efforts."[9] The Energy Bureau gleaned from LUMA's Second Quarter (Q2) Report, more information explaining the positive variances in funds from which the reallocation was made. The reasoning for the favorable year to date variances in the Operating Budget primarily included labor savings due to higher call center productivity, slowed hiring, and the timing of professional and technical outsourced services relating to customer care and billing system configuration,[10] lower than budgeted salaries, wages, benefits, materials and supplies, transportation, per diem and mileage expenses, related to resources being re-deployed to emergency response and outage restoration efforts.[11]

As of December 31, 2023 the positive variances reflected in the Q2 Report do not reach the level of funds proposed for amendment and reallocation in the March 28 Motion. It is expected that LUMA has considered this in its proposals and that additional excess funds will become available during FY 2024 Q3 in LUMA's budget lines to enable LUMA to implement the amendment and reallocation it describes in the March 28 Motion. Based on the information in the March 28 Motion and LUMA's Q2 Report, the Energy Bureau will not deny LUMA's amendment or reallocation requests, notwithstanding LUMA's cursory explanation of this essential information. The Energy Bureau admonishes LUMA that future requests for budget reallocation or amendment must show the availability of necessary funds and explain and support their removal from specified budget lines, to make sure the reallocation does not impair LUMA's ability to maintain safe and reliable operations.

III. Conclusion

The Energy Bureau **APPROVES** LUMA's request to amend the FY 2024 Budget by reallocating $36 million from the Operating Budget to the Capital Budget, Non-Federally Funded.

The Energy Bureau **ORDERS** LUMA, within 10 days from issuing this Resolution and Order, to show how it intends to reallocate $6 million within its Operating Budget to increase the Vegetation Management budget, i.e., how it intends to move funds between the different Operating Budget components – Customer Experience, Operations, Utility Transformation, and Support Services. In view of the importance of expediting vegetation management work to prepare for the hurricane season, and provided that the reallocation from any specific

[8] See, March 28 Motion, Exhibit 1, p. 9.

[9] March 28 Motion, Exhibit 1, p. 6.

[10] See, *In re: Review of LUMA's Initial Budget*, Case No. NEPR-MI-2021-0004, *Motion to Submit Quarterly Report for the Second Quarter of Fiscal year 2024*, filed by LUMA on February 14, 2024 (February 14 Motion), Exhibit 1, p. 24.

[11] February 14 Motion, Exhibit 1, pp. 25 – 26.

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budget component within the Operating Budget does not exceed 5% of that specific budget component, LUMA is not precluded from moving forward with the reallocation.

The Energy Bureau **ADMONISHES** LUMA that future requests for budget reallocation or amendment must demonstrate the availability of necessary funds and explain and support their removal from specified budget lines, to make sure the reallocation does not impair LUMA's ability to maintain safe and reliable operations, as well as explain and support the addition of funds to specified budget lines.

The Energy Bureau **WARNS** 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, 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.

Be it notified and published.

Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos Soegaard
Associate Commissioner

Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

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CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on May 6, 2024. Also certify that on May 6, 2024, I have proceeded with the filing of this Resolution and Order and was notified by email to 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, May 6, 2024.

Sonia Seda Gaztambide
Clerk

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