

**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

**EMERGENCY MOTION FOR RECONSIDERATION OF THE MARCH 1ST RESOLUTION
REGARDING SECURITY BUDGET**

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 As repeatedly warned in prior motions, PREPA hereby informs that its security budget will be depleted by Wednesday, May 15th, 2024.

1.2 For the reasons set forth in this motion, PREPA urges the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") to reconsider its March 1st Resolution (as defined below) and authorize an increase of **\$114,168.79** to PREPA's fiscal year 2024 ("FY24") HoldCo (as defined below) Non-Labor Operational Budget, and of **\$293,676.88** to PREPA's FY24 HydroCo (as defined below) Non-Labor Operational, for a total of **\$407,657.60**.

II. RELEVANT FACTUAL BACKGROUND

2.1 On January 25th, 2024, PREPA filed its *Urgent Request to Increase Budget for Security Contracts* ("January 25th Motion") before the Energy Bureau

whereby it urgently requested a total increase to its FY24 budget of \$1,220,295.00. Particularly, PREPA requested an increase of \$366,088.00 to the Non-Labor Operating budget of its holding company and PREPA PropertyCo, LLC. (jointly, "HoldCo"), and an increase of \$854,207.00 to the Non-Labor Operating Budget of PREPA's subsidiary HydroCo LLC ("HydroCo") to cover the amended Genesis Contracts (as defined in the January 25th Motion). Additionally, PREPA requested a total increase of \$125,000.00 (\$37,500.00 under the HoldCo Non-Labor Operating Budget and \$87,500.00 under HydroCo Non-Labor Operating Budget) to cover its maintenance contract with Protective Security Systems for the remaining part of FY24.

2.2 In essence, PREPA explained in the January 25th Motion that it had: (a) reduced its reliance on manned guarding and patrolling to the bare minimum in all its facilities and sites, while also striving towards enhancing its electronic surveillance systems; (b) carried out all necessary proceedings to obtain efficient security services at the lowest price; and (c) reduced its security contracts to the minimum required to reasonably protect its employees and property.

2.3 Despite the foregoing efforts, PREPA explained that the reduced budgets approved by the Energy Bureau were insufficient to cover its most basic security needs to guarantee the safety of its employees and the public, while also protecting its property. The January 25th Motion was PREPA's fourth request to the Energy Bureau for a reasonable budget to cover its most basic security needs.

2.4 On March 1st, 2024, the Energy Bureau partially approved PREPA's January 25th Motion ("March 1st Resolution"). Instead of authorizing the total

amount of \$1,345,295.00 requested by PREPA to cover both the Genesis and the Protective Security Systems contracts, the Energy Bureau only authorized a reallocation of \$350,000.00 from the HydroCo Maintenance Projects Expenses line-item to the HydroCo Non-Labor/Other Operating Expenses/Security line-item.

2.5 On April 17th, 2024, PREPA submitted its *Motion in Compliance with the March 1st, 2024 Resolution and Order*, whereby it submitted the following documentation showing the 70%-30% distribution of security job posts between Genera PR LLC ("Genera") and PREPA under the Genesis contracts, at the time of the Genera transition in June 2023:¹

- i. Exhibit A – Report of active security job posts corresponding to the 70% assigned to Genera under the Genesis Security contract 2023-P00084 (North Region) at the time of the transition in June 2023.
- ii. Exhibit B - Report of active security job posts corresponding to the 70% assigned to Genera under the Genesis Security contract 2023-P00077 (South Region) at the time of the Genera transition in June 2023.
- iii. Exhibit C - Report of active security job posts corresponding to the 30% assigned to PREPA under the Genesis Security contract 2023-P00084 (North Region) at the time of the Genera transition in June 2023.
- iv. Exhibit D - Report of active security job posts corresponding to the 30% assigned to PREPA under the Genesis Security contract 2023-P00077 (South Region) at the time of the Genera transition in June 2023.
- v. Exhibit E - Report showing the security budget expenditures, as of March 3rd, 2024, pertaining to the 30% of the security job posts it is responsible for under the Genesis contracts.

III. DISCUSSION

3.1 While the reallocation approved in the March 1st Resolution was a

¹ The information submitted herein regarding the active security job posts transferred to Genera at the time of the transition was provided to PREPA between May and June 2023. Presently, PREPA is unaware of any subsequent changes by Genera regarding these security job posts.

step in the right direction, the currently approved budgets continue to be insufficient to cover PREPA's security needs.

3.2 PREPA respectfully submits that various conclusions reached by the Energy Bureau in the March 1st Resolution are incorrect and urgently warrant reconsideration to protect the wellbeing of PREPA's employees, the public, and PREPA's property.

3.3 The March 1st Resolution asserts that "PREPA has not comprehensively enumerated reductions in security needs to reflect its reduced responsibilities," adding that "[t]he scale of security expenses PREPA seeks continues to be disconnected from this new reality." See March 1st Resolution, p. 3. PREPA, very respectfully, disagrees with this conclusion.

3.4 Both in its January 25th and April 17th Motions, PREPA submitted two (2) detailed reports of all its security job posts (divided between the Northern and Southern regions), with the following information: (a) location, (b) post, (c) type of service offered (armed/unarmed), (d) weekly schedule, (e) work shifts, (f) work hours, (g) hourly rate, (h) weekly cost, (i) whether the guards worked on holidays, (j) TWIC, and (k) minimum guards required per facility.

3.5 The reports show that all facilities where PREPA is placing security guards remained under its control following the Genera PR LLC commencement date and represent 30% of the security job posts contemplated in the Genesis Contracts.

3.6 The reports further show that, in all facilities, there is only one (1) security guard per shift (the bare minimum) except in the Rio Blanco hydroelectric

plant where there are two (2) between 6:00pm and 6:00am; Guajataca where there are two (2) security guards between 6:00am and 2:00pm; and Irrigation Guayama where there are two (2) security guards in all three shifts. Following site inspections and risks analyses, PREPA concluded that the bare minimum in these facilities required two (2) security guards, during the specified shifts, due to the vast size of the perimeter.

3.7 After careful evaluation, PREPA determined that the foregoing is the minimum amount of security guards required to guarantee proper surveillance and patrolling of its sites.

3.8 Contrary to the conclusion in the March 1st Resolution, PREPA has submitted comprehensive proof of the reductions in its security needs which are consistent with the reduction from 100% to 30% after the Genera PR LLC transition.

3.9 The March 1st Resolution also states the following:

Other services for which the need for security is cited without adequate justification include, for example, additional security personnel in buildings which already have security and for meetings dealing with HoldCo matters for which the need for security has not been shown.

3.10 At the outset, there is no redundancy in security personnel with respect to the Energy Bureau's concern regarding "security personnel in buildings which already have security." Even though LUMA may have its own security in buildings where PREPA conducts its business, this personnel solely responds to LUMA, and is in no way committed or contractually obligated to safeguard the interests of PREPA. The adversarial nature of the relationship between PREPA and

LUMA introduces a layer of uncertainty that cannot be overlooked in effective security operations. To that extent, PREPA does not seek redundancy, but rather an assurance that its assets and interests will be adequately protected in an environment of adverse interests.

3.11 On the other hand, the denial of budget for security provisions during the Board of Directors or Executive Director's participation in public functions is also concerning. It is imperative to recognize the inherent risks associated with the Executive Director's public presence as a prominent public figure representing PREPA. Even though these occasions may occur infrequently, the potential consequences of inadequately addressing security needs cannot be overstated. History has shown that neglecting security measures can lead to tragic outcomes. It is respectfully submitted that precaution must be prioritized over reaction, ensuring the safety and well-being of the Executive Director and the Board which, by extension, safeguard the reputation and operations of PREPA. As such, it is incumbent to allocate the necessary resources to mitigate these risks and uphold the duty of care to those entrusted with leading the Public Utility.

3.12 In the March 1st Resolution, the Energy Bureau also "reiterate[d] the importance of placing a proper level of emphasis on cost-effective perimeter barriers, surveillance system technology, and vigilance practices suited to PREPA's mandate to downsize, and the nature of the facilities and security needs being addressed." See March 1st Resolution, p. 3.

3.13 PREPA is cognizant of the importance of cost-effective perimeter barriers, surveillance system technology, and vigilance practices. To that end, on

January 19th, 2023, PREPA submitted the Project Scope of Work with Cost Estimates DR-4339-PR Public Assistance (“SOW”) to the Central Office for Recovery, Reconstruction and Resiliency (“COR3”) and the Federal Emergency Management Agency (“FEMA”). See **Exhibit A - SOW**. The SOW seeks, among other things, installation of video surveillance systems and repairment of perimeter barriers in the following locations:

Location	Coordinates
Adjuntas Dam	18.199652, -66.732163
Carite Dam	18.076300, -66.106121
Coamo Dam	18.014364, -66.389925
Dos Bocas Dam	18.335623, -66.667038
Garzas Dam	18.137436, -66.741034
Guayo Dam	18.210609, -66.834724
Guineo Dam	18.159558, -66.526433
Loco Dam	18.042459, -66.887670
Luchetti Dam	18.091852, -66.864446
Matrullas Dam	18.210465, -66.480215
Patillas Dam	18.019041, -66.021439
Pellejas Dam	18.210561, -66.706471
Prieto Dam	18.185851, -66.863836
Vivi Dam	18.229173, -66.678814
Yahuecas Dam	18.218657, -66.816357

3.14 Presently, the SOW is undergoing costs and environmental analysis by FEMA. As such, no funds have been obligated thus far.

3.15 To avoid the risk of performing ineligible work, PREPA must wait for FEMA’s determination on the SOW before beginning any projects on these sites to install video surveillance systems or repair perimeter barriers. Therefore, PREPA is currently unable to install any perimeter barriers and surveillance systems.

3.16 Once the SOW is approved, the funds obligated, and the work executed, PREPA will be able to reevaluate the need for security guards in each

of its facilities. Until then, PREPA is required to rely on security guards to guarantee the safety of its employees and public, and to protect its property. As such, and at this point in time, the installation of perimeter barriers and surveillance systems is not a viable alternative to address PREPA's immediate security needs.

3.17 It is important to note that even brief periods without security guard presence in facilities owned by PREPA have resulted in theft and vandalism. For instance, the "Antigua Comercial de Caguas" location was transferred to LUMA in 2021. For reasons unknown to PREPA, in 2022, LUMA vacated the premises and moved to a new location. Once vacated, PREPA inspected the premises and identified the inventory left behind by LUMA which included, but was not limited to: office equipment and materials, a great quantity of meters, and more than 15 new air conditioning units. PREPA's Corporate Security Department recommended the location to be patrolled by a security guard. However, due to the budget cuts imposed upon PREPA, no funds were available to retain an additional security guard for this facility. Two (2) weeks later, the location had been completely vandalized and looted. **See Exhibit B** - Pictures of the "Antigua Comercial de Caguas."

3.18 The foregoing illustrates the risks associated with leaving PREPA's sites without any security presence.

3.19 By requiring PREPA to leave some of its sites without security personnel, the Energy Bureau is essentially forcing PREPA to leave some of its employees vulnerable to criminal activity in remote areas or choose which plants it is willing to risk being vandalized and looted. PREPA submits these are not – or

should not – be the only two (2) available alternatives. It is unconscionable that LUMA and Genera are provided with sufficient budget to keep their employees and property safe, but PREPA is expected to put both its employees and property at risk of criminal activity.

3.20 Finally, the March 1st Resolution asserts that “PREPA seems to have severely mis-planned its security expenditures...” See March 1st Resolution, p. 4. PREPA categorically rejects this, as well as all other similar assertions by the Energy Bureau in the March 1st Resolution and prior rulings.

3.21 At all relevant times during FY24, PREPA has requested budgetary allocations for its security expenses based on reasonable projections that respond to its actual needs. Unfortunately, the Energy Bureau has insisted on imposing upon PREPA – and not the private contractors –austerity measures that are not grounded on the administrative record. The budgetary cuts imposed by the Energy Bureau upon PREPA, particularly in the context security services, have been unreasonable and arbitrary. The budgets approved by the Energy Bureau are, simply put, insufficient to guarantee basic security services in all sites under PREPA's control.

3.22 Prior to filing this motion, PREPA exhausted other alternatives to solve its budgetary need, to wit: eliminated additional services such as portable restrooms and provisional security huts, and negotiated a reduced flat fee with its other security contractor, Protective Security Systems. The foregoing resulted in savings which, along with the reallocation approved in the March 1st Resolution, provided some relief to PREPA's budgetary deficiencies for security services.

However, these measures did not solve the problem. PREPA continues to need additional budget.

3.23 Attached as **Exhibit C** is a report containing: (a) the reconciliation of all payments made to Genesis Security under the Genesis Contracts until April 2024, and (b) a projection of the budget required to cover the Genesis Contracts until the end of FY24 ("Report").²

3.24 Per the Report, PREPA needs a total increase to its FY24 security budget of \$407,745.67 divided as follows: **\$114,168.79** under its HoldCo Non-Labor Operational Budget, and **\$293,676.88** under its Non-Labor Operational, to cover the Genesis Contracts until the end of FY24.

3.25 PREPA, very respectfully, request the Energy Bureau to approve the above-stated budget increase.

WHEREFORE, PREPA respectfully requests the Energy Bureau to **GRANT** the instant motion, and **APPROVE** an increase of **\$114,168.79** to the HoldCo Non-Labor Budget, and an increase of **\$293,676.88** to the HydroCo Non-Labor Budget, to cover the Genesis Contracts until the end of FY24.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 13th day of May 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;

² The Report also includes a reconciliation of all payments made to Protective Security Systems, as well as the pending payments for FY 24 under its contract. However, this data is included only for purposes of completeness, as no budgetary allocation is being requested for this other contractor.

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