

**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:** Determination on Genera's  
Request to Amend the Fiscal Year 2024  
Budget

**RESOLUTION AND ORDER**

**I. Background**

On May 16, 2023, LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as "LUMA") filed a document titled, *Submission of Consolidated Annual Budgets for Fiscal Year 2024 and Proposed Annual T&D Projections Through Fiscal Year 2026*, through which LUMA submitted to the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") the proposed T&D Budgets developed by LUMA, the proposed GenCo Budgets developed by GENERA PR, LLC ("Genera"), and the proposed HydroCo and HoldCo Budgets developed by the Puerto Rico Electric Power Authority ("PREPA"). LUMA requested that the Energy Bureau review and approve the Consolidated System Annual Budgets for FY2024, including the T&D Operating and Capital Budgets, the GenCo Budget, the HydroCo Budget and HoldCo Budgets.

On June 25, 2023, the Energy Bureau issued a Resolution and Order ("June 25 Resolution") through which modified the proposed FY 2024 Budgets and approved the Budgets as modified, subject to compliance with orders and reporting requirements.

On June 30, 2023, LUMA filed a document titled *Submission of Motions for Reconsideration by PREPA and Genera and Notice of Intent to Request Reconsideration of Resolution and Order of June 25, 2023*, through which LUMA submitted motions for reconsideration of the June 25 Resolution on behalf of PREPA ("PREPA Reconsideration Motion") and Genera ("Genera Reconsideration Motion") and provided notice of its intention to request reconsideration on its own behalf. LUMA specified that it had no part in the development of the PREPA Reconsideration Motion or the Genera Reconsideration Motion, made no representation as to their appropriateness and reserved its rights to file its own position under separate cover.

On July 14, 2023, the Energy Bureau issued a Resolution and Order, through which it required Genera to respond to several Requirements of Information regarding the Genera Reconsideration Motion.

On July 25, 2023, Genera filed a document titled, *Motion Submitting Information in Compliance with Resolutions and Orders dated June 25, 2023 and July 14, 2023*, through which Genera responded to Energy Bureau Requirements of Information and Directives.

On October 26, 2023, the Energy Bureau issued a Requirement for Information, through which the Energy Bureau requested information from Genera to obtain clarity regarding on the tracking of NME Budget line items. Among the questions posed to Genera was the status of the NME activities approved in the June 25 Resolution, including actual and projected expenditures in FY 2024 for each maintenance activity.

On October 30, 2023 Genera filed a document titled, *Motion to Submit Corrective Action plan in Compliance with Resolution and Order dated September 22, 2023*, through which Genera submitted the Corrective Action Plan pursuant to the Energy Bureau directive in the



September 22 Resolution<sup>1</sup>, containing ten action items with the timeframe for their completion.

On November 7, 2023, Genera filed a document titled, *Motion to Submit Item 6 of Corrective Action Plan in Compliance with Resolution and Order dated September 22*, through which Genera submitted Item 6 of the CAP, with proposed reapportionments within the FY 2024 Certified Genco Budget, for revised Necessary Maintenance Expenses (NME) and Labor Operating Expenses.

On November 9, 2023, Genera filed a document titled, *Motion Submitting Response in Compliance with Resolution and Order Dated October 26, 2023*, through which Genera stated regarding the NME Budget for FY 2024 that they were "... currently updating the Genera Project Master Tracker to reflect the changes and advances in all projects. Once the latest updated version of the Genera Project Master Tracker is final, Genera will promptly file a copy with the PREB."

On December 8, 2023, the Energy Bureau issued a Resolution and Order ("December 8 Resolution"), through which, the Energy Bureau addressed Genera's approved budget, including labor and NME. Among other modifications, the Energy Bureau created a Generation Maintenance Reserve Fund to be made available to Genera for unexpected or emergency repair needs and formalized Genera's revised FY 2024 Operating Budget to reflect modifications made in the Resolution and Order.

On May 23, 2024, Genera filed a document titled, *Motion to Submit Amendment to FY 2024 GenCo Operating Budget* ("May 23 Motion"), through which Genera requests that the Energy Bureau consider its request to amend the FY 2024 Operating Budget. Genera requests approval to reallocate a total of \$11.5 million, \$9.0 million from the Legal Services and \$2.5 million from the Professional & Technical Outsourced Services line items within Genera's Non-Labor Operating Expenses Budget to the Utilities & Rents line item within Genera's Non-Labor Operating Expenses Budget.<sup>2</sup>

Genera submits its budget amendment request pursuant to Article 7, Section 7.3 of the LGA OMA.<sup>3</sup> Genera explains that the proposed budget amendment addresses budgetary shortfalls in the Utilities and Rents line item which it did not foresee during the budget process. Genera relates that during the Mobilization Period, it did not know the full extent of water consumption at the San Juan and Palo Seco power plants, and this was not accurately reflected in the budget process.<sup>4</sup>

Regarding availability of funds, Genera states that FY 2024 year-end budget to actual projections allow Genera to take necessary actions to address the financial situation and close the fiscal year within the certified budget. Genera relates that due to the current PREPA Title III Proceedings, many legal proceedings have been postponed and delayed, and that this has resulted in a surplus in the Legal Services budget line. Genera asserts that the legal proceedings will ramp up at the conclusion of the Title III proceeding. Genera states that "These unused amounts and a fraction of the Professional & Technical Outsourced Services Budget line items shall completely fund the requested amendment." Genera confirms that the requested amendment does not result in an increase or change in customer rates.<sup>5</sup> Genera provides a table reflecting the effect of the proposed budget reapportionment on each of the affected budget lines, based on the approved budgets in the December 8 Motion.

<sup>1</sup> Resolution and Order, September 22, 2023 ("September 22 Resolution").

<sup>2</sup> May 23 Motion, p. 5.

<sup>3</sup> May 23 Motion, p. 4.

<sup>4</sup> May 23 Motion, p. 5.

<sup>5</sup> May 23 Motion, p. 5.





## II. Discussion and Analysis

Genera requests this budget amendment to the FY 2024 approved budget pursuant to Section 7.3 (e) of the Generation OMA<sup>6</sup> which states that budget amendments proposed by Genera “shall require and be subject to approval by PREB.” The Energy Bureau deems Genera’s requested amendment to be compliant with the applicable Rate Order and bases its request on the budgets as approved by the Energy Bureau in its December 8 Resolution. The resulting budget falls within Genera’s approved overall budget and does not change or increase customer rates.

The Energy Bureau accepts as adequate Genera’s explanation of available funds in the Legal Services Budget line based upon the delay or postponement of legal proceedings due to the ongoing Title III proceeding. The Energy Bureau also accepts as adequate Genera’s explanation of the need for additional funds in the Utilities & Rents Budget line, due to the extent of utility costs, of which Genera asserts it was unaware during the Mobilization Period and, therefore, not reflected in the FY 2024 budget process. Genera’s May 23 Motion, however, does not provide certain relevant information that is necessary for Energy Bureau review of Genera’s request to amend the FY 2024 budget.

Genera provides a table titled, FY2024 GenCo Budget Reapportionment. The table provides FY2024 Certified budget line items, FY2024 Requested Reapportionment, and FY2024 Revised Requested Budget line items. The table reflects no change in Total GenCo Operating and Maintenance Expenses. A shortcoming of the information provided, however, is that it does not reflect the actual expenditures in the budget lines that will be affected by the requested reapportionment. This information is particularly relevant in the budget lines *from which* the funds are proposed to be reallocated, to verify that those lines contain adequate funds to enable the reallocation.

Genera asserts that “Current FY2024 year-end budget-to-actual projections allow Genera management to solicit and undertake the necessary actions...”<sup>7</sup> These FY2024 year-end budget-to-actual projections are necessary to support Genera’s request and demonstrate to the Energy Bureau that the proposed budget reallocations will not result in any diminution of the activities for which Genera’s budget was approved.

It is essential that the requested reallocation does not leave the budget lines *from which* the funds requested to be allocated are to be drawn at an inadequate level to fund necessary activities for which the budget was previously approved. The Energy Bureau makes its determination of budget allocation based upon demonstrated need, and adequate support for a requested reallocation must be shown. Genera asserts that Title III has resulted in delay or postponement of legal proceedings, resulting in the \$9.0 million excess in the Legal Services budget line, which is available to fund the requested amendment. Genera does not, however, support its election to reallocate \$2.5 million from the Professional and Technical Outsourced Services Budget line, asserting, “These unused amounts [Legal Services] and a fraction of the Professional & Technical Outsourced Services Budget line items shall completely fund the requested amendment.” The sum of \$2.5 million is not so small as to require no explanation for its removal from a budget line, nor more importantly, to require

<sup>6</sup> Generation OMA:

(e) Amendments to the Operating Budget.

(i) Operator may, from time to time, propose to Administrator to amend the approved Operating Budget for a given Contract Year; provided that any such amendment shall be compliant with the then applicable Rate Order and subject to approval by PREB. If, during a Contract Year, Operator becomes aware that the Pass-Through Expenditures for such Contract Year are expected to exceed the relevant Budget for such Contract Year, then (A) Operator shall promptly notify Administrator and T&D Operator of the expected shortfall, (B) T&D Operator shall notify PREB of the expected shortfall and, (C) as promptly as practicable, Operator shall prepare and submit to PREB proposed amendments to the relevant Budget for such Contract Year, which amendments must be consistent with the then applicable Rate Order and shall require and be subject to approval by PREB.

<sup>7</sup> May 23 Motion, p. 5.



no support to demonstrate that the activities for which the funds were originally approved, will not suffer due to their reallocation from that budget line.

### III. Conclusion

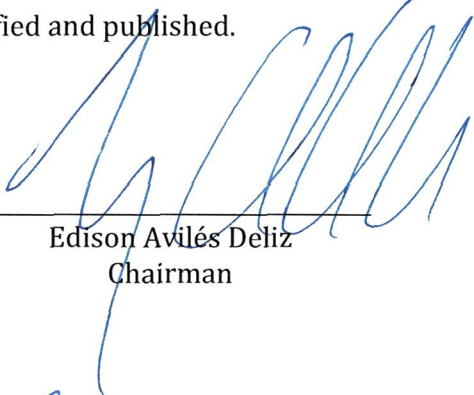
The Energy Bureau **CONDITIONALLY APPROVES** Genera's FY 2024 Budget amendment request, to transfer \$9.0 million from the Legal Services and \$2.5 million from the Professional & Technical Outsourced Services Non-Labor Budget lines to the Utilities & Rents Non-Labor Budget line, pending Genera's submission within three (3) business days of the notification of this Resolution and Order of satisfactory support, including:


- a. justification for reallocation of \$2.5 million from the Professional & Technical Outsourced Services Budget line,
- b. the current actual expenditures in the Utilities & Rents, Legal Services and Professional & Technical Outsourced Services Budget lines, and
- c. the "current FY2024 year-end budget-to-actual projections" that allow Genera management to solicit and undertake the necessary actions, as cited by Genera in the May 23 Motion.

The Energy Bureau **WARNS** LUMA Genera

- (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

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
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 June 14, 2024. Associate Commissioner Lillian Mateo Santos did not intervene. Also certify that on June 14, 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; jan.albinolopez@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, June 14, 2024.

  
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Sonia Seda Gaztambide  
Clerk

