

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

**IN RE:** REVIEW OF THE PUERTO RICO ELECTRIC POWER AUTHORITY'S 10-YEAR INFRASTRUCTURE PLAN – DECEMBER 2020

**CASE NO.:** NEPR-MI-2021-0002

**SUBJECT:** Determination on LUMA's June 13, 2024, Motion Submitting Amended Scope of Work, and Request for Confidentiality and Supporting Memorandum of Law.

**RESOLUTION AND ORDER**

**I. Introduction**

On March 26, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 26 Resolution") in the instant case, through which it ordered the Puerto Rico Electric Power Authority ("PREPA") to provide certain information related to the different projects under the categories of Transmission Line Projects, Transmission Substation Projects, and Distribution Substation Projects in the PREPA 10 -Year Infrastructure Plan. The Energy Bureau ordered PREPA to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP") and Modified Action Plan.<sup>1</sup> To streamline the process, the Energy Bureau requested PREPA to submit the specific projects to the Energy Bureau at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3") and the Federal Emergency Management Agency ("FEMA").<sup>2</sup>

On August 20, 2021, the Energy Bureau issued a Resolution and Order ("August 20 Resolution"), through which it determined that the March 26 Resolution applies equally to LUMA<sup>3,4</sup>

On July 29, 2022, LUMA filed a document titled *Motion Submitting Four Scopes of Work, an Updated List of Projects, and Request for Confidentiality and Supporting Memorandum of Law* ("July 29 Motion"). The projects Scope of Work ("SOWs") submitted by LUMA included the Substation Project: "Bayamón TC – Phase 2" with a Class 5 Cost Estimate of \$71,000,000.00<sup>5</sup>.

On August 25, 2022, the Energy Bureau issued a Resolution and Order ("August 25 Resolution") with the approval of six (6) SOWs submitted<sup>6</sup> by LUMA. The projects included the SOW for the "Bayamón TC – Phase 2".

On June 13, 2024, LUMA filed before the Energy Bureau a document titled *Motion Submitting Amended Scope of Work, and Request for Confidentiality and Supporting Memorandum of Law* ("June 13 Motion"). LUMA informs that as part of LUMA's prioritization and execution strategy they elected to modify the SOW for the "Bayamón TC- Phase II" and to re-submit it as the "Bayamón TC- Rebuild". As Exhibit 1 of the June 13 Motion, LUMA includes the "Bayamón TC- Rebuild" SOW. As part of its filing LUMA request confidential designation and treatment to the unredacted non-public version of Exhibit 1.<sup>7</sup>

<sup>1</sup> Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 ("IRP Order").

<sup>2</sup> March 26 Resolution, pp. 14-15.

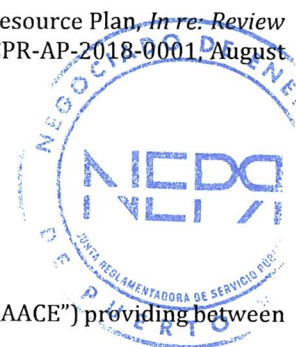
<sup>3</sup> LUMA Energy, LLC, and LUMA Energy ServCo, LLC (collectively, "LUMA")

<sup>4</sup> August 20 Resolution, p. 3.

<sup>5</sup> Refers to Class 5 level cost of the Association for the Advancement of Cost Engineering ("AACE") providing between -50% up to +100%.

<sup>6</sup> See the July 29, 2022, and August 10, 2022 Motions submitted by LUMA requesting the approval of the project's SOWs.

<sup>7</sup> June 13 Motion p. 3.



## II. Evaluation of the June 13 Motion

Through the June 13 Motion, LUMA submits one (1) amended SOW for the “Bayamón TC – Rebuild”. LUMA indicates that the project has evolved, and a “Version 0” has been added to the scope, which includes purchasing, transporting, and installing a 230 kV transformer to enable temporary repairs in Bayamón and across the system, and that additionally, portions of the original site will be relocated as a mitigation measure to the flooding hazard at the current location. LUMA also indicates that continues dealing with the supply chain constrains that have resulted in costs that are higher than first forecasted.<sup>8</sup>

On Exhibit 1 of the June 13 Motion, LUMA explains that it is including the purchase of a 230 kV “redeploy able” transformer for the potential purpose of responding to weather and other natural hazard caused outages, forced outage repairs, and resiliency against sabotage and attacks. Also, to provide an additional redundancy which is essential to facilitate the repairs on the transmission centers in a future storm event. The “redeploy able” transformer will also mitigate existing operational constrains that may hinder the implementation and sequencing of the capital project at Bayamón TC and, that once the 230 kV switchyard is rebuilt and the new transformer added, this unit can be redeployed to another capital project or used to fulfill other operational needs.<sup>9</sup>

*LMR*  
The project as proposed includes:

- (i) Replacement of 230/115 kV, 115/38 kV, 115/13.2 kV and 13.2/4.16 kV transformers;
- (ii) Replacement of 230 kV oil circuits breakers (“OCBs”) with new gas circuit breakers (“GCBs”);
- (iii) New Sub-transmission lines/poles for the 13.2 kV, 38 kV, 115 kV and 230 kV services;
- (iv) “New Elevated” Enclosures for new 13.2 kV, 38 kV and 115 kV gas insulated switchgears (“GIS”) that includes configurations for the installation of new breaker-and-a-half GIS (“BAAH-GIS”), respectively;
- (v) Replacement of the 13.2 kV sectionalizers;
- (vi) Installation of Protection, Automation & Control Panels for the 38 kV, 115 kV and 230 kV systems and Telecom Panels; and
- (vii) Interconnections, among other works.

*AMU*  
The estimated cost for this project represents **\$124,562,227.00**, based on a Class 5 estimate that includes materials, construction labor and equipment, engineering, management, and contingencies as provided by LUMA.

The project is aligned with the goal of repairing, improving, and sustaining the reliability, capacity, and resiliency of the Puerto Rico electric system. All these reconstruction efforts on the island need to be aligned with local and federal regulations, and actual codes and standards.

*SPD*  
After a review of Exhibit 1 of the June 13 Motion, the Energy Bureau **DETERMINES** that the project is necessary to improve the reliability and resiliency of the electrical system.

## III. LUMA’s Request for Confidential Information Designation and Treatment of portions of Exhibit 1 of the June 13 Motion

*SPD*  
In the Request for Confidential Treatment, LUMA alleged that the unredacted version of the SOW in Exhibit 1 has confidential information associated with Critical Energy Infrastructure Information (“CEII”) as defined in federal regulations and, personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico’s legal framework on privacy emanating from the Puerto Rico Constitution and should be also protected under the Energy Bureau’s Policy on Management of Confidential Information<sup>10</sup>, that therefore is also

<sup>8</sup> June 13 Motion, p. 2.

<sup>9</sup> *Id.*, Exhibit 1, p. 6.

<sup>10</sup> See, Resolution, *In re: Política sobre Manejo de Información Confidencial en los Procedimientos ante la Comisión*, Case No. CEPR-MI-2016-0009, issued on September 20, 2016.



protected under Act 57-2014<sup>11</sup>. LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred portion of Exhibit 1. Table 1 below details the portions of Exhibit 1 which LUMA requested confidential designation and treatment.

**Table 1: LUMA's Request for Confidential Information Designation and Treatment, of portions of Exhibit 1**

Document	Name	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
Exhibit 1	Bayamón TC - Rebuild	Page 1	Right to privacy ( <i>see, e.g.,</i> Const. ELA, Art. II, Sections 8 and 10)	June 13, 2024
		Pages 6, 15-16	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	June 13, 2024

*Jim*

**IV. Energy Bureau Determination**

*JAB*

The Energy Bureau **APPROVES** the projects in Attachment A to this Resolution and Order. This approval represents **\$124,562,227.00** based on the Class 5 Cost Estimates submitted by LUMA through the June 13 Motion. The Energy Bureau **GRANTS** LUMA's request to strike the previously approved SOW for the "Bayamón TC Phase II" on the August 25 Resolution for \$71,000,000.00.

The Energy Bureau **APPROVES** the projects in **Attachment A** to this Resolution and Order, which shall be presented to FEMA and COR3 to finalize their approval process for the request of federal funds. The Energy Bureau approved these projects based on the information from LUMA. Should the scope of the project change or the request for the federal funds are not approved for such projects, LUMA **SHALL** immediately seek the Energy Bureau's approval of such changes.

*AM*

The Energy Bureau **ORDERS** LUMA to (i) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in **Attachment A**, which shall have the costs obligated for each project, **within ten (10) days of receipt of such approval**; (ii) provide the Energy Bureau the actual contracted cost to construct each project in **Attachment A, within ten (10) days from the execution of the contract**; and (iii) inform the Energy Bureau once the projects are completed.

The directive established in the March 26 Resolution regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 remains unaltered.

*Ston*

Act 57-2014<sup>12</sup> establishes that any person having the duty to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.<sup>13</sup> Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information stated that "the Energy Bureau, after the appropriate evaluation, believes such information should be protected".<sup>14</sup> In such case, the Energy Bureau "shall grant such protection **in a manner that least affects**

<sup>11</sup> Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

<sup>12</sup> *Id.*

<sup>13</sup> Section 6.15 of Act 57-2014.

<sup>14</sup> *Id.*



the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”<sup>15</sup>

Upon review of LUMA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the parts of Exhibit 1 as described in Table 1 above under Article 6.15 of Act 57-2014. The Energy Bureau **TAKE NOTICE** that LUMA already submitted a redacted (*i.e.*, public) version of Exhibit 1 as described in Table 1.

The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014<sup>16</sup> and applicable Energy Bureau’s regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

Be it notified and published.

Edison Avilés Deliz  
Chairman

Lillian Mateo Santos  
Associate Commissioner

Ferdinand A. Ramos Spegard  
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 28, 2024. Also certify that on June 28, 2024, I have proceeded with the filing of this Resolution and Order and was notified by email to arivera@gmlex.net; mvalle@gmlex.net; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; julian.angladapagan@us.dlapiper.com; alopez@sbgblaw.com; jfr@sbgblaw.com, legal@genera-pr.com, regulatory@genera-pr.com.

I sign this in San Juan, Puerto Rico, today, June 28, 2024.

Sonia Seda Gaztambide  
Clerk



<sup>15</sup> *Id.* (Emphasis added).

<sup>16</sup> Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

**Attachment A**  
**Project Approved by the Energy Bureau**

<b>Region</b>	<b>Project Name</b>	<b>Proposed Scope of Work</b>	<b>Presented Estimate</b>
Bayamón	Bayamón TC- Rebuild	To increase the reliability and resiliency of the Bayamón TC while restoring system functionality.	\$124,562,227.00
<b>Total</b>			<b>\$124,562,227.00</b>

