

**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. Introduction

On May 23, 2024, GENERA PR, LLC ("Genera") filed a document titled *Motion to Submit Amendment to FY2024 GenCo Operating Budget* ("May 23 Motion"), through which Genera requested that the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") consider its request to amend the FY 2024 Operating Budget. Genera requested approval to reallocate \$11.5 million, comprised of \$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.¹

Genera submitted its budget amendment request pursuant to Article 7, Section 7.3 of the LGA OMA.² Genera explained that the proposed budget amendment addressed budgetary shortfalls in the Utilities and Rents line item which it did not foresee during the budget process. Genera related 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.³

In explaining the availability of funds, Genera stated 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 related that due to the current PREPA Title III Proceedings, many legal proceedings were postponed and delayed, and that this resulted in a surplus in the Legal Services budget line. Genera asserted that the legal proceedings would ramp up at the conclusion of the Title III proceeding. Genera stated that "These unused amounts and a fraction of the Professional & Technical Outsourced Services Budget line items shall completely fund the requested amendment." Genera confirmed that the requested amendment would not result in an increase or change in customer rates.⁴

Genera provided 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 Resolution⁵.

On June 14, 2024, the Energy Bureau issued a Resolution and Order ("June 14 Resolution"), through which, The Energy Bureau conditionally approved 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,

¹ May 23 Motion, p. 5.

² *Id.*, at p. 4.

³ *Id.*, at p. 5.

⁴ *Id.*, at p. 5.

⁵ Resolution and Order, December 8, 2023 ("December 8 Resolution").



- 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.

On June 20, 2024, Genera filed a document titled, *Motion to Submit Response to Resolution and Order Dated June 14, 2024* ("June 20 Motion"), through which, Genera submitted the required detailed response to support its budget reallocation request and requested that the Energy Bureau deem Genera to follow the June 14 Resolution.

II. Discussion and Analysis

In the June 20 Motion, Genera explains that the main driver for underutilization of the Professional and Technical Outsourced Services Budget line has been the postponement of implementing the LUMA/Genera/PREPA Shared Services Agreement separation to the upcoming fiscal year. The additional provided information shows that the requested funds are available and provides the resulting year-end projections.

The Energy Bureau notes, however, the provisions of LGA OMA Section 7.3 (e)(i) which states as follows:

(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.

The Year-to-Date Actuals show that Genera has been overspending the Utilities & Rents Budget line for some time, and, therefore, the necessity of an amendment should have been known to Genera yet was only presented to the Energy Bureau for approval after considerable overspending. The Energy Bureau stresses that in the future, Genera must *promptly* request a budget amendment when the need becomes known or foreseeable.

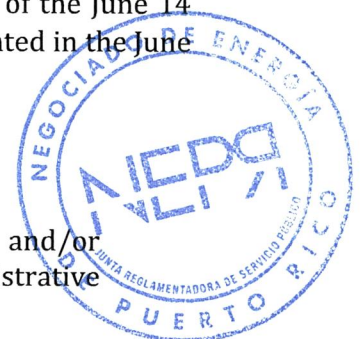
The Energy Bureau accepts the information provided by Genera to be adequate and finds that Genera has fulfilled the requirements of the Energy Bureau's Conditional budget amendment approval and satisfied the concerns the Energy Bureau expressed in the June 14 Resolution.

III. Conclusion

The Energy Bureau **DEEMS GENERA TO HAVE FULFILLED** the conditions of the June 14 Conditional Approval of Genera's FY 2025 Budget Amendment request as stated in the June 14 Resolution.

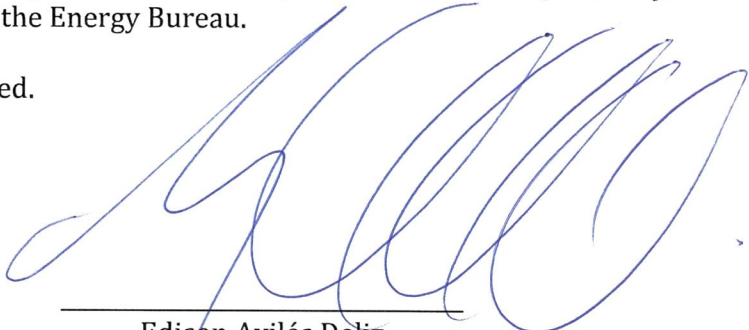
The Energy Bureau **WARNS** Genera that:

- (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.

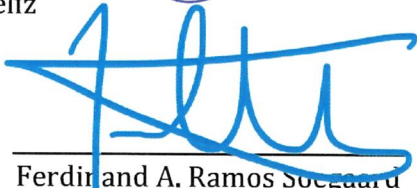
Be it notified and published.



Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegard
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 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 28, 2024.



Sonia Seda Gaztambide
Clerk

