

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

IN RE: LUMA'S ACCELERATED STORAGE
ADDITION PROGRAM ("ASAP")

CASE NO.: NEPR-MI-2024-0002

SUBJECT: Resolution and Order pertaining
to various motions.

RESOLUTION AND ORDER

On December 20, 2024, and January 14, 2025, respectively, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") approved the (4) four ASAP Program Phase 1 Standard Offer Agreements ("SO1 Agreements") filed with the Energy Bureau, totaling 110MW of Battery Energy Storage Systems ("BESS").

On June 16, 2025, the Energy Bureau requested LUMA¹ to provide a detailed status report on all Phase 1 projects.

On June 23, 2025, LUMA filed a document titled *Motion in Compliance with Resolution and Order of June 16, 2025 and Request for Confidential Treatment* ("June 23 Motion"). Through its June 23 Motion, LUMA provided a status update on the four (4) SO1 Agreements approved by the Energy Bureau. The Energy Bureau became aware that the projects were approved by the Puerto Rico Electric Power Authority ("PREPA") and the Financial Oversight and Management Board for Puerto Rico ("FOMB"); however, execution has not yet started, as it is pending confirmation that PREPA can proceed with execution with the Puerto Rico Public-Private Partnerships Authority ("P3") Authorization Letter.

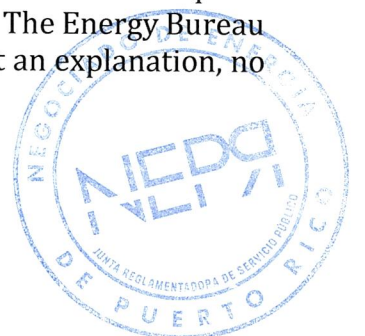
In its ASAP proposal filed with the Energy Bureau on April 26, 2024, LUMA highlighted that Phase 1 projects could begin immediately, as they did not require network upgrades and minimal interconnection costs, with some IPP claiming they could be operational in less than twelve (12) months. The execution of the referenced agreements should have taken place, as implementation was contemplated for April 2025.

Considering the above, on July 23, 2025, the Energy Bureau granted PREPA five (5) days to provide a detailed explanation regarding the cause of the delay in the execution of the four (4) approved BESS Phase 1 projects and why their immediate execution should not proceed, in a manner consistent with the paramount public interest.

On August 1, 2025, PREPA filed a document titled *Motion in Compliance with Resolution and Order of July 23, 2025* ("August 1 Motion"). In its August 1 Motion, PREPA stated that the developers of the four (4) referenced projects have not fulfilled the contractual Signing Conditions required to execute the SO1 Agreements, as detailed in Exhibit 21 of the agreement. According to PREPA, only Ecoeléctrica responded to PREPA's update request, stating that it is working on completing the required documentation and expects to be ready to execute the contract by September 2025. The other three (3) developers [San Fermín Battery Project LLC ("San Fermín"); Infinigen Horizon ASAP LLC ("Horizon"); and Infinigen Oriana ASAP LLC ("Oriana")] have not responded to PREPA's communications nor submitted the required documentation, despite PREPA's initial email date June 27, 2025, and a follow-up sent on July 24, 2025.

Based on the information submitted by PREPA, on August 4, 2025, the Energy Bureau required San Fermín, Horizon and Oriana, and Ecoeléctrica, as certified electric service companies under its jurisdiction, to provide detailed explanations for their failure to respond to PREPA's communications in a timely manner ("August 4 Resolution"). The Energy Bureau further ordered San Fermín, Horizon, Oriana, and Ecoeléctrica to submit an explanation, no

¹ LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as, "LUMA").



later than August 14, 2025, including: (i) a detailed explanation of the current compliance status with the Signing Conditions outlined in Exhibit 21 of the SO Agreement; (ii) an identification of any obstacles causing the delay; and (iii) updated timeline and proposed corrective actions to allow execution of the contracts.

On August 5, 2025, LUMA filed a document titled *Request for Approval of Standard Offer Phase 1 Agreement with Fifth Participant* ("August 5 Motion"). Through the August 5 Motion, LUMA informed the Energy Bureau it had finalized the draft SO1 Agreement with a Fifth Participant, adding an expected 71.4MW of BESS. LUMA submitted a clean version of the draft SO1 Agreement (Exhibit 1-A) and a redline version showing changes against the approved standard agreement (Exhibit 1-B). LUMA requested the Energy Bureau's review and approval of the Fifth Participant's draft SO1 Agreement.

On August 8, 2025, the Energy Bureau approved the Fifth Participant's draft version of the SO Agreement and ordered LUMA to, within five (5) business days ("August 8 Resolution"): (i) finalize referenced contract; (ii) submit the final version of the contract before the Puerto Rico Electric Power Authority ("PREPA") Board of Directors for its approval; and (iii) submit to the Energy Bureau evidence of the foregoing submittal (including copy of the contract).

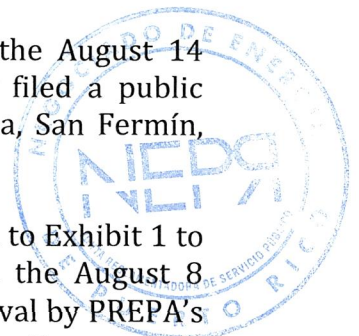
On August 14, 2025, Ecoeléctrica, San Fermín, Oriana, and Horizon provided the status of the Signing Conditions ("August 14 Motions"). Ecoeléctrica and San Fermín requested confidential treatment to their respective motions and filed a redacted public version of such motions.

On August 15, 2025, LUMA filed a document titled *Motion Submitting Evidence of Submittal of Finalized Draft of Phase 1 Agreement with Fifth Participant to PREPA Board of Directors, in Compliance with Resolution and Order of August 8, 2025* ("August 15 Motion"). Through the August 15 Motion, LUMA informed that on August 14, 2025 it submitted the finalized SO Phase 1 Agreement with the Fifth Participant to PREPA's Executive Director for submittal and approval by PREPA's Board of Directors. LUMA included the referenced agreement as Exhibit 1 to the August 15 Motion and request it be afforded confidential treatment.

On August 27, 2025, LUMA filed a document titled *Informative Motion and Request for Confirmation or Approval from the Energy Bureau Relating to Certain ASAP Matters* ("August 27 Motion"). In its August 27 Motion LUMA, highlighted that the approved SO1 Agreements provide for certain costs to be passed through by the resource provider as Monthly Payment Pass-Through Components ("MPPTC"), including costs associated with increased insurance premiums and increased tariff costs. Nonetheless, it does not specify how costs which the resource provider is seeking to include within the MPPTC will be reviewed and determined to be reasonable. LUMA further stated SO1 developers expressed this discretionary situation was an unacceptable risk they could not incur. To address this concern, LUMA prepared two Position Papers and agreed to include these Position Papers as part of Appendices J and K to the Agreed Operating Procedures ("AOP"). LUMA requested the Energy Bureau's approval of Appendices J and K so as for these to be binding as part of the AOP required by the SO1 Agreements. LUMA also proposed a three (3) month extension to the target milestone dates of the revised Early Completion Bonus. According to LUMA the above-mentioned conditions will help set the stage for at least two ASAP Phase 1 participants to proceed with final steps. LUMA also requested confidential treatment to Exhibit 1, 2, 3, and 4 to the August 27 Motion, arguing they contain proprietary commercial information that reflects LUMA's internal strategies and negotiations with private developers under the ASAP Program.

The Energy Bureau **GRANTS** confidential treatment and designation to the August 14 Motions filed by Ecoeléctrica and San Fermín and **TAKES NOTICE** they filed a public redacted version of such motions. The Energy Bureau **DEEMS** Ecoeléctrica, San Fermín, Oriana and Horizon complied with the August 4 Resolution.


The Energy Bureau further **GRANTS** confidential treatment and designation to Exhibit 1 to the August 15 Motion filed by LUMA and **DEEMS** LUMA complied with the August 8 Resolution. The Energy Bureau **ORDERS** LUMA to submit evidence of approval by PREPA's Board of Directors within **three (3) days** of such approval, so the Energy Bureau is in position to grant its final approval to the Fifth Participant's SO Phase 1 Agreement.




The Energy Bureau **APPROVES** the Position Papers included Appendices J and K and the proposed extension of the target dates for the Early Completion Bonuses. The Energy Bureau **GRANTS** confidential treatment and designation to Exhibits 1, 2, 3, and 4 to the August 27 Motion.

The Energy Bureau **WARNS** LUMA that failure to comply with this Resolution and Order, will result in the imposition of fines, under Art. 6.36 of Act 57-2014.²

Be it notified and published.


Edison Avilés Deliz
Chairman


Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on August 29, 2025. Associate Commissioners Lillian Mateo Santos and Ferdinand A. Ramos Soegaard did not intervene. I also certify that on August 29, 2025 I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau and notified a copy of it by electronic mail to RegulatoryPREBorders@lumapr.com; katuska.bolanos-lugo@us.dlapiper.com; laura.rozas@us.dlapiper.com; yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; arivera@gmlex.net.

For the record, I sign this in San Juan, Puerto Rico, on August 29, 2025.


Sonia Seda Gaztambide
Clerk



² Known as the *Puerto Rico Energy Transformation and RELIEF Act*, as amended (“Act 57-2014”).