

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: Order to Show Cause for Failure
to Execute Phase 1 Standard Offer
Agreements.

ORDER TO SHOW CAUSE

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.

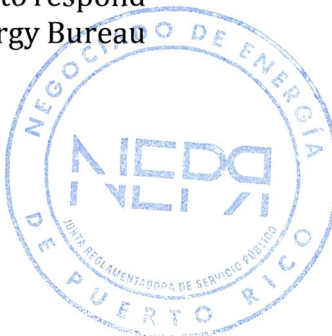
In its ASAP proposal filed with the Energy Bureau on April 26, 2024, LUMA highlighted that Phase 1 projects could begin immediately, as they did not require network upgrades and minimal interconnection costs, with some IPP claiming they could be operational in less than twelve (12) months. The execution 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 had 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

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



further ordered San Fermín, Horizon, Oriana, and Ecoeléctrica to submit an explanation, no 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 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 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.

On August 29, 2025, the Energy Bureau deemed Ecoeléctrica, San Fermín, Oriana and Horizon in compliance with the August 4 Resolution. Further, the Energy Bureau approved Position Papers included Appendices J and K and the proposed extension of the target dates for the Early Completion Bonuses.

Despite these measures, none of the SO1 agreements have yet been executed.

The Energy Bureau is cognizant that execution remains contingent upon PREPA's actions and compliance by the developers with the Signing Conditions established in the SO1 Agreements.

The Energy Bureau **ORDERS** PREPA and the developers (Ecoeléctrica, San Fermín, Oriana, and Horizon) to **SHOW CAUSE**, within **three (3) business days** of notice of this Order, as to why the Energy Bureau should not impose an administrative fine of **ten thousand dollars (\$10,000)** for failure to execute the Phase 1 SO Agreements.

PREPA's response must: (1) explain all reasons that have prevented execution of the contracts; (2) include the status of developer compliance with Signing Conditions; and (3) state why the Energy Bureau shall not impose fines under these circumstances.


The developers (Ecoeléctrica, San Fermín, Oriana, and Horizon) shall submit separate responses and must: (1) explain their current compliance status with the Signing Conditions; (2) identify any obstacles that have prevented execution of the agreements; and (3) state why the Energy Bureau shall not impose fines under these circumstances.

The Energy Bureau WARNS PREPA and the developers (Ecoeléctrica, San Fermín, Oriana, and Horizon) 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 and a continuing fine of up to twenty-five thousand dollars (\$25,000) per day until full compliance is achieved.

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



Be it notified and published.



Edison Avilés Deliz
Chairman

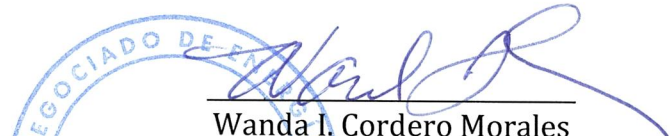
Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on September 19, 2025. Associate Commissioner Lillian Mateo Santos did not intervene. and Associate Commissioner Ferdinand A. Ramos Soegaard dissent I also certify that on September 19, 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; agraitfe@agraitlawpr.com; hrivera@jrsp.pr.gov; oramos@pmalaw.com.

I sign this in San Juan, Puerto Rico, on September 19, 2025.



Wanda I. Cordero Morales
Interim Clerk
