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

IN RE: ELECTRIC SYSTEM PRIORITY STABILIZATION PLAN	**CASE NO.:** NEPR-MI-2024-0005 **SUBJECT:** Reporting Directives and Information Requirement regarding PREPA's Proposed Contract Resulting from Temporary Emergency Power Generation.

RESOLUTION AND ORDER

I. Relevant Background

Given the critical condition of Puerto Rico's electric system, through a Resolution and Order issued on March 19, 2025 ("March 19 Resolution"), the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") ordered the Puerto Rico Electric Power Authority ("PREPA") to appear before the Public-Private Partnerships Authority ("P3") and initiate the process of the Independent Third-Party Procurement Office ("3PPO") to begin the expedited procedure for the acquisition of up to 800 MW of temporary generation for a period of eighteen (18) months.[1] Additionally, PREPA was directed to submit to the Energy Bureau, upon completion of the bidding process, the costs associated with each initiative so that the Energy Bureau could assess whether such costs are prudent and reasonable.[2]

Prior to issuing the March 19 Resolution, the Energy Bureau had already initiated efforts to develop a plan to stabilize the electric system, in response to recurring major outages and grid instability events that took place in early June 2024.[3] As part of this proceeding, the Energy Bureau ordered LUMA,[4] PREPA, and Genera[5] to each develop an "aggressive preliminary plan of improvements to the electric system" with a maximum implementation period of two (2) years.[6] This proactive initiative required the identification and mitigation of all key factors contributing to the electric system's unreliability, including, but not limited to, outdated protection schemes, lack of system redundancy, inadequate vegetation management practices, insufficient reliable generation capacity, deficiencies in frequency and inertia control, and persistent triggers for load shedding. Each plan was to include a detailed description of the proposed corrective measures, the associated costs, and the identified funding sources.[7] As part of the evaluation process of the plans submitted by LUMA, Genera, and PREPA, the Energy Bureau considered identified deficiencies in generation, as well as their effects on system operations and the proposed measures to address such deficiencies.

In determining the need to procure 800 MW of emergency generation, the Energy Bureau also considered the October 2024 Adequacy Report[8], which identified a generation shortfall of that magnitude.[9] In addition, a catastrophic failure at Aguirre Unit #1 occurred during the Energy

[1] *See* March 19 Resolution, p. 2.

[2] *Id*.

[3] *See* Resolution and Order dated June 13, 2025.

[4] LUMA Energy, LLC, and LUMA Energy ServCo, LLC, (collectively, "LUMA"),

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Bureau's evaluation process, further aggravating the shortfall.[10] This event was also taken into account by the Energy Bureau as part of the supporting facts justifying the request for 800 MW of emergency generation made through the March 19 Resolution.

Through a March 24, 2025 filing, LUMA submitted an Updated Resources Adequacy Report.[11] This report reaffirmed the need for the installation of 800 MW of temporary emergency generation and analyzes the impact of the catastrophic failure of Aguirre Unit #1.[12] Finally, it is worth highlighting that, on that same date, the Energy Bureau issued the Priority Stabilization Plan,[13] which also addresses the aforementioned matters.

The 3PPO conducted the procurement process for the acquisition of 800 MW of generation resources. It should be noted that, prior to the commencement of the procurement process, neither PREPA nor the P3 Authority (3PPO) submitted to the Energy Bureau, for its review and evaluation, a draft of the Request for Proposals ("RFP") or any proposed contracts that may have been included as part of said process.

On June 20, 2025, PREPA filed a document titled *Motion Submitting Proposed Contract Resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval* ("June 20 Motion"), including as *Exhibit A* a proposed contract resulting from the competitive procurement process for temporary emergency power generation, and as *Exhibit B* a 3PPO report summarizing the procurement process and providing the rationale for the selection of the preferred proponent.

On June 27, 2025, the Energy Bureau issued a Resolution and Order requiring information and clarifications from PREPA regarding the June 20 Motion ("June 27 Resolution"). On July 1, 2025, PREPA filed a document titled Motion in Partial Compliance with the June 27th Order ("July 1 Motion"). Through this motion, PREPA submitted certain documents and information required by the June 27 Resolution.

II. Analysis and Evaluation

A. Summary of Principal Terms of the Proposed Contract

Through the June 20 Motion, PREPA submitted the proposed Performance Service Agreement Contract ("Proposed Contract"), resulting from the competitive procurement process, for the Energy Bureau's review and approval. The Proposed Contract provides for the supply and operation of temporary power generation facilities with a total capacity of 800 MW, distributed across two sites: 200 MW at PREPA's Costa Sur Facility and 600 MW at PREPA's Aguirre Facility.[14] The initial term of the Proposed Contract is two (2) years, commencing on the Commercial Operation Date ("COD"), with the possibility of two (2) additional one (1) year extensions, subject to the written agreement of the parties.[15]

The Proposed Contract establishes an all-inclusive energy fixed rate per project site of $0.2450 per kWh for the initial two (2) year term and the first optional one (1) year extension, and $0.2435 per kWh for the second optional one (1) year extension.[16] The all-inclusive energy

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[10] *See* Motion Submitting LUMA's Position Regarding Genera's Request for Expedited Approval of Emergency Generation Capacity Solutions filed by LUMA on March 6, 2025 ("March 6 Motion").

[11] *In re: LUMA Resource Adequacy Study*, Case No. NEPR-MI-2022-0002, *Motion to Submit Interim Update for Summer 2025 of LUMA's Fiscal Year 2025 Resource Adequacy Resource*, filed by LUMA on March 24, 2025 ("Updated Resources Adequacy Report").

rate covers all costs associated with the project, including, without limitation: the design, procurement, installation, commissioning, and operation of the power generation units and all associated infrastructure and ancillary equipment; the design, procurement, installation, commissioning, and operation of the fuel handling and delivery systems and their related infrastructure and ancillary equipment; the design, installation, and integration of all interconnection facilities and ancillary equipment necessary to connect the generation units to the electrical grid at the designated points at the Costa Sur and Aguirre facilities; the cost of fuel, including any applicable taxes and fees; all operations and maintenance (O&M) expenses associated with the supply of energy; and all administrative and management costs.

Additionally, as reported, the intention is to utilize the existing interconnection infrastructure at each site, which would result in minimal interconnection work and costs.[17] Furthermore, as provided in the Proposed Contract, the design and construction of all infrastructure-related components shall comply with all applicable industry standards, as well as any technical requirements reasonably established by LUMA, based on the applicable regulatory and technical framework. Such compliance shall be required to ensure that the interconnection and operation of the generation assets meet the reliability, safety, and performance standards necessary for integration into the electric system.

B. Evaluation Framework

i. Article 6.32 of Act 57-2014[18] and Regulation 8815[19]

Section 6.32 of Act 57-2014, as amended by Act 17-2019,[20] provides for the evaluation and approval of all agreements between electric power service companies, including independent power producers, prior to the execution thereof. Paragraph (d) of Section 6.32 provides that in evaluating every proposal for an agreement between electric power service companies, the Energy Bureau shall take into account the provisions of the IRP. The Energy Bureau shall not approve an agreement that is inconsistent with the IRP, particularly in all that pertains to renewable energy, distributed generation, conservation and efficiency goals established in the integrated resource plan as well as in the Energy Public Policy.[21] In addition, Paragraph (e) of Section 6.32 provides a timeframe for the review and evaluation of PREPA's agreements.

On the other hand, pursuant to Act 57-2014, the Energy Bureau has the power to adopt regulations governing the processes for the purchase of energy from other electric service companies and/or modernize electric generation facilities.[22] On September 1, 2016, the Energy Bureau and PREPA adopted Regulation 8815.[23] The purpose of Regulation 8815 is to establish a procurement, evaluation, selection, negotiation and award process for contracting with third parties for the purchase of energy and for the procurement, evaluation, selection, negotiation and award process for the modernization and upgrade of PREPA's generation fleet and other PREPA resources. These processes shall be consistent and transparent, such that

[17] See June 20 Motion, Exhibit B, p. 4.

[18] Transformation and Energetic RELIEF Act of Puerto Rico, as amended ("Act 57-2014").

[19] Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, November 9, 2016 ("Regulation No. 8815").

[20] *The Puerto Rico Energy Public Policy Act* ("Act 17-2019").

[21] *See* in general, Section 1.5 of Act 17-2019, where the general statements of "Energy Public Policy 2050" of Puerto Rico are enunciated.

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they encourage and support a climate of private sector innovation and investment in Puerto Rico to address PREPA's specific power generation needs. [24]

Regulation 8815 requires that, before the issuance of an RFP, PREPA notifies in writing to the Energy Bureau the recommendation regarding the proposed project, including all related documents that explain the project and a detail narrative regarding how the proposed project and the terms of the contract, as described in the proposed RFP, complies with the Integrated Resource Plan ("IRP"). The Energy Bureau must request any additional information it deems necessary, within ten (10) days from receiving the notification. Upon receipt of such additional information the Energy Bureau has forty-five (45) days to approve, reject or propose modifications to the proposed project.[25] If the Energy Bureau does not act within the specified term, the proposed RFP and its parameters shall be deemed approved.

Under Article 7.1 of Regulation 8815, upon completion of the negotiation of a contract, the Project Committee shall prepare a report, which shall include: (i) the reasons for signing the Contract, the reasons for selecting the chosen proponent; (ii) a description of the procedure followed, including comparisons between the chosen proponent and other proposals presented; (iii) an explanation of how the pricing terms included in the contract comply with the parameters established in the RFP, as approved by the Energy Bureau, and all other information pertinent to the RFP procedure and the evaluation conducted.[26]

Once PREPA's Board of Directors approves a contract, PREPA must submit the foregoing report and the proposed contract evaluation to the Energy Bureau, with the required profitability and pricing information analysis. The Energy Bureau must review the contract's terms and conditions to ensure compliance with those approved under the RFP and the contract form included as part of the RFP. The Energy Bureau shall complete its review within thirty (30) days from the date of the receipt of any additional information timely requested by the Energy Bureau or the submittal date of the contract and the report, as applicable. The Energy Bureau may approve or reject the proposed contract.[27] Note that once approved by the Energy Bureau, and before its execution, the terms and conditions of an approved contract or project cannot be modified without prior approval from the Energy Bureau.[28]

Although Regulation 8815 doesn't contain all provisions of Article 6.32 of Act 57-2014, as amended by Act 17-2019, Regulation 8815 is aligned with the referenced Article 6.32 regarding the requirement that the proposed RFP and approved contract must be consistent with the Approved IRP. Moreover, Regulation 8815 provides an expedited and thorough evaluation process for both the proposed RFP and the negotiated contract resulting from the selection process, that is also aligned with Article 6.32 and the general energy public policy promulgated by Act 17-2019.

As discussed above, PREPA is currently facing a critical situation resulting from a shortage of generation resources. There remains significant uncertainty regarding the availability of sufficient capacity in the coming months. Absent immediate action by the Energy Bureau, this emergency is likely to worsen during the peak demand season, which has already begun. At that time, PREPA anticipates a base load generation shortfall exceeding 800 MW if the generation resources contemplated under the Proposed Contract are not available and no mitigating measures are implemented.

[24] *See* Article 1.2 of Regulation No. 8815.

Under these circumstances, and in light of the alignment between Regulation 8815 and Article 6.32 of Act 57-2014 with respect to ensuring that the Proposed Contract is consistent with the Approved IRP and subject to an expedited evaluation process, the Energy Bureau **DETERMINES** that an expedited evaluation is warranted. Such evaluation, conducted pursuant to the principles set forth in Regulation 8815 and Article 6.32 of Act 57-2014, is justified given the emergency circumstances surrounding this matter.

ii. Compliance with Approved IRP[29]

An Integrated Resources Plan ("IRP") considers all reasonable resources needed to supply demand over the planning horizon, which in our case is twenty (20) years. Therefore, the use of temporary emergency generation due to unexpected or emergency situations is not normally considered a resource planning action in an IRP. Due to its temporary nature, actions that may result from unexpected situations or emergencies, such as the one contemplated by PREPA in the Proposed Contract and validated by the Energy Bureau through the March 19 Resolution, were not specifically identified as a resource planning action during the evaluation of the Approved IRP. The purpose of the IRP is to identify the permanent resources needed to supply demand over the planning horizon, at least cost. All permanent resources are assumed to be available to provide service.

If certain assets are not available due to a prolonged emergency, the effect this loss can have on the system could be detrimental to the point of compromising service reliability. As such, under certain circumstances, the acquisition or development of a temporary resource to supply a need that arises as the result of an emergency not contemplated in the IRP analysis, could be considered as consistent with such IRP. For example, the temporary acquisition of a generation asset (e.g., by purchase or lease) to make up for the temporary loss of permanent assets due to unforeseen circumstances could be considered one such situation. In these circumstances, the analysis regarding consistency should include, at least, (1) if the permanent assets are part of the identified resources on the IRP, (2) the effect the loss of the assets have on the system, (3) the length of time the temporary asset would be in service (i.e. the temporary nature of such asset), and (4) the purpose of the acquisition of the temporary asset is to temporary replace, in total or in part, the permanent asset.

iii. Act 1-2025[30]

As required by Act 57-2014, on July 12, 2023, the Energy Bureau initiated a new Integrated Resource Plan (IRP) process to update the previously approved IRP. This update is mandated by law to account for changes in available resources and to reflect updated circumstances and conditions affecting the electric system, thereby ensuring that Puerto Rico's long-term energy planning remains aligned with current realities and future needs. As part of this process, LUMA submitted the First Interim 2025 IRP Filing before the Energy Bureau on November 25, 2024. The IRP process is ongoing, with further evaluations and stakeholder engagements planned to ensure a sustainable and reliable energy future for the island.

Pending the evaluation of the updated IRP, House Bill 267 has been enacted into law ("Act 1-2025"), amending Puerto Rico's Public Energy Policy Act ("Act 17-2019") and the Energy Diversification Act, as amended ("Act 82- 2010"). Act No. 1-2025 extends the lawful use of coal-based power generation through the year 2032, which may permit the continued operation of the AES[31] power plant in Guayama beyond its previously anticipated retirement date of December 2027. Additionally, Act No. 1-2025 eliminated the interim renewable energy

targets of 40% by 2025 and 60% by 2040, while retaining the statutory objective of achieving 100% renewable energy generation by 2050.

These legislative amendments have the effect of modifying the energy transition goals to better align with current energy system conditions and to ensure continued system reliability. They allow, during a transitional period, the integration of other generation resources into the system, not necessarily based on renewable energy sources, provided that such integration supports the achievement of the 100% renewable energy goal by the year 2050, and that such resources are procured at competitive prices that can compete with renewable energy alternatives. Act 1-2025 also includes provisions to enhance energy efficiency and promote the integration of renewable energy sources into the grid.

Consistent with the provisions of Act 1-2025, on March 19,2025 the Energy Bureau issued a Resolution and Order[32] in which it determined that: (i) given the pattern of forced outages of PREPA's existing, aging, thermal generation fleet, the available generation capacity is extremely limited and may complicate needed maintenance and repairs to the existing fleet; (ii) there is a need to explore the costs and timeframe of availability of new, modern, generation sources that will allow Puerto Rico to reach the goals set in the new energy public policy and serve the electricity customers' best interests; and (iii) this procurement effort shall explore 2,500 to 3,000MW of new capacity. While it could be argued that the Energy Bureau's directive for the procurement of new generation, as set forth in the March 19 Resolution – New Capacity, is not entirely consistent with the Approved IRP, such directive falls within the Energy Bureau's delegated authority to establish energy public policy and to issue determinations in furtherance thereof. This is particularly true given that the decision is aligned with the provisions and policy objectives established under Act No. 1-2025, which directly affects and bear upon the mandates set forth in the Approved IRP. The Energy Bureau has the power and duty to oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico,[33] to establish and implement regulations and the regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico's electrical system, and to establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities.[34] It has the power to formulate and implement strategies to achieve the energy public policy goals, including, but not limited to, attaining the goals established in the Renewable Portfolio Standard and promoting the storage of energy.[35] The Energy Bureau has broad authority under Act 57-2014, Act 82-2010[36] and Act 17-2019 to oversee the acquisition of energy resources by PREPA to help ensure that the Energy Public Policy goals are met and that PREPA's ratepayers' interests are protected.

C. Proposed Contract Evaluation

(i) Consistency with Approved IRP

The emergency generation resources contemplated in the Proposed Contract are not included in the Approved IRP, as temporary resources of this nature are not typically identified through the IRP resource planning process. However, given the temporary and emergency nature of the proposed generation and considering that its purpose is to address an unforeseen and urgent shortfall resulting from the unavailability of permanent assets, the Energy Bureau **CONCLUDES** that the Proposed Contract is consistent with the Approved IRP.[37]

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[32] *See* Resolution and Order issued on March 19, 2025 in case *In re: Competitive Procurement for New Generation Sources*, Case No. NEPR-MI-2025-0001 ("March 19 Resolution-New Capacity").
[33] Act 57-2014 Article 6.3(a).

(ii) Pricing Terms

The prices established in the Proposed Contract arise from a procurement process conducted by the 3PPO under an RFP, which was not reviewed by the Energy Bureau prior to its execution. However, based on the report submitted and the proposals received -as evaluated by the Energy Bureau through PREPA's responses to the Energy Bureau's requests for information- it appears that, in general, the 3PPO followed standard procedures typical of this type of procurement process, with the objective of securing the most favorable pricing possible. Overall, the prices obtained through the Proposed Contract are deemed reasonable. Nevertheless, considering the contract structure -namely, a two-year term with two optional one-year extensions-the resulting prices are not the most favorable for ratepayers. The administrative record reflects that there are longer-term proposals that offer more favorable pricing conditions.

The Proposed Contract establishes an all-inclusive energy fixed rate per project site of $0.2450 per kWh for the initial two (2) year term and the first optional one (1) year extension, and $0.2435 per kWh for the second optional one (1) year extension. However, the Energy Bureau identified, based on the documentation submitted by PREPA, that the proponent offered a version of the Proposed Contract with a ten (10) year term, which included an all-inclusive fixed energy rate of $0.189 per kWh for the Aguirre site and $0.203 per kWh for the Costa Sur site. The Energy Bureau finds that entering into a longer-term contract based on this proposal is likely to result in greater benefits for ratepayers. This option is particularly advantageous given that the Proposed Contract does not include take-or-pay commitments, guaranteed minimum generation hours, or fixed volume purchase obligations.

(iii) Proposed Contract Term

As established by the facts of this case, the initial plan contemplated the installation of certain temporary generation units for an estimated period of approximately eighteen (18) months. However, as part of the process carried out by the 3PPO, a contract term was selected that may be extended for up to four (4) years. As previously discussed, for purposes of an IRP, a temporary activity is generally defined as one that does not involve prolonged use. That analysis was conducted in Part II(B)(ii) of this Resolution and Order, and even under the Proposed Contract term of approximately four years, the Energy Bureau determined -based on the current condition and generation deficiency of Puerto Rico's electrical system- that such a term may still qualify as temporary.[38] This is particularly true when considering the extended timeframes typically required to develop and implement permanent generation projects. These circumstances reasonably extend what may be considered a "temporary" period under an IRP framework.

On the other hand, as discussed in Part II(B)(iii) of this Resolution and Order, the Energy Bureau, based on prevailing electric system conditions and the public policy changes introduced under Act 1-2025, found it necessary to require that the P3 Authority procure up to 3,000 MW of generation capacity, which may be fulfilled through any type of generation resource, provided it results from a competitive process and is offered at reasonable prices. This includes, but is not limited to, generation based on natural gas or renewable energy sources. It is further recognized that the legislative amendments enacted under Act 1-2025 have, to some extent, affected or influenced the provisions of the Approved IRP.

In light of these circumstances, and given the critical state of the electrical system, the Energy

the Energy Bureau concludes that it is consistent with the Energy Public Policy to authorize the Proposed Contract for a term of up to ten (10) years, as long as the terms remain favorable to ratepayers.

(iv) Interconnection

The parties propose to utilize the existing interconnection infrastructure at each site, expecting to reduce the extent of interconnection work timeline and costs. That is, the parties intend to integrate the proposed temporary generation using the existing transmission infrastructure at Aguirre and Costa Sur. In addition, the design and construction of all interconnections related infrastructure shall comply with all applicable industry standards, as well as any technical requirements reasonably established by LUMA. Given this, the Energy Bureau deems that the interconnection of the proposed generation does not pose a threat to the reliability or security of the electric grid and confirms that no terms or conditions included in the Proposed Contract are contrary to -or undermine- the safe and reliable operation of the system.

(v) Certain Contractual Provisions

As part of its evaluation of the contractual provisions, the Energy Bureau noted that the parties may reach more precise and accurate language for several terms of the Proposed Contract. In addition, consistency should be ensured with respect to defined terms. Any lack of clarity in the contract's terms and conditions may result in ambiguity or confusion in the interpretation or implementation of the agreement -issues which the Energy Bureau's recommendations aim to eliminate. For example, it must be clearly stated that the Provider shall be responsible for all costs required to implement the project, including, without limitation, the provision and installation of the generation units and any associated infrastructure necessary for their operation, as well as any and all interconnection costs required to place the project into service. All operational and maintenance costs associated with the project shall likewise be borne exclusively by the Provider. Furthermore, the Provider shall be solely responsible for procuring and arranging the delivery of the fuel, as well as for all costs related to the fuel used in the operation of the units. In other words, the only cost PREPA shall incur under the Proposed Contract is the payment for the energy delivered by the Provider, in accordance with the rates set forth in the Proposed Contract. For the avoidance of doubt, this recommendation does not imply that the Proposed Contract, subject to the conditions set forth below, is not hereby approved. Rather, it should be understood as a formal exhortation to the parties to produce a document that reflects the greatest possible clarity and minimizes any potential ambiguity.

III. Conclusion

After evaluating the Proposed Contract and the supporting information submitted by PREPA, the Energy Bureau finds it prudent and reasonable to approve the Proposed Contract, **subject to the parties reaching an agreement to modify the Proposed Contract to allow for a longer term and reduced price, as discussed in Part II(C)(ii) of this Resolution and Order**. That is, a ten (10) year term and an all-inclusive fixed energy rate of $0.189 per kWh for the Aguirre site and $0.203 per kWh for the Costa Sur site.

i. noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to one hundred twenty-five thousand dollars ($125,000) per day; and

ii. for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than fifteen thousand dollars ($15,000) nor greater than two hundred fifty thousand dollars ($250,000), at the discretion of the Energy Bureau.

Be it notified and published.

Edison Avilés Deliz
Chairman

Lillian Mateo Santos
Associate Commissioner

Ferdinand A. Ramos 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 July 3rd, 2025. Also certify that on July 4, 2025, I have proceeded with the filing of this Resolution and Order and was notified by email to arivera@gmlex.net; lrn@roman-negron.com; legal@genera-pr.com; regulatory@genera-pr.com; RegulatoryPREBorders@lumapr.com; Emmanuel.porrogonzalez@us.dlapiper.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com I sign in San Juan, Puerto Rico, today, July 4, 2025.

Sonia Seda Gaztambide