

STATEMENT OF
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BEFORE THE
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

“PREPA Post Implementation of the LUMA Transmission and Distribution Contract”
October 6, 2021 at 1:00 p.m.

I. INTRODUCTION

Chairman Grijalva, Ranking Member Westerman, Congresswoman González-Colón, and distinguished Members of the Committee, thank you for the opportunity to appear before you today to discuss the Puerto Rico Energy and Power Authority (PREPA) Post Implementation of the LUMA Transmission and Distribution Contract.

My name is Edison Avilés-Deliz, and I am the Chair of the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“PREB”).¹ The PREB is an independent, regulatory body consisting of five (5) commissioners that regulate the electric utility serving the Island and functions similarly to the Public Utilities Commissions (“PUC”) found across the mainland. The Commissioners have equal voting powers. The PREB has a mandate to implement and enforce the energy public policy enacted in Puerto Rico, as well as to adopt the regulations necessary for such implementation.

Having a strong and effective regulator is crucial to the development of a stable and robust electric delivery system and the transformation of the Puerto Rico electric system. The PREB is an independent regulator that is subject to judicial review. This stability fosters an environment where long-term plans and strategies can succeed. Since the last time the PREB testified before this Committee², the PREB has undertaken an extensive review of the plans proposed by the private Transmission and Distribution System (“T&D”) Operator, LUMA³, to ensure that these plans are conducive to improving the delivery of electric service and increasing the resilience of the electric infrastructure against future weather events by making smart use of the federal reconstruction dollars available to the Island, and ensuring that the shift towards 100% renewable generation is aligned with the targets imposed by our energy public policy.

¹ Formerly known as the Puerto Rico Energy Commission.

² *The Transformation of the Puerto Rico Electric Power Authority (PREPA)*, July 23, 2020.

³ LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly “LUMA”).

The T&D system in Puerto Rico is now operated and maintained by LUMA with extensive oversight from the Puerto Rico Public Private Partnership Authority (“P3 Authority”), PREPA and the PREB.⁴

II. THE PREB – OVERVIEW

The PREB was created in 2014 by the *Puerto Rico Energy Transformation and RELIEF Act*⁵ serving as a key component for the full and transparent implementation of the Act’s energy reform goals. Specifically, the PREB has the responsibility to regulate, monitor and enforce the energy public policy of the Government of Puerto Rico. PREB has a mandate to ensure electric service is safe, reliable, and affordable.

A. Expertise

1. Commissioners

By statute,⁶ PREB Commissioners have diverse professional backgrounds. The current Bureau features exceptionally qualified commissioners in its ranks. Currently, three commissioners hold dual degrees in engineering and law, one commissioner is a seasoned energy, land use, and environmental attorney who serves in the National Association of Regulatory Utility Commissioners (“NARUC”) Board of Directors, and one commissioner is a licensed engineer specialized in the design of electrical power systems.

2. PREB is supported by Nationally Recognized Technical Resources

PREB relies on recognized experts in the utility regulatory field to assist its informed and grounded regulatory development. These resources include former commissioners and staff from multiple U.S. Public Utility Commissions (“PUCs”), some with first-hand experience dealing with the current arrangement found in Puerto Rico: a private operator running the T&D system for the public electric utility. The PREB is also advised by experts in the areas of energy regulatory affairs, economics, engineering, energy efficiency and resource/system/operations planning, among others. These experts also provide consulting services throughout the US and other international jurisdictions.

⁴ LUMA Energy, LLC is a certified electric service company that operates under the jurisdiction of the PREB, Certification Number: NEPR-CT-2020-0008. LUMA Energy ServCo, LLC is a certified electric service company that operates under the jurisdiction of the PREB, Certification Number: NEPR-CT-2020-0007.

⁵ Act 57-2014, as amended.

⁶ Section 6.6 of Act 57-2014, as amended.

III. PREB'S OVERSIGHT OF THE ELECTRIC INFRASTRUCTURE RECONSTRUCTION, OPERATION AND MAINTENANCE

Puerto Rico suffers from an inherently deficient electric system, a condition that has been exacerbated after the impact of hurricanes Irma and María. In particular, the planning, design, and operation of an isolated island-based electricity system imposes on PREPA, and Puerto Rico as a whole, significant challenges regarding power system stability and reliability. Act 120-2018⁷ establishes the legal framework for the transformation of the electric power system in Puerto Rico.⁸ It empowers PREPA to sell its assets related to electric power generation and transfer or delegate any of its operations, functions, or services.⁹ However, any agreement arising from Act 120-2018 shall be entered into under the legal and administrative framework established in Act 29-2009¹⁰ which regulates Public-Private Partnerships.

Act 120-2018 safeguards the powers of the Energy Bureau regarding energy matters, as well as its authority to regulate, supervise, and ensure compliance with the public energy policy of Puerto Rico. In other words, regarding any agreement entered pursuant to Act 120-2018, the Energy Bureau retains its powers, responsibilities, and duties to establish and implement the regulatory actions necessary to guarantee the capacity, reliability, security, efficiency, and reasonableness of the system rates.

After a comprehensive competitive process, the P3 Authority selected a third-party operator for the PREPA Transmission and Distribution System ("T&D System"). On June 22, 2020, PREPA, P3 Authority, LUMA Energy, LLC¹¹ as ManagementCo, and LUMA Energy ServCo, LLC¹² as ServCo entered into an Operation and Maintenance Agreement ("T&D OMA") under which LUMA will manage the T&D System. It is worth mentioning that under the T&D OMA, LUMA, in coordination with PREPA, the P3 Authority and the COR3, manages federal recovery funds intended to reconstruct the electric system and improving its resiliency. It is expected that the comprehensive O&M Services provided by LUMA will benefit PREPA by (i) transforming the T&D System into a modern, sustainable, reliable, efficient, cost-effective, and resilient electric system consistent with prudent utility practices to increase electric service quality; (ii) enabling delivery of low-cost electricity to ratepayers of Puerto Rico; (iii) increasing T&D System resiliency and reliability; (iv) deploying new technologies; and (iv) implementing industry best practices and operational excellence

⁷ Known as the "Puerto Rico Electric Power System Transformation Act", as amended ("Act 120-2018").

⁸ See generally, *Statements of Motives*, Act-120-2018, pp 3-5.

⁹ *Id.*

¹⁰ Known as "Public-Private Partnership Act", as amended ("Act 29-2009").

¹¹ See In re: Request for Certification LUMA Energy, LLC, Case No. NEPR-CT-2020-0008.

¹² See In re: Request for Certification LUMA Energy ServCo, LLC, Case No. NEPR-CT-2020-0007.

through managerial continuity and long-term planning.¹³ Therefore, the contractual accountability of LUMA under the T&D OMA and its independent regulatory oversight by the PREB are critical to ensure that performance incentives align with the public interest.

A. Transmission and Distribution System Operation and Maintenance Agreement (“T&D OMA”) – Front-End-Transition

During the Front-End-Transition period of the T&D OMA, the PREB conducted extensive evaluations, that included opportunities for public participation¹⁴ of key LUMA’s utility plans. These evaluations resulted on approvals that carry specific conditions that LUMA needs to satisfy at determined intervals during LUMA’s contracted period. PREB evaluations have included:

1. LUMA’s Initial Budgets¹⁵

PREB approved with conditions LUMA’s budgets for fiscal year 2022. Approval conditions include:

- LUMA shall maintain detailed accounting of annual expenses for FY 2022 and FY 2023 and account for the use of funds within the budget for that timeframe. LUMA is to explain annually any differences between account expenses and approved budgets, and request approval for cost recovery of any uncollected funds.
- LUMA shall provide quarterly reports to the Energy Bureau detailing Initial Budget spending amounts, broken out by spending initiative, and detailing any differences from the approved Initial Budget. These reports should also include detail allowing the Energy Bureau to assess funding, withdrawals and outstanding balances in the Operating Budget, the Capital Budget, and the Generation Budget Accounts outlined in the T&D OMA.
- LUMA shall submit to the Energy Bureau, on a quarterly basis, summary reports outlining federal funding activity. These summary reports shall include aggregated information showing the cumulative amount of federal funding applied for by LUMA and/or PREPA, broken out by the source of such

¹³ See *Partnership Committee Report, Puerto Rico Public-Private Partnership for the Electric Power Transmission and Distribution System*, dated May 15, 2020 (“Report”), p. 27, included as Exhibit 1 to *Puerto Rico Public-Private Partnerships Authority’s Request for Issuance of Certificate of Energy Compliance and Request for Confidential Treatment of Documents Submitted to PREB*, dated May 18, 2020, *In re Certificate of Energy Compliance*, Case No.: NEPR-AP-2020-0002.

¹⁴ The PREB sought public input through written commentary and public hearings. The public hearings are archived in the PREB’s You Tube channel.
<https://www.youtube.com/c/NegociadodeEnerg%C3%ADaenvivo/videos>

¹⁵ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0004>

funding, the incremental amount of federal funding applied for in the reporting quarter, and both the cumulative and quarterly amount of federal funding received.

- LUMA shall provide annual reports on the implementation of improved efficiencies and quantification of resulting savings.
- Not later than April 1, 2022, LUMA shall submit to the Energy Bureau the Fiscal Year 2023 proposed budgets following the annual budget examination process delineated in the 2017 Rate Order.
- Not later than August 1, 2023, LUMA shall file a formal rate review for rates effective July 1, 2024, utilizing the most recent historic test year in accordance with the requirements set in the 2017 Rate Order. During these proceedings LUMA must demonstrate and quantify the projected operational efficiencies claimed in its petition for Initial Budgets approval; these efficiencies are expected to favorably impact customer rates.

2. LUMA's System Operation Principles ("SOP")¹⁶

PREB approved with conditions LUMA's SOP. Approval conditions include:

- On or before thirty (30) days from the notification of the SOP's Approval Resolution, LUMA shall file with the Energy Bureau a detailed updated timeline for the completion of any other procedure, protocol, manual or document necessary for the operation of the system in accordance with prudent industry practices, standards, and local laws and regulations, including but not limited to the draft procedures filed on May 19, 2021. The timeline shall be provided in a Gant Chart format with detailed information, including but not limited to, the party responsible for each task (i.e., name and position of LUMA personnel and/or consultants), any precursor tasks or events, and the estimated date for the completion of preparation and finalization of drafts. The total timeline shall not exceed five (5) months.¹⁷
- On or before thirty (30) days from the notification of the SOP's Approval Resolution, LUMA shall file with the Energy Bureau enhancements to the Energy Dispatch principles included in SOP 5.1 and 5.2 that shall fully incorporate capabilities found in Distributed Energy Resources (DERs) into system planning and operations.

¹⁶ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0001>

¹⁷ LUMA submitted a request for the Energy Bureau to reconsider four (4) of the five (5) conditions the Energy Bureau established for the approval of LUMA's SOP. With regard to this condition, the Energy Bureau deferred its determination of whether the Gantt Chart complies with Condition No. 1 of the May 31 Resolution until after the September 17, 2021 Compliance Hearing.

- In response to LUMA’s request for Clarifications and/or Reconsideration, PREB ordered LUMA to file with the Energy Bureau final versions of its Load Forecasting Procedures that include the methodologies used to incorporate power meter load data, load management, load forecast, DER adoption models, weather normalization and peak allocation.
- Starting on July 5, 2021, LUMA shall file with the Energy Bureau a series of monthly progress reports on the status of the implementation of the timeline required on the conditions imposed in the SOP’s Approval Resolution.
- The Energy Bureau will hold periodic compliance hearings to monitor the progress towards compliance with the conditions hereby established. LUMA and the relevant personnel and consultants shall appear before the Energy Bureau fully prepared to answer the questions that the Energy Bureau Commissioner and staff may have.

3. LUMA’s System Remediation Plan (“SRP”)¹⁸

PREB approved with conditions LUMA’s SRP. Approval conditions include the requirement that reports be submitted quarterly, not later than thirty (30) days after the close of the reporting quarter, comprising the following:

- Actual spending amounts, broken down by spending initiative/portfolio, and reflecting in detail any differences from the System Remediation Plan.
- A detailed timeline per portfolio with sufficient detail to allow the Energy Bureau to assess project status for System Remediation Plan capital expenditures and operational initiatives.
- Any capital expenditure or operational initiatives that are behind schedule, compared to the initial System Remediation Plan timeframe and a detailed explanation as to the cause of the delay and the corrective actions implemented to prevent further delays, as applicable.
- Periodic compliance hearings are to take place to monitor the status of these conditions.

4. Utility Performance Incentive Mechanisms¹⁹

¹⁸ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0019>

¹⁹ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0007>

PREB is currently developing the framework for the performance incentive mechanisms to be applied to the electric utility. The PREB is also establishing the performance targets that will apply to LUMA to determine incentives²⁰ during the contract period where payments²¹ are permitted to enhance the T&D Operator's yearly fees during the service period. This incentivizes the Operator to improve compliance with performance requirements, and fines²² can incentivize the Operator to improve compliance with performance requirements. Fines will be paid directly by the T&D Operator and not passed to customers.

B. Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") – Interim Service Period²³

The electric utility maintenance and operations are currently shared by LUMA and PREPA.²⁴ LUMA is in charge of operating and maintaining the electric transmission and distribution system. The LUMA implementation team also includes Innovative Emergency Management, Inc. (North Carolina) ("IEM") as a prime subcontractor. IEM offers comprehensive emergency management and disaster recovery services, including obtaining, managing, and retaining federal funds, and implementing disaster recovery programs funded through government sources. PREPA is still in charge of maintaining and operating the generation fleet.

LUMA has responsibility for long-term plans and strategies to expand and upgrade the Island's grid, proposals for resilience buildup of the electric infrastructure, and management of federal recovery funding. Emphasis is being placed on rebuilding the electric system to meet current national codes and standards and to integrate electric industry best practices to facilitate Mutual Aid efforts with other U.S. utilities during emergency response events. It is important to highlight that even though system plans may have existed or may still exist for the electric grid in Puerto Rico, all T&D system planning and operations are now the responsibility of the T&D Operator, who is subject to the full oversight of the PREB. The PREB is to ensure that LUMA, as the T&D Operator, will implement well-studied long-term strategies to improve grid

²⁰ <https://energia.pr.gov/en/dockets/?docket=nepr-ap-2020-0025>

²¹ See Section 7.1 (c) and Annexes VII, IX and X of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement, <https://www.p3.pr.gov/wp-content/uploads/2020/06/executed-consolidated-om-agreement-td.pdf>.

²² *Id.* Section 7.6 (a)(ii).

²³ As a result of PREPA not having exited Title III, LUMA is operating under the Supplemental Agreement of the T&D OMA since June 1, 2021. Supplemental Agreement and O&M Agreement shall automatically terminate if Service Commencement Date does not occur within 18 months after the Supplemental Agreement Effective Date, unless extended prior to termination upon mutual agreement of the Parties and upon request by the P3 Authority. (SA 7.1).

²⁴ The Puerto Rico Electric Power Authority is a certified electric service company that operates under the jurisdiction of the PREB, Certification Number: CEPR-CT-2016-0018.

reliability that assures federal recovery funding is effectively and efficiently invested to build up the resilience of the Island's electric network system.

1. LUMA is subject to PREB's oversight

LUMA is a certified electric service company within the PREB's regulatory jurisdiction. For regulatory purposes, LUMA, as agent of PREPA, stands in PREPA's shoes for all aspects of electric transmission and distribution. The arrangement of the T&D OMA places a private operator to manage PREPA's electric grid. This operator is the single entity charged with orchestrating the long-term plans and strategies for the electric T&D system.

2. PREB's oversight efforts²⁵ of LUMA's T&D O&M functions

The PREB's strong oversight of LUMA in fulfilling its responsibility to guide and oversee the statutory transformation of the electric industry in Puerto Rico, is demonstrated by the extensive range of proceedings summarized below. The PREB is working more than 25 dockets that address the significant components of LUMA's responsibilities as system operator, in particular, with respect to the transformational goals of system reliability, sustainability and cost effectiveness. The transparency of these proceedings is of paramount importance to the PREB. PREB's YouTube channel streams live and then archives these proceedings for public access. Most of these hearings/workshops are live streamed in Spanish/English.

The PREB provides extensive opportunity for public input in its proceedings through public hearings and the opportunity for written comment. Utility filings are carefully reviewed by the PREB and its consultants before the PREB decides.

By way of example, the original Initial Budgets filing was found to be incomplete by the PREB and additional material was requested. The filing was subjected to a three-day technical conference, in which PREB Commissioners and the PREB's consultant questioned LUMA extensively with respect to its filing and LUMA provided additional supporting material. Numerous reporting requirements for LUMA going forward were incorporated in the PREB's approval. The entire record of a proceeding is taken into account by the PREB in making its decision.

C. FEMA PA DR-4339-PR²⁶ Project Evaluation and Progression Status – PREB

²⁵ See Attachment on page 13 for a list PREB open proceedings providing oversight to the LUMA/PREPA arrangement.

²⁶ <https://www.fema.gov/disaster/4339>

FEMA Public Assistance (“PA”) Permanent Work Stafford Act Section 428 (disaster-related repair/restoration/replacement) has made available to PREPA up to \$9.4599bn²⁷ that when combined with Stafford Act Section 406 (mitigation activities) and Stafford Section 404 (state hazard mitigation program) funding are destined to increase the resiliency of the electric grid against future weather events. PREB highlights that the fatalities experienced during Hurricane María (2017) were mainly associated with the loss of medical services resulting from the lack of electricity.²⁸

1. Infrastructure sought for upgrades consistent with increasing resiliency and improving emergency readiness follows:
 - a. T&D Lines
 - i. Transmission Centers
 - ii. Distribution Poles
 - iii. Transformers
 - iv. Undergrounding
 - b. Generation Facilities
 - c. Substations
 - d. Cleanup Hydroelectric Generation Dams
 - e. IT Infrastructure – System Operations
 - f. DER Integration for Resilience

2. PREB’s evaluation of permanent work of the electric infrastructure

Any permanent work proposed for the electric infrastructure needs approval from the PREB before it can move to the recipient of the FEMA DR-4339-PR grant, COR3, for further commitment. The PREB is the entity vested in Puerto Rico with ensuring that investments made on the electric infrastructure are consistent with the enacted energy public policy.²⁹

²⁷ Actual FEMA funding available to PREPA under DR-4339-PR amounts to \$9.459B after deducting private insurance payments and 10% state matching requirement. Federal Emergency Management Agency (FEMA), Puerto Rico Hurricane Maria (DR-4339-PR).

²⁸ <https://www.npr.org/2019/02/21/696769824/problems-with-health-care-contributed-to-hurricane-maria-death-toll-in-puerto-ri>

²⁹ Act 17-2019.

PREB's Approvals of Electric Infrastructure Permanent Work		
Approval Date	Projects	Cost (bn)
June 8, 2021	65 projects including T&D rebuilds for Culebra, Vieques, generation improvements for Aguirre, Costa Sur, Cambalache and hydroelectric facilities.	\$1.240
August 25, 2021	140 projects including rebuilds of transmission and distribution facilities.	\$1.789
September 9, 2021	14 projects including rebuilds of hydroelectric plants and Palo Seco facilities.	\$1.376
September 24, 2021	30 projects including rebuilds of the fiber optic network to support the hardened operations of the system, T&D facilities, and street lighting.	\$3.885
Current Overall Rebuild Cost:		\$8.29

Table 1 – PREB’s Approvals of Electric Infrastructure Permanent Work through September 30, 2021

D. Pending LUMA/PREPA Transition Matters

1. PREPA’s Reorganization [T&D OMA, 4.5(q)]

PREPA is a corporation created by virtue of Act 83 on 1941, as amended. In its current form, Act 83 defines PREPA’s faculties and powers in section 5 of said Act. The aforementioned Section was amended by Act 17-2019 to include, among other powers, the capacity to, with prior approval from PREB, divide and separate into one or more subsidiaries: the generation, transmission, and distribution functions of PREPA.³⁰

PREPA’s Reorganization proposal is due to the Financial Oversight and Management Board for Puerto Rico (“FOMB”) on September 30, 2021.³¹

³⁰ Sec 5(u)(i) of Act 83 of May 2, 1941 as of May 25, 2021.

³¹ https://drive.google.com/file/d/1pHlwRqYrjypE80yv9x05bQ_n5RLKz-C7/view?usp=sharing

PREPA's reorganization into GridCo, GenCo, and HoldCo requires approval from the PREB.³²

2. GridCo-GenCo Purchase Power Operating Agreement (PPOA) [T&D OMA, Exhibit H]
 - A power purchase and operating agreement between GridCo and GenCo requires PREPA to corporately reorganize itself.
 - PPOA's require PREB's approval.³³

IV. PREB'S STRONG ENFORCEMENT CAPABILITY

The previous notable proceedings demonstrate the strong comprehensive regulatory landscape created by Act 57-2014 and Act 17-2019. More significantly, this landscape includes an enforcement infrastructure for compelling compliance with the statutory transformational measures to develop a reliable and sustainable electric system.

A. PREB's Enforcement Mechanisms – Real Incentives/Real Penalties

The recently adjudicated T&D OMA provides the PREB with real teeth for enforcement. The private T&D Operator has a financial incentive³⁴ to improve system performance according to metrics approved by the PREB.³⁵ The PREB can also fine the T&D Operator for noncompliance with its regulations.³⁶ In the past, imposing fines on PREPA effectively meant fining the Puerto Rico government, thus negatively impacting the people of Puerto Rico twice. Third-party accountability means that any potential penalties imposed on the private T&D Operator will erode its fixed fee payments under the contract. Having this regulatory tool available to the PREB is nothing short of transformational.

B. Independent Office of Consumer Protection (IOCP)

The electric regulatory landscape in Puerto Rico is well supported by a strong legal framework that directs the IOCP to represent and defend, among others, the energy services customer in all matters in front of the PREB, including the IRP, rate revisions, electric utility bill disputes and disputes originating from customer dealings with electric service companies.

³² Sec 5(u) of Act 83 of May 2, 1941 as of May 25, 2021.

³³ PREB's Regulation 8815, <https://energia.pr.gov/regulations-dockets/?docket=8815>.

³⁴ See Annex IX and X of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement.

³⁵ *Id.* Section 4.2(f).

³⁶ OMA Section 7.6 (a)(ii).

V. CONCLUSION

The PREB is an independent electric utility regulator authorized by statute to impose penalties on the contracted T&D Operator for regulation non-compliance that will not be borne by consumers.³⁷

In accordance with PREB's authority pursuant to the Puerto Rico Energy Public Policy Act – Act 17-2019 and Puerto Rico Electric Power Transformation Act – Act 120-2018, I am pleased to represent before you here today, the public interest of the people through the legal mandate that has been bestowed upon the PREB, to provide strong leadership and oversight of the recovery and revitalization of the Puerto Rico's electric grid, to yield a dependable, resilient, clean and efficient electrical infrastructure for our people, and to oversee Puerto Rico's transmission and distribution system operator, LUMA.

I look forward to your questions and remain committed to continue strengthening the working relationship with the Committee for the benefit of the people.

³⁷ OMA Section 7.6 (a)(ii).

ATTACHMENT

Current PREB proceedings overseeing the LUMA/PREPA arrangement

A. PREB's Oversight of LUMA's Front-End-Transition (FET)

PREB's oversight of LUMA's front-end transition period provides transparency to the transition process by making available to the public key FET LUMA reporting.

1. **NEPR-MI-2020-0008**³⁸ [LUMA Monthly Status Reports for Front-End Transition Services]

The PREB made LUMA's monthly reports and FET invoices available to the public, it also requested LUMA to submit additional information concerning certain FET activities.

B. PREB's evaluation of LUMA's proposed plans for the operation and maintenance of the T&D system and use of federal funding for the reconstruction of the grid

During the course of the front-end transition period, the PREB initiated additional proceedings to evaluate LUMA's proposed plans for the T&D system.

2. **NEPR-MI-2021-0007**³⁹ [LUMA's Liability Waiver], denied in part and approved in part with modifications by PREB

LUMA requested to be released from liability in the event of defective electric service due to released parties' control, ordinary negligence, gross negligence, or willful misconduct; PREB denied this request and granted a waiver where customer protections were expanded from LUMA's original petition.

3. **NEPR-MI-2021-0004**⁴⁰ [LUMA's Initial Budgets], approved with conditions by PREB

The PREB approved LUMA's budget for fiscal year 2022. LUMA presented to the PREB the budget for the entire utility operations that included the budget for the maintenance and operation of PREPA's generation fleet.

- Review LUMA's Budgets on a yearly basis
- Ensure LUMA's transactions are kept at arm's length from its subsidiaries – Evaluation of LUMA's Procurement Manual

³⁸ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0008>

³⁹ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0007>

⁴⁰ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0004>

4. **NEPR-MI-2021-0001**⁴¹ [LUMA's System Operation Principles], approved with conditions by PREB

The PREB is currently having LUMA submit for evaluation key procedures and methodologies that will support the improvements of how energy is dispatched across the Island and how capacity is planned.

- Follow up of established SOP's approval conditions
- Compliance hearing streamed and archived in PREB's YouTube channel on Friday, September 17, 2021.
- Oversee the establishment of Long and Short Range Transmission and Distribution Planning Analysis and Forecasts
- Proceeding addresses rolling blackout challenges

5. **NEPR-MI-2020-0019**⁴² [LUMA's System Remediation Plan], approved with conditions by PREB

The PREB is currently having LUMA submit rebuild projects moving down the pipeline to ensure alignment with reconstruction and mitigation activities that will result on efficient use of federal funding available to increase system resilience.

C. Significant Open Dockets Relating to the Oversight of LUMA

6. **NEPR-MI-2021-0002**⁴³ [10-Yr Infrastructure Plan]

PREB has provided guidance to LUMA and PREPA to avoid duplication of efforts that could have led to unnecessary expenses resulting from Front-End Transition contracting.

LUMA⁴⁴ and PREPA⁴⁵ are currently filing for PREB's evaluation proposed reconstruction projects that are to employ funding from the obligation under the FEMA DR-4339-PR⁴⁶ grant.

⁴¹ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0001>

⁴² <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0019>

⁴³ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0002>

⁴⁴ LUMA formulates projects addressing the needs of the Transmission and Distribution system.

⁴⁵ PREPA currently formulates the projects addressing the needs of the Generation system.

⁴⁶ Actual FEMA funding available to PREPA under DR-4339-PR amounts to \$9.459B after deducting private insurance payments and 10% state matching requirement. Federal Emergency Management Agency (FEMA),

- Maximizes federal funding
 - Ensures adherence with public energy policy
 - Ensures adherence to IRP
 - Projects are then forwarded by the utility to COR3, FEMA for consideration.
7. **NEPR-AP-2020-00025**⁴⁷ [Establishment of Performance Targets for LUMA Energy ServCo, LLC]
- Establishment of Performance Targets for LUMA’s incentive payments and potential penalties
 - Establishment of Framework to update LUMA’s Performance Targets
 - Development of Yearly Incentive Fee Report
8. **NEPR-MI-2019-0007**⁴⁸ [Establishment of Performance Incentive Framework for the Electric Utility]
- Establishment of indicator/metrics to gauge the performance of the electric utility
9. **NEPR-MI-2021-0004**⁴⁹ [LUMA’s Initial Budgets]
- Review LUMA’s Budgets on a yearly basis
 - Ensure LUMA’s transactions are kept at arm’s length from its subsidiaries – Evaluation of LUMA’s Procurement Manual
 - Monitor GenCo Shared Services Agreement
10. **NEPR-MI-2019-0005**⁵⁰ [Vegetation Management]
- Review LUMA’s Vegetation Management Plan
 - LUMA has submitted a comprehensive plan consistent with the approved Initial Budgets
11. **NEPR-MI-2019-0006**⁵¹ [Emergency Response Plan (“ERP”)]

Puerto Rico Hurricane Maria (DR-4339-PR), <https://www.fema.gov/disaster/4339>. In addition to the Public Assistance permanent work proposals, LUMA and PREPA are also putting forward projects that fall under the Hazard Mitigation program of the Stafford Act sections 404 and 406.

⁴⁷ <https://energia.pr.gov/en/dockets/?docket=nepr-ap-2020-0025>

⁴⁸ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0007>

⁴⁹ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0004>

⁵⁰ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0005>

⁵¹ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0006>

- PREB is conducting a review of PREPA and LUMA's ERP for potential modifications
- Last Technical Conference was held on September 2, 2021 and LUMA was directed to provide additional information by September 17, 2021
- Virtual Public Hearing was held on September 27, 2021 with written comments accepted until September 30, 2021

12. **NEPR-MI-2020-0017**⁵² [LUMA's Data (Cyber) Security Plan]

- Evaluation of LUMA's data (cyber) security plan, includes IT/OT (LUMA's website, payment processor, billing)

13. **NEPR-MI-2020-0018**⁵³ [LUMA's Physical Security Plan]

- Evaluation of LUMA's Physical Security Plan
- Conduct field visits to gauge current capabilities

14. **NEPR-MI-2020-0019**⁵⁴ [LUMA's System Remediation Plan]

- Seek to maximize opportunities to increase system resilience
- Ensure adherence to Integrated Resource Plan ("IRP")

15. **NEPR-MI-2020-0001**⁵⁵ [Quarterly Adjustments: Fuel Purchase FCA, Energy Purchase PPCA, Fuel Oil Subsidy FOS]

- LUMA functions as PREPA's representative before the PREB and reports on:
 - Fuel
 - Purchased Power
 - Fuel subsidies

16. **NEPR-MI-2019-0009**⁵⁶ [T&D Interconnection Regulation]

- Regulations that seek to leverage Distributed Energy Resource (DER) interconnection and interoperability standards, e.g., IEEE-1547-2018
- Emphasis on DER interoperability and integration to system planning and operations

⁵² <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0017>

⁵³ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0018>

⁵⁴ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0019>

⁵⁵ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0001>

⁵⁶ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0009>

17. NEPR-MI-2019-0011⁵⁷ [Integrated Electric Distribution Planning]

- Development of Hosting Capacity capabilities that will facilitate Renewable Generation Interconnection
- Integrated Planning approach where System Operator fully maximizes technical functionalities found in Distributed Energy Resources (DER)

18. NEPR-MI-2019-0015⁵⁸ [Energy Efficiency and Demand Response Regulation]

- Cost effective and environmentally friendly alternative to buildup of generation
- System resilience considerations

19. NEPR-MI-2021-0009⁵⁹ [Puerto Rico Test for Demand Response and Energy Efficiency]

- Pilot plans for cost-effective and environmentally friendly alternative to buildup of generation
- Increase system resilience and stability

20. NEPR-MI-2021-0008⁶⁰ [Review of LUMA's Bill]

- IOCP⁶¹ providing significant input on behalf of the consumer

21. NEPR-MI-2021-0013⁶² [Electric Vehicle (EV) Infrastructure]

- Seeks to identify required generation and T&D investments to support wide adoption of Electric Vehicles (EV) in Puerto Rico.

⁵⁷ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0011>

⁵⁸ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2019-0015>

⁵⁹ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0009>

⁶⁰ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0008>

⁶¹ The Independent Office of Consumer Protection (IOCP) of the Public Regulatory Service Board represents and defends the energy services customer in all matters in front of the PREB, including the IRP, rate revisions, electric utility bill disputes and disputes originating from customer dealings with electric service companies. It also educates, offers guidance, assists, and represents customers of energy, telecommunications, and transportation services.

⁶² <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0013>

22. **NEPR-MI-2020-0016**⁶³ [Optimization Proceeding – Minigrid Transmission and Distribution Investments]

- Seeks to investigate further proposed minigrid capabilities that were included in the latest IRP

23. **NEPR-MI-2021-0011**⁶⁴ [Regulation Renewable Portfolio Standard Compliance, Renewable Energy Credits]

- Regulation establishing compliance mechanisms with the Renewable Portfolio Standard

D. Ongoing LUMA/PREPA investigations

24. **NEPR-MI-2021-0014**⁶⁵ [PREPA Generation Maintenance and Repair Management Program – Managed Load Shed Events of August 30-31, 2021]

- Consideration of PREPA assertion that maintenance budget for generation is adequate
- Investigation of the load shedding events experienced during August 30-31, 2021.
- Adequacy of Supply implications
- Revision of **ACTUAL** PREPA Generation Maintenance Expenses
- Hearing streamed on September 3, 2021 (English/Spanish) and archived⁶⁶ in the PREB's YouTube channel

25. **NEPR-IN-2021-0002**⁶⁷ [June 10, 2021 Monacillos Incident]

- Investigation of the outage failure experienced in Monacillos where LUMA was already in charge of the ECC (Energy Control Center).

⁶³ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2020-0016>

⁶⁴ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0011>

⁶⁵ <https://energia.pr.gov/en/dockets/?docket=nepr-mi-2021-0014>

⁶⁶ <https://www.youtube.com/watch?v=ECegoQtTy9E>

⁶⁷ <https://energia.pr.gov/en/dockets/?docket=nepr-in-2021-0002>