

Velazquez FTR



GOVERNMENT OF PUERTO RICO
PUERTO RICO ELECTRIC POWER AUTHORITY

Executive Director | Josué A. Colón Ortiz | director_ejecutivo@prepa.com

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BY ELECTRONIC MAIL
Robert.mujica@promesa.gov

Mr. Robert F. Mujica Jr.
Executive Director
Financial Oversight and Management
Board for Puerto Rico
PO Box 192018
San Juan, Puerto Rico 00919-2018

Dear Mr. Mujica:

Re.: PREPA's proposed alternatives to cover the difference between PREPA's FY24 certified budgets and PREPA's FY25 proposed budgets

On June 13th, 2024, the Puerto Rico Electric Power Authority ("PREPA") notified its budget proposals to the Financial Oversight and Management Board for Puerto Rico ("Oversight Board") pertaining to the fiscal year 2025 ("FY25") for its holding company, and subsidiary PREPA Property Co, LLC (jointly, for budgetary purposes, "HoldCo"), and its other subsidiary PREPA HydroCo LLC ("HydroCo"). In summary, PREPA proposes a budget of \$62.634M for HoldCo and a budget of \$26.175M for HydroCo (jointly, the "FY25 Proposed Budgets"). PREPA emphasized that no rate increase will be necessary to fund either its proposed budgets, or the budget proposals of the private operators, as all necessary expenses can be covered through an efficient and fair **redistribution** of the budget allocation made by the Puerto Rico Public-Private Partnerships Authority ("P3A").

On June 24th, 2024, the Oversight Board notified the Governor of Puerto Rico, Honorable Pedro R. Pierluisi Urrutia, and PREPA a Notice of Violation pursuant to Section 202(c)(1)(B) of the Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA"). On behalf of the Governor of Puerto Rico, PREPA notified the Oversight Board with its response to the Notice of Violation on June 26th, 2024, whereby it reaffirmed its budget proposals of \$62.634M for HoldCo and \$26.175M for HydroCo. PREPA explained that: (a) its budget proposals had been meticulously prepared using the "bottom-up" methodology; (b) all budgetary requests are substantiated and correspond to each department's essential needs; (c) the amounts sought are the minimum necessary for PREPA to perform its basic functions and obligations; and (d) any reductions will jeopardize PREPA's basic operations and compliance with its legal obligations.



Apartado 364267 San Juan, Puerto Rico 00936-4267

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As the Oversight Board is aware, the difference between the FY24 HoldCo and HydroCo budgets certified by the Oversight Board and PREPA's FY25 Proposed Budgets for HoldCo and HydroCo is \$36.4M. PREPA reaffirms that no rate increase will be necessary to fund either its FY25 Proposed budgets. In support of its position, PREPA hereby identifies areas where LUMA expends exorbitant amounts of money without any "demonstrated need" or demonstrated benefit for the people of Puerto Rico. Budgetary cuts in these areas will not only make available sufficient funds to cover the difference between PREPA's FY24 certified budgets and PREPA's FY25 Proposed Budgets, but will also reduce unnecessary spending of rate-payers dollars.

A. LUMA's Seconded Employees Program

Despite LUMA's resistance to disclose any information to PREPA on this matter, PREPA has discovered that LUMA spends over \$200M on employees seconded from the companies that comprise the LUMA consortium: the Canada firm ATCO and the U.S. based companies Quanta Services Inc. and IEM ("Seconded Employees Program" or "Seconded Employees"). The Seconded Program, funded by rate-payers, does not create jobs for the people of Puerto Rico, who are equally or more skilled in maintaining and operating the T&D Systems. The salaries, wages, and benefits paid to the Seconded Employees far exceed those of local employees. Moreover, 20% of the total allocation for the Seconded Program is used to cover miscellaneous expenses such as plane tickets, hotel stays, and car rentals for the Seconded Employees and their spouses. These lavish expenses are unjustified and unnecessary, benefiting only the LUMA consortium rather than the people of Puerto Rico. Additionally, PREPA has identified that LUMA spends exorbitant amounts of money on publicity and marketing, without any proven benefit for rate-payers.

PREPA submits that the \$36.4M variance between the FY24 and FY25 budgets for HoldCo and HydroCo can be covered by reducing the amounts authorized in the P3A's Budget Allocation for LUMA's Seconded Employees Program, as well as for its marketing and publicity programs. PREPA further requests the Oversight Board to investigate LUMA's Seconded Employees Program to determine whether said program is necessary, and whether the salaries, wages, and benefits paid to the Seconded Employees are reasonable.

B. The P3A's Budget Allocation should be redistributed, as the severe liquidity shortfall is driven solely by LUMA's mismanagement and resulting backlog of over \$550M in delayed reimbursements and working capital advances

The Budget Allocation concluded that the proper allocation of the Projected Net Available Funds Allocation Rates would be as follows: GridCo 65.2%, Generation 31.8% and HoldCo 3.0%. With regards to the Generation Budget, P3A determined that a 95.4% - 4.6%, GenCo - HydroCo allocation was reasonable and appropriate for FY2025. For the \$89.655M of total projected Other Income for FY2025, the P3A adopted LUMA's recommendation and allocated it as follows: (i) \$35.948M attributable to all entities (i.e., GridCo, Generation and HoldCo); (ii) \$53.011M attributable to GridCo; and (iii) \$0.697M attributable to Generation (i.e., GenCo and HydroCo).

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Additionally, the P3A identified \$74.741M in additional funds for the FY2025 Budget, allocated as follows: \$67.655M allocated to all entities using the approved Allocation Factors; \$3.421M allocated directly to GenCo/GeneraPR; \$165K allocated directly to HydroCo/PREPA; and \$3.5M allocated directly to HoldCo/PREPA for its FY2024 audited financial statements. Based on the foregoing, the P3A approved a total budget allocation for HoldCo in the amount of \$33.038M and a total budget allocation for HydroCo in the amount of \$14.527M.

The P3A determination on Other Income is either internally inconsistent or poorly reasoned and explained. On page 3 of the letter, P3A states:

It is a rate review principle to align costs with cost causation. Some of the revenue collected through sources other than base rates corresponds to activities attributable to specific entities (e.g., late payment charges, which is a customer service activity). As such, these entities should benefit from the revenue these activities bring. On the other hand, in those instances in which a non-base rate revenue cannot be attributable to a specific entity, such revenue should be allocated to all entities (e.g., interest from the Operating, Construction and Sinking Funds). (Emphasis added).

Despite P3A's clear statement that Interest Income from Operating, Construction, and Sinking Funds ("Interest Income") should not be attributable to a specific entity, the result of P3A's determination allocates more than half of PREPA's Interest Income to LUMA. Given that the \$40.1M of interest income comes from the accounts of PREPA, the Owner, it should be attributable to PREPA's operating entity budgets and used to address the severe and growing shortfall in PREPA's liquidity resulting from LUMA's backlog of over \$550M in delayed reimbursements and working capital advances for federally funded projects.

Specifically, between LUMA's Interim Period Service Commencement Date through June 2024, LUMA has expended more than \$950M of federally funded CapEx but obtained only \$451M in Federal Emergency Management Agency ("FEMA") reimbursements and Working Capital Advances ("WCA"), resulting in a net negative liquidity impact to PREPA of over \$550M through Q3 2024. Unconscionably, LUMA has not been required to correct its glaring inefficiencies. Instead, PREPA has been forced to transfer over \$445.4M from its restricted federal funds account to compensate for LUMA's inefficiencies. See Annex A – Status Update on LUMA Federal Funding and Liquidity Overview and Analysis of Service Account Funding. LUMA's unjustified overspending, along with its inability to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements from the federally funded T&D projects it oversees is simply unsustainable.¹ Despite PREPA's repeated warnings on the unfeasibility of LUMA's *modus operandis* and invitations to discuss solutions, LUMA has taken no action whatsoever to address this dire problem. Conversely, with drastically less economic and human resources, PREPA has outshined LUMA in each reimbursement category. Between January 2021 and May 2024, LUMA only obtained \$130.5M in reimbursements for

¹ The P3A has also concluded that LUMA's unjustified overspending, along with its inability to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements from the federally funded T&D projects it oversees, is unsustainable. See Annex B.

Category B - Emergency Measures, Category F - Permanent Work, and Category Z - Management Cost. In contrast, PREPA, with substantially much less resources, obtained a total of \$1.2B in reimbursements. The table below compares reimbursements received by PREPA *vis-à-vis* reimbursements received by LUMA for disaster declarations applicable to LUMA under each of the above-mentioned categories during the period of January 2021 to May 2024.

Emergency Measures – Category B	PREPA	LUMA
Public Assistance 4671 – Hurricane Fiona	\$ 68,981,525.07	\$0
Permanent Work – Category F		
Public Assistance 4339 – Hurricane María	\$460,620,540.00	\$117,941,110.40
Hazard Mitigation Grant Program 4339 – Hurricane María	\$5,319,641.87	\$0
Management Cost – Category Z		
Public Assistance 4339 – Hurricane María	\$49,012,020.50	\$12,572,188.02
Public Assistance 4671 – Hurricane Fiona	\$152,283.41	\$0

It is important to note that LUMA's failure to generate sufficient revenues either from its collection efforts for power services or its endeavors to obtain reimbursements from the federally funded T&D projects it oversees has also hindered LUMA's capacity to perform the necessary repairs and maintenance of the T&D systems. Shockingly, LUMA has not made any attempt to solve this dire problem. Instead, it attempts to transfer the burden of its egregious inefficiency to the rate-payers by demanding a budgetary increase. The Oversight Board must categorically reject LUMA's request.

Considering the foregoing, PREPA moves the Oversight Board to revise the P3A's Budget Allocation and fully allocate the Interest Income to PREPA's operating entity budgets to address the severe and growing shortfall in PREPA's liquidity which, as explained, has been unilaterally caused by LUMA's inefficiency in obtaining federal reimbursements and WCA.

C. Conclusion

For the reasons set forth herein, PREPA moves the Oversight Board to revise and redistribute the P3A's Budget Allocation in an efficient and fair manner, so as to fully cover PREPA's budgetary needs for FY25 without having to resort to rate increases.

PREPA respectfully submits that both, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") and the Oversight Board have incorrectly minimized PREPA's responsibilities and role, following the commencement of the private operators. PREPA, particularly HoldCo, continues to have significant legal and regulatory obligations pursuant both to federal and state law. Further, the Operation and Maintenance Agreements with the private operators, along with recent mandates issued by both the Governor of

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Puerto Rico and the Energy Bureau in connection with the outage events reported during June 2024, confirm that PREPA plays a pivotal oversight role in its relationship with the private operators.² Further, reducing PREPA's budgets and headcount would jeopardize PREPA's ability to properly oversee the private contractors when needed, leaving the Energy Bureau, the P3A and, ultimately, the people of Puerto Rico without its expert knowledge and insight.

PREPA remains available to discuss and provide further context in connection with its FY25 proposed budgets for HoldCo and HydroCo. PREPA remains steadfast in its commitment to continue leading the effort to provide better, cost-efficient, and reliable energy to the people of Puerto Rico. It is imperative that the Oversight Board recognizes the critical role PREPA plays and ensures that the budget allocations reflect the true operational needs of the organization. Failure to do so not only undermine PREPA's ability to fulfill its mandate, but also threatens the stability and reliability of Puerto Rico's entire electric infrastructure.

Cordially,



Josué A. Colón-Ortiz
Executive Director