



May 7, 2021

VIA EMAIL

David A. Skeel
President
Financial Oversight & Management Board
For Puerto Rico
david.skeel@promesa.gov

Dear Mr. Skeel:

We acknowledge receipt of Ms. Jaresko's May 4, 2021 letter, sent to provide the Governor, the President of the Senate and me with a schedule to develop, submit, approve and certify a Special Budget Resolution. Per your letter, such Special Resolution would seek to contribute monies required to fund certain Puerto Rico Electric Power Authority ("PREPA") operational reserve accounts to ensure the necessary levels of working capital and comply with the Operation and Maintenance Agreement between LUMA energy (the "Agreement"), PREPA and the P3 Authority. Through this Agreement, LUMA is to assume the operation and management of PREPA's transmission and distribution system. This Special Budget is mentioned in your letter as the Budget for PREPA Reserve Account Funding.

Pursuant to your letter, the Federal Oversight & Management Board for Puerto Rico ("FOMB") was supposed to submit a compliant Budget for PREPA Reserve Account Funding to the Legislature by May 3, 2021. The Legislature was then expected to submit a proposed adopted budget by May 7, 2021 to the FOMB. The expected date for the FOMB to certify the Budget for PREPA Reserve Account Funding is May 12, 2021. We thank you for including us in this process. However, we regret to inform you that these deadlines are unachievable under the constitutional scheme of our legislative process.

Besides the constitutional and statutory barriers that impede that a joint resolution be filed, considered, recommended and approved by both Legislative Bodies within three (3) days, there are serious additional legal and political considerations that pose a concrete challenge to any such resolution's odds of approval within the Legislative Assembly. Frankly, any joint resolution that would enable the start of LUMA's operations as per the Agreement does not have the required votes on either Chambers of our Legislature.

The Agreement has been a matter of historically effective concertation in both the Senate and the House of Representatives. In addition to the PPD's delegation, the Citizen's Victory Movement, the Pro Independence Party and the Dignity Project's ("MVC", "PIP" and "PD" for their Spanish acronyms, respectively) delegations also favor the review of and modifications to the Agreement, as evidenced by the legislative record. For example, House Resolution 136 ("RC 136"), aimed to investigate and review the Agreement, was approved unanimously, while Joint House Resolution 88 ("RCC 88"), which seeks to cease and postpone the Agreement's enforcement until January 15, 2022, was approved with affirmative votes from these four (4) delegations, as well as with the affirmative vote of independent senator. There are three (3) additional legislative initiatives regarding this Agreement: House Resolution 40, and Senate Resolutions 1 and 181.

As you can see, this Legislative Assembly's public policy regarding the Agreement, and thus that of the People of Puerto Rico, is overwhelmingly clear. This contract was conveniently and unfavorably designed against the Government and the People's best interests. The timeframe in which this Agreement was designed, negotiated and signed without the public's intervention is one of the most convincing realities towards this conclusion.

Our conclusion has been further strengthened by facts uncovered through the ongoing legislative investigation led by representative Luis Raúl Torres Cruz, chair of the House's Economic Development, Planning, Telecommunications, Public Private Partnerships and Energy Committee (the "Committee"). To this date, the Committee has held thirteen (13) public hearings and received numerous detailed testimonies regarding specific provisions from the Agreement. Representative Torres has also sent multiple requests for documents and important information to LUMA's President and CEO, Wayne Stensby, in order to understand further details regarding the Agreement. The Committee has yet to receive convincing responses from Mr. Stensby, who has raised inapplicable legal objections, thereby creating unnecessary tensions between the Committee and LUMA.

As a result of the investigative process, the Committee has rendered two (2) partial finding reports. We can summarize several of the most relevant findings as follows:

1. The Agreement's negotiation process was realized under conflict of interest circumstances. As a result, public officials have been referred to the corresponding authorities.
2. The Agreement's termination provisions undermine the public interest.
3. The resulting contractual scheme has created a climate of job uncertainty among PREPA's workforce.
4. LUMA's operation will be supervised by the P3 Authority, instead of the corresponding energy related entities. This could cause inadequate safeguards to detect and prevent deficiencies in a timely and effective manner.

5. LUMA has situated itself in a potential noncompliance situation by failing to hire the necessary personnel to begin its operations with less than a month of the agreed upon starting date.

Based on these findings, it is clear that our position as to this Agreement's focus is far from baseless. While we agree that PREPA's infrastructure requires special care and attention, we disagree on improving it at an unsustainable cost to the People of Puerto Rico. Improvement at the expense of our best interests is unfair and, therefore, must be agreed upon with careful detail, between fairly represented parties for the benefit of our population's multiple sectors. It must not be moved forward at the expense of good faith.

Given the circumstances under which the transactions surrounding the Agreement were effectuated, we cannot, in good faith, approve any joint resolutions that would enable LUMA's operation to begin. Even if it were our intention, an ordinary joint resolution's approval requires weeks and, most importantly, votes. Mere days are insufficient. If required, we are open and available to explain the parliamentary reasons behind these limitations.

To put it simply, the combination of our unequivocal public policy and the proposed calendar results in an impasse that provides us no leeway to make this possible under your letter's terms. However, we offer an alternative course of action. Given our clear position, as well as the evident time constraints over which this Legislative Assembly had no control or responsibility for, we believe it best to negotiate a reasonable postponement of the Agreement's execution, and thus the commencement of LUMA's operations in Puerto Rico.

Contracts are modifiable legal documents as long as the involved parties are willing and able to renegotiate their terms. In this case, we only ask that these negotiations be reopened so that we are given an opportunity to convene better, more equal terms for the benefit of the People of Puerto Rico. It is our intention to work directly with the Board and its seven (7) members to move this and other important matters forward. In this context, we wish to establish a calendar to continuously discuss and attend these pending matters. To this end, we ask that you provide us viable dates to begin these important conversations.

We look forward to your response and, as always, to continue working with you and the rest of the Board members for the benefit of our People.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rafael Hernández Montañez', with a large, loopy initial 'R'.

Rafael Hernández Montañez