

# Citing lack of transparency, PREPA board refuses to pay LUMA Energy for 'variable expenses'

By THE STAR STAFF

Without taking it to a vote, members of the Puerto Rico Electric Power Authority (PREPA) governing board agreed they were not going to pay LUMA Energy for its "variable expenses" unless the private operator of the utility's transmission and distribution (T&D) system provides backup documentation that it has declined to submit.

PREPA governing board member Robert Poe complained at this week's board meeting that the Public-Private Partnership Authority (P3A), which manages the contract between PREPA and LUMA Energy, is also preventing the public utility from accessing the backup documents, which are also needed for audits and other reports that PREPA is required to file under the law.

"We can't just pretend that this contract allows them to get away with [breaking] the law," Poe said at the board's meeting Wednesday. "But we have an element in the

government who are simply not up to the job, a group of four people relying totally on consultants who are trying to control the situation."

Poe said that besides the fixed fee the utility must pay to LUMA Energy, which is about \$125 million per year, PREPA is also required to pay for other expenses, or variable bills. These include salaries for executives and other expenses.

PREPA has paid the fixed fees in monthly installments so far, but has yet to pay the variable fees. LUMA Energy has charged close to \$40 million for expenses incurred since September. During the meeting, Tomás Torres, the consumer representative to the board, asked LUMA Energy President Wayne Stensby about the documentation. Stensby disregarded the request, saying that he was following the terms of the contract, signed in June of this year. Torres replied that a contract cannot go against what the law says.

During the meeting, Poe, who chairs the auditing committee, said PREPA could

not ignore its fiduciary duties under the law even though it is bound by the T&D contract to pay LUMA Energy's expenses.

The utility contacted the P3A about having access to the documentation, but the P3A imposed conditions for allowing PREPA to examine the documents.

"Our problem is that our contract manager [the P3A] through their consultants has made it virtually impossible for us to look at that variable billing," Poe said. "They made the suggestion that we have to ask permission from consultants two days in advance, that we can't take pictures or make copies and all sorts of silly things, but did not offer any access to reasonable visibility. This situation has put LUMA in a tough place and has put the [government] transition in a tough place."

While PREPA has paid LUMA Energy its fixed fees for managing the T&D, the company is frustrated that PREPA has not paid its other expenses. However, PREPA, which is slated to end the year with a deficit, must ensure that the expenses are reasonable under the law.

PREPA sent a memorandum of mutual understanding (MOU) to the P3A as part of efforts to take control of the LUMA Energy contract because so far it has no say in it. But the P3A appears to have rejected the MOU. The idea of a memorandum of mutual understanding to manage the contract was mentioned at a recent government transition committee hearing.

Poe said the P3A replied with a letter containing pages of "thoughts and memories of attorneys [involved] in the contract drafting process and everything was completely unresponsive."

He said the problem needs to be resolved soon and that PREPA should follow the actions of the Puerto Rico Energy Bureau, which has disregarded the contract when it comes to its fiduciary duties under the law.

"We are not asking to review the bills, but to be able to confirm that these costs are justified because this will impact rates," said David Owens, vice chairman of the PREPA governing board.