

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

NEPR Received: Feb 10, 2021 7:48 PM

IN RE:

THE PERFORMANCE OF THE PUERTO
RICO ELECTRIC POWER
AUTHORITY

CASE NO.: NEPR-MI-2019-0007

SUBJECT:

LUMA's request for extension of time to file replies to comments, to re-schedule the technical conference of February 17, 2021, and to extend the deadline to file comments on information that will be presented at the technical conference.

REQUEST FOR EXTENSION OF TIME TO FILE REPLIES TO COMMENTS, TO RE-SCHEDULE THE TECHNICAL CONFERENCE OF FEBRUARY 17, 2021, AND TO EXTEND THE DEADLINE TO FILE COMMENTS ON THE INFORMATION THAT WILL BE PRESENTED AT THE TECHNICAL CONFERENCE

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW, LUMA ENERGY, LLC, and LUMA ENERGY SERVCO, LLC
(collectively, **LUMA**), through the undersigned legal counsel and respectfully state and request the following:

1. The current deadline to file replies to the comments filed by LUMA, the Puerto Rico Electric Power Authority (PREPA) and by other stakeholders on the data published by the Puerto Rico Energy Bureau (Energy Bureau or Bureau) on PREPA's current performance and performance metrics and baselines, is set for February 12, 2021. This deadline was established in a Resolution and Order dated February 1, 2021, that extended the original January 29th deadline for comments up to an including February 5, 2021, due to malfunctioning of the Bureau's email for filing comments.

2. Pursuant to the procedural calendar originally set by the Bureau in its Resolution and Order of December 23, 2020, the parties and interested stakeholders would have twelve days

after the filing of the comments on January 29th, until February 10, 2021, to file replies. Per the amended schedule, the parties and interested stakeholders were afforded seven days, after the filing of comments on February 5, 2021, to submit replies. However, as further explained below, such period has been *de facto* reduced to three days.

3. It is respectfully submitted that an extension of the January 12th deadline to file replies is necessary due to delays beyond LUMA's control in gaining access to the comments filed by stakeholders that were supposed to be received by the PREB, LUMA and other participants on February 5, 2021.

4. Since the February 5th revised deadline to file comments, LUMA diligently and periodically accessed the case public filing docket to download and obtain the comments received from other participants to prepare for its evaluation and reply. It was not until February 8, 2021, that LUMA was able to find on the public docket the comments that were filed by the Independent Office of Consumer Protection (OPIC by its Spanish acronym), and by the Solar and Energy Storage Association of Puerto Rico (SESA).

5. LUMA and its counsel of record did not receive electronic notice that OPIC and SESA had filed comments. Although the comments appear in the public docket as filed on January 29th, LUMA respectfully informs that members of its technical and legal teams had perused the docket daily and had not been able to identify the existence of those documents or download them until February 8, 2021.¹

6. Furthermore, during the morning hours of February 9, 2021, after learning of the existence of comments filed by OPIC and SESA, counsel for LUMA contacted the Bureau's clerk's office to inquire about possible reasons for that situation and to verify whether additional

¹ The docket does not allow the user to screen for recent filings or to learn the date when a new document was uploaded for public access.

comments from other stakeholders had been filed on or after February 5th. LUMA's counsel also informed the clerk's office that as of the morning of February 9, 2021, LUMA had not received notice of comments that could have been filed by stakeholders on February 5, 2021.

7. Personnel from the Bureau's clerk's office graciously explained that the docket does not have the capability of issuing notice to the parties of the comments that are filed or submitted by third parties. The information available at the clerk's office during the morning of February 9, 2021, and that was relayed to counsel for LUMA was that, at the time, no other comments from stakeholders were available.

8. At or close to 2:00 pm of February 9, 2021, the public docket of this case NEPR-MI-2019-0007, did not publish any documents with comments that could have been submitted by stakeholders on February 5, 2021.

9. During the afternoon hours of February 9th, 2021, LUMA was informed that the Rocky Mountains Institute (RMI) had filed comments on February 5, 2021 and that those comments were being uploaded to the public docket. On even date, LUMA was able to access and download RMI's comments that are dated February 5, 2021.

10. LUMA understands that there are technical delays in publishing comments in the public docket. And LUMA appreciates and commends the diligent efforts of the Bureau's clerk's office to ensure that comments are posted on the public docket. However, it is incumbent on LUMA to respectfully apprise the Energy Bureau of the fact that despite diligently checking the public docket and contacting the clerk's office to ensure receipt of the comments, LUMA received comments on February 8, 2021, and at least one set of comments were posted publicly in this docket and received by LUMA, yesterday, February 9, 2021.

11. Due to the aforementioned unforeseen circumstances beyond LUMA's control, the time that the Energy Bureau granted to file replies has been shortened to effectively grant LUMA, and potentially all other participating stakeholders, only three days to prepare and file replies. Said short time frame is not reasonably sufficient for LUMA (and potentially other stakeholders) to fully and properly consider and address the comments filed by other participants in this case.

12. LUMA appreciates that the Bureau designed the procedural calendar in this case to allow for detailed and responsible consideration of comments by stakeholders. Said openness, procedural guarantees, and transparency, serve important public policy interests and will undoubtedly enrich this proceeding and allow the Energy Bureau to consider a wide range of relevant information in setting baselines and performance metrics.

13. LUMA wishes to participate actively in this process and to engage in substantive consideration and discussions of comments by and with stakeholders and the Energy Bureau. To that end, LUMA respectfully submits that an extension to file replies, applicable to all of the parties and stakeholders, is necessary and reasonable.

14. Once before on February 1, 2021, the Bureau recognized that the proper course of action in this proceeding in light of technological difficulties with filings, was to extend the time for all of the parties and interested stakeholders to file comments on performance baselines and metrics. Respectfully, similar relief within the Bureau's discretion is now warranted to ensure that all of the participants in this proceeding are able to file informed and conscientious replies to the comments that are currently part of the public record.

15. LUMA respectfully requests an extension of the February 12th deadline to file replies, up to and including, February 19, 2021. LUMA also proposes that the subsequent technical conference contemplated for February 17, 2021, be re-scheduled for the week starting on February

22, 2021, and that the deadline to file comments on the information discussed in the technical conference be extended accordingly in the Bureau's discretion, for the first week of March, 2021.

16. This proposed extension is requested in good faith with no intent to delay proceedings.

WHEREFORE, LUMA respectfully requests that the Energy Bureau take notice of this motion, extend the deadline to file replies to comments up to and including February 19, 2021, reschedule the technical conference to provide input on filed comments for the last week of February 2021, and that the Bureau set a new deadline to file comments on the information presented during the technical conference, for the first week of March, 2021, in the Bureau's discretion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 10th day of February 2021.

I hereby certify that I filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to the attorneys for PREPA, Joannely Marrero-Cruz, jmarrero@diazvaz.law; and Katuska Bolaños-Lugo, kbolanos@diazvaz.law. The case docket and comments filed by the OPIC, SESA and RMI do not include contact information to serve them a copy of this motion via electronic mail. LUMA understands that this motion will be part of the public docket and requests that the clerk's office sends OPIC, SESA and RMI a copy of this filing.

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