

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

IN RE: PERFORMANCE TARGETS FOR
LUMA ENERGY SERVCO, LLC

CASE NO.: NEPR-AP-2020-0025

SUBJECT: Procedural Calendar.

RESOLUTION AND ORDER

I. Introduction

On June 22, 2020, LUMA Energy, LLC as ManagementCo, LUMA Energy ServCo, LLC as ServCo (collectively, "LUMA"), the Puerto Rico Electric Power Authority ("PREPA") and the Puerto Rico Public-Private Partnerships Authority ("P3"), entered into an Operation and Maintenance Agreement ("OMA") under which LUMA will manage PREPA's transmission and distribution system ("T&D System").¹

On December 23, 2020, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("December 23 Order") through which it commenced this adjudicative proceeding to establish performance-based incentive mechanisms for LUMA Energy ServCo, LLC ("LUMA"). The December 23 Order laid out the Energy Bureau's authority over performance incentive mechanisms for LUMA, key criteria for review provided by Act 17-2019, and additional public interest principles that must be considered by LUMA in its filing for performance incentives.² On January 14, 2021, the Energy Bureau held a Pre-filing Technical Conference with a presentation from LUMA.

On January 20, 2021, the Instituto de Competitividad y Sostenibilidad Económica de Puerto Rico ("ICSE-PR") filed a document titled filed a motion titled *Motion Requesting Intervention and Open Adjudicatory Process Concerning Performance Based Incentive Mechanism Targets* ("Motion"). In the Motion, ICE-PR made several inaccurate statements regarding the transparency of the instant case and untimely requested intervention.

On January 22, 2021, the Energy Bureau issued a Resolution and Order through which, among other things, clarified to ICSE that the docket had just been opened and that Energy Bureau would issue a procedural calendar after LUMA submitted its filing in this docket.³

¹ The execution copy of the OMA is available at: <https://bit.ly/3wx9ur3>.

² See In Re: Performance Targets for Luma Energy Servco, LLC, Case No. NEPR-AP-2020-0025, Resolución y Orden, December 23, 2020.

³ See In Re: Performance Targets for Luma Energy Servco, LLC, Case No. NEPR-AP-2020-0025, Resolución y Orden, January 22, 2021.



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It is important to note that, under Case No. NEPR-MI-2019-0007, the Energy Bureau is conducting a proceeding on the performance of the Puerto Rico Electric Power Authority ("PREPA") to determine and to formally establish performance baselines and compliance benchmarks. As part of the aforementioned proceeding the Energy Bureau has held two Technical Conferences and has received comments and reply comments from a number of stakeholders, including PREPA and LUMA.

On February 25, 2021, LUMA filed a document titled *Submittal and Request for Approval of Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA)*, pursuant to Section 4.2(f) of the OMA ("LUMA's February 25 Request").⁴ LUMA's February 25 Request includes a high-level description of the proposed performance incentive framework along with an argument for the consistency of the proposal with the OMA, applicable laws, regulations and orders of the Energy Bureau. Exhibit 1 of LUMA's February 25 Request provides the details of the proposal while Exhibit 2 of LUMA's February 25 Request provides a comparison of the proposal with the framework that had been included in the OMA.

Finally, LUMA requests approval of LUMA's February 25 Request for an initial three-year period, along with a review of the performance baselines, metrics and targets after six (6) months from the date LUMA commences its operations.

II. Procedural Calendar

In order to evaluate LUMA's February 25 Request, the Energy Bureau establishes the procedural calendar for the instant case as follows:

Date	Phase
April 30, 2021	Filing of Petitions for Intervention Due ⁵
	Filing of Petitions to appear as <i>Amicus Curiae</i> Due ⁶
May 14, 2021	Filing of a revised version of the February 25 Request ("LUMA's Revised Request") ⁷

⁴ Note that the Energy Bureau had expressly directed LUMA to make its filing under the instant case taking into consideration the final outcome of Case No. NEPR-MI-2019-0007. See Resolution and Order, Case No. NEPR-AP-2020-0025, December 23, 2020.

⁵ The requests shall be filed using the Energy Bureau's electronic filing tool at: <https://radicacion.energia.pr.gov/>. The Energy Bureau will evaluate each petition pursuant to the requirements of Regulation No. 8543 and Section 3.5 and 3.6 of Act 38-2017, as amended, known as the *Uniform Administrative Procedures Act of the Government of Puerto Rico*.

⁶ *Id.*

⁷ This filing shall be consistent with Resolution and Order issued by the Energy Bureau on December 23, 2020 and the Energy Bureau's final determination under Case No. NEPR-MI-2019-0007. This filing shall also include LUMA's witnesses' Pre-Filed Testimony. LUMA's witnesses Pre-Filed testimony shall address all aspects of LUMA's petition. Since they are the equivalent of direct testimony, all Pre-Filed Testimony shall use a question



Date	Phase
May 21, 2021	Determination on the completeness of LUMA's Revised Request
May 21 – June 18, 2021	Discovery ⁸
July 9, 2021	Filing of Written Testimony by the Parties ⁹
July 19-21, 2021	Evidentiary Hearing
July 23, 2021	Virtual Public Hearing
July 30, 2021	Filing of Comments by General Public
August 6, 2021	Filing of Final Substantive and Legal Briefs by the Parties ¹⁰
	Filing of Final Brief by <i>Amicus Curiae</i>
August 13, 2021	Filing of Replies to Final Briefs by the Parties ¹¹

During the Evidentiary Hearing, the parties and the Energy Bureau will have the opportunity to cross-examine the witnesses who provided Pre-Filed Testimonies. All parties will also have the opportunity to present their own evidence, in accordance with applicable statutory and regulatory procedures. The Energy Bureau will provide, at a later date, more information with regards to the format of the Evidentiary Hearing, the applicable rules of behavior, and the order of the proceedings. Additionally, the Energy Bureau will timely inform whether the hearing will be held in person or remotely due to the pandemic.

The general public will have the opportunity to present their opinion about LUMA's Revised Request during the public hearing. Since public hearings are designed to obtain comments from the general public, Intervenors, LUMA or its employees, associates, witnesses or legal representation, and any other party to this proceeding will not be allowed

and-answer format. The person appearing as witness must be clearly identified, must provide his/her credentials and must specify the issue or subject on which he/she is testifying. Furthermore, all testimonies must be sworn and verified before notary public.

⁸ Every intervenor will have the right to issue Requests for Information ("ROIs") with regards to LUMA's Revised Request, pursuant to the provisions of Regulation No. 8543. In addition, pursuant to Section 8.01(H) and (I) of Regulation No. 8543, the Energy Bureau may participate in the discovery process, which shall be conducted by the Energy Bureau's Staff. There will be a ten (10) day term for LUMA to answer all information requests. Every ROI or document, and the corresponding answers, shall be notified by email to the address on record of every intervenor and to the Energy Bureau. The instructions included in Attachment A to this Resolution and Order shall apply to all discovery requests and the corresponding responses.

⁹ Through such testimony, the intervenors, along with their witnesses, shall present their position and arguments with regards to LUMA's Revised Request. Since they are the equivalent of direct testimony, all Pre-Filed Testimonies shall use a question-and-answer format. The person appearing as witness must be clearly identified, must provide his/her credentials and must specify the issue or subject on which he/she is testifying. Furthermore, all testimonies must be sworn and verified before notary public.

¹⁰ The Final Briefs shall be limited to the information presented during discovery and the Evidentiary Hearings. Therefore, the Final Briefs cannot introduce information and/or evidence that has not been previously filed before the Energy Bureau.

¹¹ All Reply Briefs shall be limited to the information presented in the Final Briefs. Therefore, the Reply Briefs cannot introduce information and/or evidence that has not been previously filed before the Energy Bureau nor can address any issues that were not part of the Final Briefs.

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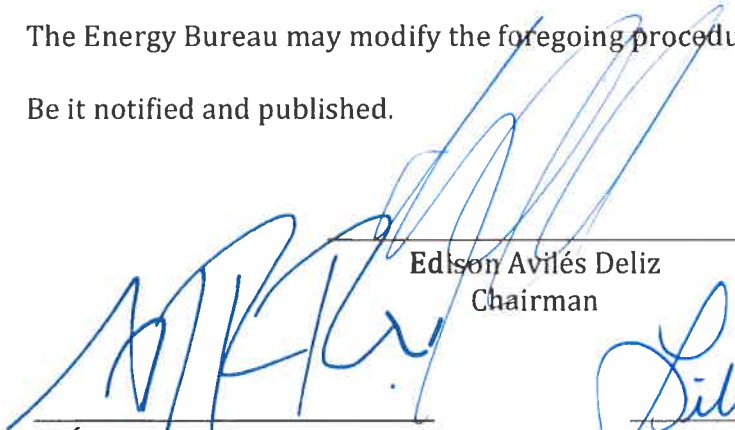


to participate in the public hearings. In order to ensure ample public participation in the instant case, the Energy Bureau will timely publish a notice in a newspaper of general circulation in Puerto Rico regarding the Public Hearing. Note that in order to prevent the spread of Covid-19, the foregoing Public Hearing will be held remotely via the *Microsoft Teams* platform. Any person interested in presenting oral comments or questions during the July 23, 2021 Public Hearing shall, on or before Wednesday July 19, 2021 at 3:00 p.m., contact the Energy Bureau's Clerk at (787) 523-6262 or via email to secretaria@jrsp.pr.gov to request a turn and to obtain instructions and a link to access the virtual Public Hearing. The Public Hearing will be streamed live via the Energy Bureau's YouTube Channel. The Energy Bureau's YouTube channel may be accessed through the following link: <https://www.youtube.com/channel/UCxZYn-qt1k0Lu9TX37-11oA>.

Note that comments shall include in their title the following: "Public Comments on LUMA's Revised Request – Case No. NEPR-AP-2020-0025" and shall be addressed to the attention of Edison Avilés Deliz, Chairman, and shall be filed by electronic mail at: comentarios@jrsp.pr.gov; through the Energy Bureau's electronic filing tool at: <https://radicacion.energia.pr.gov/>; by postal mail addressed to the Puerto Rico Energy Bureau's Clerk's Office at World Plaza Building, 268 Muñoz Rivera Ave., Plaza Level Suite 202, San Juan, PR 00918; or in person at the Energy Bureau's Clerk's Office, at the referenced address. The hours of operations of the Clerk's office are Monday through Friday from 8:30 a.m. to 5:30 p.m., excluding holidays.

The Energy Bureau may modify the foregoing procedural calendar at its discretion.

Be it notified and published.



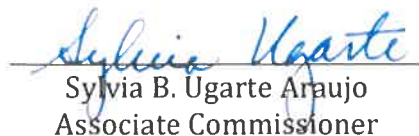
Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on April 8, 2021. I also certify that on April 8, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com, jmarrero@diazvaz.law; kbolanos@diazvaz.law and that I sent a courtesy copy to the following: Elias.sostre@aes.com; jesus.bolinaga@aes.com; cfl@mcvpr.com; ivc@mcvpr.com; notices@sonnedix.com; leslie@sonnedix.com; victorluisgonzalez@yahoo.com; tax@sunnova.com; jcmendez@reichardescalera.com; r.martinez@fonroche.fr; gonzalo.rodriguez@gestampren.com; kevin.devlin@patternenergy.com; fortiz@reichardescalera.com; jeff.lewis@terraform.com; mperez@prrenewables.com; coterol@landfillpr.com; geoff.biddick@radiangen.com; hjcruz@urielrenewables.com; carlos.reyes@ecoelectrica.com; brent.miller@longroadenergy.com; tracy.deguse@everstreamcapital.com; agraitfe@agraitlawpr.com; h.bobea@fonrochepr.com; ramonluisnieves@rlnlegal.com; hriviera@oipc.pr.gov; info@sesapr.org; yan.oquendo@ddec.pr.gov; acarbo@edf.org; pjcleanenergy@gmail.com; Jmadej@veic.org; nicolas@dexgrid.io; javrua@gmail.com; JavRua@sesapr.org; lmartinez@nrdc.org; thomas.quasius@aptim.com; rtorbert@rmi.org; tjtortes@amscm.com; lionel.orama@upr.edu; noloseus@gmail.com; aconer.pr@gmail.com; dortiz@elpuente.us; wilma.lopez@ddec.pr.gov; gary.holtzer@weil.com; ingridmvila@gmail.com; rstgo2@gmail.com; agc@agcpr.com; presidente@ciapr.org; cpsmith@unidosporutuado.org; jmenen6666@gmail.com; cpares@maximosolar.com; CESA@cleangroup.org; acasepr@gmail.com; secretario@ddec.pr.gov; julia.mignuccisanchez@gmail.com; professoraviles@gmail.com; gmch24@gmail.com; ausubopr88@gmail.com; carlos.rodriguez@valairlines.com; amaneser2020@gmail.com; acasellas@amgprlaw.com; presidente@camarapr.net; jmarvel@marvelarchitects.com; amassol@gmail.com; jmartin@arcainc.com; melitza.lopez@aep.pr.gov; eduardo.rivera@afi.pr.gov; leonardo.torres@afi.pr.gov; carsantini@gmail.com; directoralcaldes@gmail.com; imolina@fedalcaldes.com; crivera@fedalcaldes.com; LCSchwartz@lbl.gov; thomas@fundacionborincana.org; cathykunkel@gmail.com; joseph.paladino@hq.doe.gov; adam.hasz@ee.doe.gov; Sergio.Gonsales@patternenergy.com; energiaverdepr@gmail.com; Arnaldo.serrano@aes.com; gustavo.giraldo@aes.com; accounting@everstreamcapital.com; mgrpcorp@gmail.com; jczayas@landfillpr.com; auriarte@newenergypr.com; Jeanna.steele@sunrun.com; mildred@liga.coop; rodrigomasses@gmail.com; presidencia-secretarias@seguros multiples.com. I also certify that today, April 8, 2021, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today April 8, 2021.


Sonia Seda Gaztanbide
Clerk



ATTACHMENT A

The following shall apply to all discovery requests and corresponding responses:

1. Any information requirement, request for production of documents or any other discovery requirement must be sent in a **searchable portable document format** (i.e., PDF) via email to the party to whom the request is made. Parties need not file a physical copy of the discovery request with the Energy Bureau's Clerk.
2. All discovery requests shall be sent via email by the requesting party's authorized representative to the Energy Bureau and to the email in record of each intervenor. It will not be necessary for a discovery request to include the signature of the requesting party's authorized representative. Parties may use electronic signatures when sending such documents.
3. When answering any discovery request, the responding party shall notify its responses to the requesting party, all other intervenors and to the Energy Bureau via email. Responses to any discovery request must be filed in a **searchable** PDF, unless the filed document native nature does not support a PDF filing (e.g., Excel Files). All answers must be notified by the responding party's authorized representative. All Excel files or files with similar format, shall be submitted in native form with formulae intact.
4. If, due to its size, a document cannot be sent via email, the responding party shall deliver it to the requesting party, all other intervenors, and to the Energy Bureau, using a portable drive (e.g., USB memory stick) or a cloud-based storage service (e.g., Dropbox, OneDrive, Google Drive, etc.).
5. With the purpose of easing the discovery process, the Energy Bureau has determined to exempt all parties in the instant proceeding from the requirement that all answers to a discovery request be physically signed and notarized.
6. Each discovery response must clearly identify the person providing the answer to each question or requirement and include a certification regarding that, to the best of his/her knowledge, all answers provided are true and correct and none of the information provided is willingly misleading.
7. Physical copies of responses to discovery request need not be filed with the Energy Bureau's Clerk.
8. Should any party claim confidential treatment of the information provided in response to a discovery request, or a portion thereof, said party shall follow the guidelines set forth by the Energy Bureau in its August 31, 2016 Resolution, Case No. CEPR-MI-2016-0009, as amended.
9. All emails sent to the Energy Bureau shall be sent to all three (3) of the following addresses: secretaria@jrsp.pr.gov, legal@jrsp.pr.gov and viacaron@jrsp.pr.gov.

