

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

**IN RE: REVIEW OF LUMA'S INITIAL
BUDGETS**

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Determination on LUMA's Request for Confidential Designation and Treatment to Portions of Attachment D of the Initial Budget.

RESOLUTION AND ORDER

On February 24, 2021, LUMA ENERGY, LLC as ManagementCo, and LUMA ENERGY SERVCO, LLC as ServCo (collectively, "LUMA") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Petition for Approval of Initial Budgets and Related Terms of Service* ("February 24 Petition") in compliance with Section 6.22(a)(2) of Act 57-2014.

On February 24, 2021, LUMA also submitted a document titled *Request to Submit Portions of Appendix D of the Initial Budget Confidential and Memorandum of Law in Support Thereof* ("Request of Confidential Treatment"). As part of its filing, LUMA requested confidential designation and treatment for portion of Appendix D of the Initial Budgets. LUMA alleged that portions of Appendix D contain information that qualifies as sensitive commercial information and trade secrets under Act 80-2011¹ and Critical Energy Infrastructure Information ("CEII") under federal law,² which is also protected under Puerto Rico law.³ For these reasons, LUMA requested the Energy Bureau to grant confidential designation and treatment to the referred portions of Attachments D.

LUMA supported many of its confidentiality requests with allegations that it is sensitive commercial information. Specifically, LUMA alleged that Sections 3.1 3.2 and 3.3 of Appendix D, which contain estimated expenditures, program resources requirements and assumptions on costs, that should be kept confidential to secure the orderly conduct of future competitive procurement processes and to avoid granting unfair advantages to suppliers and/or potential proponents of bidders.⁴ Table 1 below details the portions of Appendix D for which LUMA requested confidential designation and treatment:

¹ Known as the *Law for the Protection of Commercial and Industrial Secrets of Puerto Rico*, as amended.

² See 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.

³ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

⁴ See Request of Confidential Treatment, pp. 7-8 and 17-18.



Table 1: LUMA's Request for Confidential Information Designation and Treatment

Document	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
Appendix D Initial Budgets	Sections 3.1, 3.2 and 3.3 Pages: 95, 104, 107, 112, 113, 117, 121, 124, 125, 128, 129, 133, 140, 141, 142, 146, 147, 150, 151, 156, 161, 169, 170, 174, 175, 180, 181, 185, 186, 189, 190, 198, 199, 203, 204, 208, 211, 212, 219, 220, 223, 224, 227, 231, 232, 235, 242, 243, 246, 247, 250, 251, 254, 259, 262, 271, 277, 278, 283, 284, 290, 291, 296, 297, 301, 302, 306, 307, 311, 312, 317, 318, 325, 326, 331, 336, 344, 347, 360, 361, 366, 372, 379, 386, 393, 400, 405, 408, 412, 413, 417, 418, 423, 426, 427, 433, 434, 437, 438, 444, 450, 453, 454, 457, 458, 461, 462, 465, 466.	Sensitive Commercial Information and Trade Secrets under Act 80- 2011
Appendix D Initial Budgets Critical Energy Management System Upgrades	Sections 2.1 -2.6 Pages 244 -247	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674
Appendix D Initial Budget Critical Energy Management & Load Generation Balancing	Sections 2.1 -2.6 Pages 256-259	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674
Appendix D Initial Budgets Control Center Construction & Refurbishment	Sections 2.1 -2.6 Pages 248-250	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674
Appendix D Initial IT Telecom Systems & Networks	Sections 2.1 -2.6 Pages 164-170	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674
Appendix D Initial Budgets IT OT Cybersecurity Program	Sections 2.1 -2.6 Pages 374-379	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674
Appendix D Initial Budgets Physical Security for Distribution Facilities	Sections 2.1 -2.6 Pages 225-227	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674



Document	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
Appendix D Initial Budgets Regional & Technical Facilities Security	Sections 2.1 -2.6 Pages 233-234	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674
Appendix D Initial Budgets Warehouse Security	Sections 2.1-2.6 Pages 260-262	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674
Appendix D Initial Budgets Transmission Substation Security	Sections 2.1-2.6 Pages 209-211	Critical Energy Infrastructure Information 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674

Act 57-2014⁵ establishes that any person having the obligation to submit information to the Energy Bureau, can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.⁶ Specifically, Act 57-2014 requires the Energy Bureau to treat as confidential the submitted information provided that “the Energy Bureau, after the appropriate evaluation, believes such information should be protected”.⁷ In such case, the Energy Bureau “shall grant such protection **in a manner that least affects the public interest, transparency,** and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.”⁸

Upon review of LUMA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the portions of Attachment D as described in Table 2 below, pursuant to the provisions of Article 6.15 of Act 57-2014.

Table 2: Designated Confidential Information

Document	Sections Granted Confidentiality	Basis for Protection
Appendix D Initial Budgets IT OT Telecom Systems & Networks	Sections 2.1-2.6 Pages 164-170	Critical Energy Infrastructure Information
Appendix D Initial Budgets Transmission Substation Security	Sections 2.1-2.6 Pages 209-212	Critical Energy Infrastructure Information

⁵ *Id.*

⁶ Section 6.15 of Act 57-2014.

⁷ *Id.*

⁸ *Id.* (Emphasis added).



Document	Sections Granted Confidentiality	Basis for Protection
Appendix D Initial Budgets Physical Security for Distribution Facilities	Sections 2.1-2.6 Pages 225-226	Critical Energy Infrastructure Information
Appendix D Initial Budgets Regional & Technical Facilities Security	Sections 2.1-2.6 Pages 233-234	Critical Energy Infrastructure Information
Appendix D Initial Budgets Critical Energy Management System Upgrades	Sections 2.1-2.6 Pages 244 -246	Critical Energy Infrastructure Information
Appendix D Initial Budgets Control Center Construction & Refurbishment	Sections 2.1-2.6 Pages 248-250	Critical Energy Infrastructure Information
Appendix D Initial Budget Critical Energy Management & Load Generation Balancing	Sections 2.1-2.6 Pages 256-259	Critical Energy Infrastructure Information
Appendix D Initial Budgets Warehouse Security	Sections 2.1-2.6 Pages 260-261	Critical Energy Infrastructure Information
Appendix D Initial Budgets IT OT Cybersecurity Program	Sections 2.1-2.6 Pages 374-379	Critical Energy Infrastructure Information

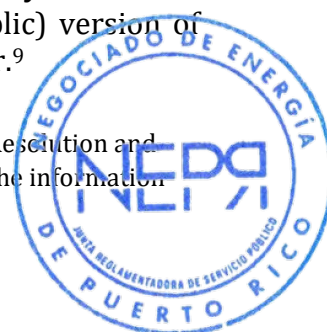
The Energy Bureau **DETERMINES** that the portions of Appendix D, as described in Table 3 below, will not be treated as confidential information.

Table 3: Designated Public Information

Document	Sections
Appendix D Initial Budgets	Sections 3.1, 3.2 and 3.3 Pages: 95, 104, 107, 112, 113, 117, 121, 124, 125, 128, 129, 133, 140, 141, 142, 146, 147, 150, 151, 156, 161, 169, 170, 174, 175, 180, 181, 185, 186, 189, 190, 198, 199, 203, 204, 208, 211, 212, 219, 220, 223, 224, 227, 231, 232, 235, 242, 243, 246, 247, 250, 251, 254, 259, 262, 271, 277, 278, 283, 284, 290, 291, 296, 297, 301, 302, 306, 307, 311, 312, 317, 318, 325, 326, 331, 336, 344, 347, 360, 361, 366, 372, 379, 386, 393, 400, 405, 408, 412, 413, 417, 418, 423, 426, 427, 433, 434, 437, 438, 444, 450, 453, 454, 457, 458, 461, 462, 465, 466.


The Energy Bureau **ORDERS** LUMA to submit, within **two (2) days** from the notification date of this Resolution and Order, a revised redacted (*i.e.*, public) version of Attachment D, in accordance with the provisions of this Resolution and Order.⁹

⁹ The commencement of the proceedings as per the Procedural Calendar established in the Resolution and Order issued and notified on April 20, 2021 in the instant case is based on the premise that the information



The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014¹³ and applicable Energy Bureau's regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

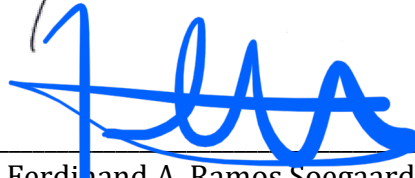
Be it notified and published.



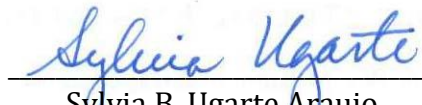
Edison Avilés Deliz
Chairman



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 21, 2021. Associate Commissioner Ángel R. Rivera de la Cruz dissented without a written opinion. I also certify that on April 21, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com, kbolanos@diazvaz.law and jmarrero@diazvaz.law. I also certify that today, April 21, 2021, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today April 21, 2021.



Sonia Seda Gaztambide
Clerk

determined by the Energy Bureau as public in this Resolution and Order is made available to the public on or before April 26, 2021.

