

**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: Request to Submit Portions of LUMA's Responses to Requests for Information Confidentially, and Memorandum of Law in Support Thereof.

RESOLUTION AND ORDER

On April 12, 2021, LUMA ENERGY, LLC as ManagementCo, and LUMA ENERGY SERVCO, LLC as ServCo (collectively, "LUMA") submitted before the Puerto Rico Energy Bureau ("Energy Bureau") a document titled *Motion in Compliance with Resolution and Order of April 5, 2021 and Submitting Responses to Requests for Information* ("April 12 Compliance Motion"). The April 12 Compliance Motion, LUMA includes the supporting material identified by the Energy Bureau as needed to adequately conduct its evaluation and proposes an alternative to address its inability to secure the Generation Budget from PREPA in a timely manner.

On April 13, 2021, LUMA filed a motion titled *Request to Submit Portions of LUMA's Responses to Requests for Information Confidentially, and Memorandum of Law in Support Thereof* ("Request for Confidential Treatment"), in the instant case. The Request for Confidential Treatment was submitted in compliance with the Resolution and Order issued by the Energy Bureau on April 5, 2021 ("Request for Information"). As part of its filing, LUMA requested confidential designation and treatment for several attachments or portions of LUMA's response to the Request for Information.

In the Request for Confidential Treatment, LUMA alleges that several attachments or portions of the response to the Request for Information, include: confidential information in the form of critical energy infrastructure information or critical electric infrastructure information ("CEII") that garners protection from public disclosures pursuant to federal statutes and regulations;¹ sensitive commercial information and trade secrets under Act 80-2011;² confidential information that LUMA received from the Puerto Rico Electric Power Authority ("PREPA") pursuant to Section 13.2 (a) of the Operation and Management

¹ 6 U.S.C. §§ 671-674; 18 C.F.R. §388.113 (2020).

² Known as the *Law for the Protection of Commercial and Industrial Secrets of Puerto Rico*, as amended.



Agreement ("OMA")³ and the Energy Bureau policy on management of confidential information,⁴ that therefore is also protected under Puerto Rico law. For these reasons, LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred attachments or portions of the Responses to Requests for Information. Table 1 below details the attachment or portions of the Responses to Requests for Information which LUMA requested confidential designation and treatment:

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

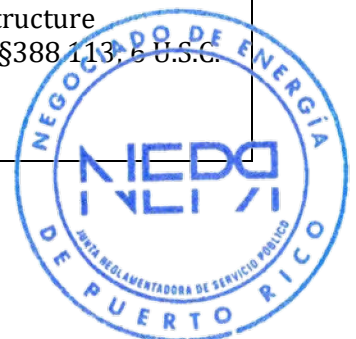
Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
IB01 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-0004- 210405-PREB-001- Attachment 1	Excel	Tab 2	PREPA Confidential Information. Sections III C of this Memorandum shows that the specified portions of RFI- LUMA- MI-21-0004- 210405-PREB-001- Attachment 1 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
IB02 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-0004- 210405-PREB-002- Attachment 1	Excel	Entire Document **	PREPA Confidential Information Section III C of this Memorandum shows that the specified portions of RFI- LUMA- MI-21-0004- 210405-PREB-002- Attachment 1 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
IB03 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-0004- 210405-PREB-003- Attachment 1	Excel	Entire Document **	PREPA Confidential Information Section III C of this Memorandum shows that the specified portions of RFI- LUMA- MI-21-004- 210405-PREB-003 Attachment 1 includes PREPA proprietary

³ See Request to Submit Portions of LUMA's Responses to Requests for Information Confidentially and Memorandum of Law in Support Thereof, page 11.

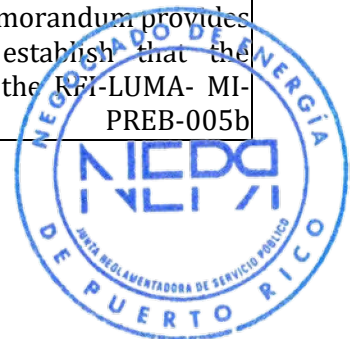
⁴ See Resolution, In re: Policy on Management of Confidential Information in Procedures before the Commission, Case No. CEPR- MI-2016-0009, issued on August 31, 2016.



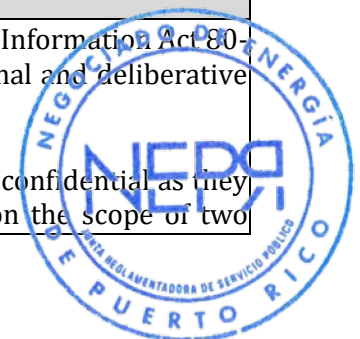
Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
			information subject to confidential treatment pursuant to the OMA.
RFI-LUMA- MI-210405- PREB-003- Attachment 2	PDF	One Page	PREPA Confidential Information Section III C of this Memorandum shows that the specified portions of RFI- LUMA-MI-210405- PREB-003- Attachment 2 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
RFI-LUMA- MI-21-004- 210405-PREB-003- Attachment 3	Excel	Entire Document **	PREPA Confidential Information Section III C of this Memorandum shows that the specified portions of RFI- LUMA-MI-210405- PREB-003- Attachment 3 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
RFI-LUMA- MI-21-004- 210405-PREB-003- Attachment 4	PDF	Pages 1-17	PREPA Confidential Information Section III C of this Memorandum shows that the specified portions of RFI- LUMA-MI-210405- PREB-003- Attachment 4 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
IB04 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-004- 210405-PREB-004	PDF	Table at Page One of Response	PREPA Confidential Information Section III C of this Memorandum shows that the specified portions of RFI- RFI-LUMA-MI-21- 004-210405-PREB-004 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
IB05 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-0004- 210405-PREB-005a Attachment 1 (GAP Assessment)	PDF	Pages 33-36; Pages 60-63; Pages 65-80; Pages 127- 131; Pages 164-168; Pages 182- 187;	Critical Energy Infrastructure Information 18 C.F.R. §388.113, 6 U.S.C. §§ 671- 674



Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
		Pages 383-399; Pages 400- 413; Pages 672-673	Section III B of this Memorandum provides the legal basis to establish that the specified sections of the RFI-LUMA-MI-21-0004-210405- PREB-005a Attachment 1 includes confidential information.
RFI-LUMA- MI-21-0004- 210405-PREB-005b Attachment 1 (Distribution Line Inspection Checklist)	PDF	Entire Document **	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674 and Sensitive Commercial Information under Act 80- 2011 Section III B of this Memorandum provides the legal basis to establish that the specified sections of the RFI-LUMA-MI-21-0004-210405- PREB-005b Attachment 1 includes confidential information. These are hand- written notes that also contain confidential, original work product, and sensitive assessments by LUMA personnel not disclosed to the public.
RFI-LUMA- MI-21-0004- 210405-PREB-005b Attachment 2	Excel	Entire Document **	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674 Section III B of this Memorandum provides the legal basis to establish that the specified sections of the RFI-LUMA-MI-21-0004-210405- PREB-005b Attachment 2 includes confidential information.
RFI-LUMA- MI-21-0004- 210405-PREB-005b Attachment 3 (Substation Inspection Checklist)	PDF	Entire Document **	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674 and Sensitive Commercial Information under Act 80- 2011 Section III B of the Memorandum provides the legal basis to establish that the specified sections of the RFI-LUMA- MI-21-0004-210405- PREB-005b



Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
			Attachment 3 includes confidential information. These are hand- written notes that also contain confidential, original work product, and sensitive assessments by LUMA personnel not disclosed to the public.
RFI-LUMA- MI-21-0004- 210405-PREB-005b Attachment 4 (Transmission Substations)	Excel	Entire Document **	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674 Section III B of this Memorandum discusses provides the legal basis to establish that the specified sections of the RFI-LUMA-MI- 21-0004-210405- PREB-005b Attachment 4 includes confidential information.
RFI-LUMA- MI-21-0004- 210405-PREB-005b Attachment 5 (Distribution Substations)	Excel	Entire Document **	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674 Section III B of this Memorandum discusses provides the legal basis to establish that the specified sections of the RFI-LUMA-MI- 21-0004-210405- PREB-005b Attachment 5 includes confidential information.
RFI-LUMA- MI-21-0004- 210405-PREB-005d Attachment 3 (Generation Team Plant Assessment)	PDF	Pages 3-30	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674 Section III B of the Memorandum discusses provides the legal basis to establish that the specified sections of the RFI-LUMA-MI- 21-0004-210405- PREB-005d Attachment 3 includes confidential information.
IB07 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-0004- 210405-PREB-007 Attachment 1 and Attachment 2		Entire Documents Confidential**	Sensitive Commercial Information Act 80-2011 and pre decisional and deliberative working documents. These documents are confidential as they include information on the scope or two



Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
(Federally Funded Procurement Manual and Non-Federally Funded Procurement Manual)			working documents that LUMA has not disclosed to the public as they are still under consideration and undergoing revisions. These are confidential drafts and works in progress that have not been disclosed.
IB08 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-0004- 210405-PREB-008	PDF	Schedule at Page 5	Sensitive Commercial Information and Trade Secrets under Act 80- 2011 Section III C of this Memorandum shows that the specified portions of RFI- RFI-LUMA-MI-21- 0004-210405-PREB- 008 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
RFI-LUMA- MI-21-0004- 210405-PREB-008 Attachment 1	Excel	Entire Document **	PREPA Confidential Information Section III C of this Memorandum shows that the specified portions of RFI- RFI-LUMA-MI-21- 0004-210405-PREB- 008 Attachment 1 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.
IB09 CONFIDENTIAL INFORMATION			
RFI-LUMA- MI-21-0004- 210405-PREB-009 Attachment 1	Excel	Entire Document **	Sensitive Commercial Information and Trade Secrets under Act 80- 2011 Section III A of this Memorandum shows that the specified portions of RFI-LUMA-MI-21- 0004-210405-PREB- 009 Attachment 1 includes information for: (i) acquisition of goods and services, (ii) LUMA original supporting work papers and work product with estimations, methods, and assumptions on future acquisitions, and (iii) and expenditure categories by year, that may provide unfair advantages to suppliers or proponents and could harm the public interest.



Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
RFI-LUMA- MI-21-0004- 210405-PREB-009 Attachment 2	Excel	Entire Document **5	Sensitive Commercial Information and Trade Secrets under Act 80- 2011 Section III A of this Memorandum shows that the specified portions of RFI-LUMA-MI-21- 0004-210405-PREB- 009 Attachment 2 includes information for: (i) acquisition of goods and services, (ii) LUMA original supporting work papers and work product with estimations, methods, and assumptions, and (iii) and expenditure categories by year, that may provide unfair advantages to suppliers or proponents and could harm the public interest.

Act 57-2014⁶ 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.⁷ 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”.⁸ 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.”⁹

Upon review of LUMA’s arguments and the applicable law, the Energy Bureau **GRANTS** confidential designation and treatment to the attachments or portions of the Responses to the Request for Information, as describe in the Table 2 below, pursuant to Article 6.15 of Act 57-2014.

⁵ Regarding all the documents identified above with the ** symbol, LUMA states that it is impractical and/or not feasible to redact these documents due to their formatting and/or because their entire contents are confidential. Therefore, LUMA requests that the Energy Bureau accept the confidential unredacted version of these documents and that the same be kept confidential.

⁶ Known as the *Energy Transformation and RELIEF Act*, as amended.

⁷ Section 6.15 of Act 57-2014, as amended.

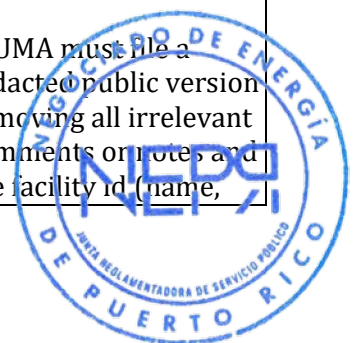
⁸ *Id.*

⁹ *Id.* (Emphasis added).

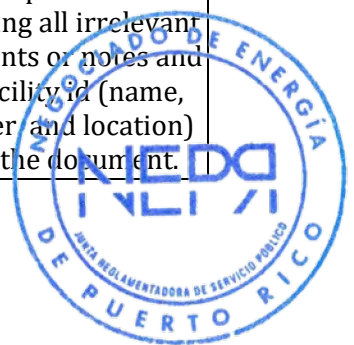


Table 2: Designated Confidential Information

Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection	Energy Bureau Determination
IB02 CONFIDENTIAL INFORMATION				
RFI-LUMA- MI-21-0004-210405-PREB- 002- Attachment 1	Excel	Only the Excel file in native form is confidential	PREPA Confidential Information	Grants Confidential Designation and Treatment *LUMA must file a redacted public version removing all irrelevant comments or notes and the facility id (name, number, and location) from the document.
IB03 CONFIDENTIAL INFORMATION				
RFI-LUMA- MI-21-004-210405-PREB- 003- Attachment 1	Excel	Only the Excel file in native form is confidential	PREPA Confidential Information	Grants Confidential Designation and Treatment.
IB02 CONFIDENTIAL INFORMATION				
RFI-LUMA- MI-21-0004-210405-PREB- 002- Attachment 1	Excel	Only the Excel file in native form is confidential	PREPA Confidential Information	Grants Confidential Designation and Treatment to excel file. *LUMA must file a redacted public version removing all irrelevant comments or notes and the facility id (name, number, and location) from the document.
IB03 CONFIDENTIAL INFORMATION				
RFI-LUMA- MI-21-004-210405-PREB- 003- Attachment 1	Excel	Entire Document **	PREPA Confidential Information	Grants Confidential Designation and Treatment to excel file. *LUMA must file a redacted public version removing all irrelevant comments or notes and the facility id (name,



Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection	Energy Bureau Determination
				number, and location) from the document.
IB05 CONFIDENTIAL INFORMATION				
RFI-LUMA- MI-21-0004-210405-PREB- 005a Attachment 1 (GAP Assessment)	PDF	Pages: 33-36; 60-63;65-80; 127- 131; 164-168; 182-187; 383-399; 400- 413; 672-673.	Critical Energy Infrastructure Information	Grants Confidential Designation and Treatment.
RFI-LUMA- MI-21-0004-210405-PREB- 005b Attachment 1 (Distribution Line Inspection Checklist)	PDF	Entire Document **	Critical Energy Infrastructure Information and Sensitive Commercial Information	Grants Confidential Designation and Treatment. *LUMA must file a redacted public version removing all irrelevant comments or notes and the facility id (name, number, and location) from the document.
RFI-LUMA- MI-21-0004-210405-PREB- 005b Attachment 3 (Substation Inspection Checklist)	PDF	Entire Document **	Critical Energy Infrastructure Information and Sensitive Commercial Information under	Grants Confidential Designation and Treatment. *LUMA must file a redacted public version removing all irrelevant comments or notes and the facility id (name, number, and location) from the document.
RFI-LUMA- MI-21-0004-210405-PREB- 005b Attachment 4 (Transmission Substations)	Excel	The Excel file in native form is confidential, must submit PDF version for the public	Critical Energy Infrastructure Information	Grants Confidential Designation and Treatment. * LUMA must file a redacted public version removing all irrelevant comments or notes and the facility id (name, number, and location) from the document.



Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection	Energy Bureau Determination
RFI-LUMA- MI-21-0004-210405-PREB- 005b Attachment 5 (Distribution Substations)	Excel	The Excel file in native form is confidential, must submit PDF version for the public	Critical Energy Infrastructure Information	Grants Confidential Designation and Treatment. * LUMA must file a redacted public version removing all irrelevant comments or notes and the facility id (name, number, and location) from the document.
RFI-LUMA- MI-21-0004-210405-PREB- 005d Attachment 3 (Generation Team Plant Assessment)	PDF	Pages 3-30	Critical Energy Infrastructure Information	Grants Confidential Designation and Treatment.
IB09 CONFIDENTIAL INFORMATION				
RFI-LUMA- MI-21-0004-210405-PREB- 009 Attachment 1	Excel	Entire document	Sensitive Commercial Information and Trade Secrets	Grants Confidential Designation and Treatment.
RFI-LUMA- MI-21-0004-210405-PREB- 009 Attachment 2	Excel	Entire Document	Sensitive Commercial Information and Trade Secrets	Grants Confidential Designation and Treatment.

The Energy Bureau **DETERMINES** that the attachments or portions of the Responses to the Request for Information, as described in Table 3 below, will not be treated as confidential information.



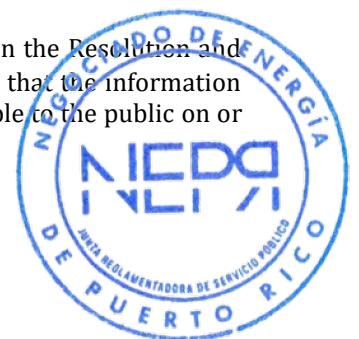
Table 3: Designated Public Information

Document	Sections
RFI-LUMA- MI-21-0004- 210405-PREB- 001- Attachment 1	Excel Table 2
RFI-LUMA- MI-21-0004- 210405-PREB- 002- Attachment 1	The part of the document that is not in Excel
RFI-LUMA- MI-210405- PREB-003- Attachment 2	PDF - One Page
RFI-LUMA- MI-21-004- 210405-PREB- 003- Attachment 3	Excel – Entire document
RFI-LUMA- MI-21-004- 210405-PREB- 003- Attachment 4	PDF including pages 1-17
RFI-LUMA- MI-21-004- 210405-PREB- 004	PDF - Table at Page One of Response
RFI-LUMA- MI-21-0004- 210405-PREB- 005b Attachment 2	Excel - Entire document
RFI-LUMA- MI-21-0004- 210405-PREB- 007 Attachment 1 and Attachment 2 (Federally Funded Procurement Manual and Non-Federally Funded Procurement Manual)	Entire Documents
RFI-LUMA- MI-21-0004- 210405-PREB- 008	PDF – Schedule at Page 5
RFI-LUMA- MI-21-0004- 210405-PREB- 008 Attachment 1	Excel – Entire document


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 attachments or portions of the Responses to the Request for Information, in accordance with this Resolution and Order.¹⁰

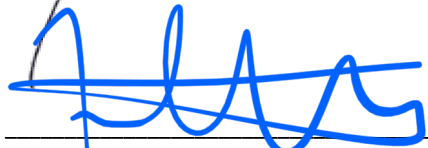
The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines under Act 57-2014 and applicable Energy Bureau's regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.

¹⁰ 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 determined by the Energy Bureau as public in this Resolution and Order is made available to the public on or before April 26, 2021.

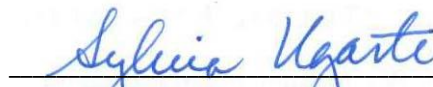


Be it notified and published.


Edison Avilés Deliz
Chairman


Ferdinand A. Ramos Soegaard
Associate Commissioner


Lillian Mateo Santos
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 did not intervene. 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

