

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

**IN RE: REVIEW OF T&D OPERATOR'S
SYSTEM OPERATION PRINCIPLES**

CASE NO.: NEPR-MI-2021-0001

SUBJECT: Determination on LUMA's Request for Confidential Designation and Treatment to the Responses of the Request for Information number 2 and of several attachments of LUMA's responses to ROI number 10 and 11.

RESOLUTION AND ORDER

I. Introduction

On February 25, 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 *LUMA's Submittal and Request for Approval of System Operation Principles* ("SOP Petition") in compliance with Section 6.22 of Act 57-2014.

On April 6, 2021, the Energy Bureau issued a Resolution and Order determining that: the SOP Petition was incomplete. Consequently, the Energy Bureau ordered LUMA to, on or before ten (10) days from the notification of the Resolution and Order: (i) provide the information identified in Attachment A of the Resolution and Order; and (ii) modify Exhibit 1 of the SOP Petition accordingly.¹

On April 15, 2021 LUMA filed a document titled *Motion in Compliance with Resolution and Order of April 6, 2021 and Submitting Responses to Requests for Information* ("Compliance Motion") through which LUMA provided its responses to the Requests for Information issued by the Energy Bureau and several documents which LUMA identified as attachments to its responses.

On April 15, 2021, LUMA also submitted a document titled *Request to Submit Portions of LUMA'S Responses to Request for Information Confidentially, and Memorandum of Law in Support Thereof* ("Request of Confidential Treatment"). As of the Request of Confidential Treatment, LUMA asked for confidential designation and treatment of LUMA's Response to

¹ The Energy Bureau established that it would commence the evaluation of the SOP Petition once LUMA files the information identified in Attachment A of the Resolution and Order and the Bureau determines the same is complete.



Request for Information (“ROI”) number 2 and of several attachments of LUMA’s responses to ROI number 10 and 11.

In the Request for Confidential Treatment, LUMA alleged that the Responses to the ROI number 2 and of several attachments of LUMA’s responses to ROI number 10 and 11 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;² sensitive commercial information and trade secrets under Act 80-2011;³ confidential information that LUMA received from the Puerto Rico Electric Power Authority (“PREPA”) pursuant to Section 13.2 (a) of the Operating Management Agreement (“OMA”)⁴ and the Energy Bureau policy on management of confidential information,⁵ that therefore is also protected under Puerto Rico law.⁶ For these reasons, LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred 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	Summary of Reasons Why Each Claim Conforms to Legal Basis for Confidentiality
RFI-LUMA- MI-21-0001-210406- PREB-002	PDF	Response	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674	Section III A of this Memorandum discusses provides the legal basis to establish that the specified sections of the RFI-LUMA-MI-21-0001-210406-PREB-002 includes confidential information.

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


³ Known as the *Law for the Protection of Commercial and Industrial Secrets of Puerto Rico*, as amended.

⁴ See *Request to Submit Portions of LUMA’s Responses to Requests for Information Confidentially, and Memorandum of Law in Support Thereof*, page 11.

⁵ See Resolution in case No. CEPR- MI-2016-0009, issued on August 31, 20216.

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



 RFI-LUMA- MI-21-0001-210406- PREB-010 Attachment 1	Excel	Entire Document **	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674	Section III A of this Memorandum discusses provides the legal basis to establish that the specified sections of the RFI-LUMA-MI-21-0001-210406-PREB- 0010 includes confidential information.
RFI-LUMA- MI-21-004-210406- PREB-011- Attachment 1	PDF	Pages 3-30	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671- 674. PREPA Confidential Information	Section III A of this Memorandum discusses provides the legal basis to establish that the specified sections of the RFI-LUMA-MI-21-0001-210406-PREB-011 includes confidential information. Sections III B of this Memorandum shows that the specified portions of RFI-LUMA-MI-21-004- 210406-PREB-011- Attachment 1 includes PREPA proprietary information subject to confidential treatment pursuant to the OMA.

** It is impractical or not feasible to redact this document due to formatting and/or because its entire contents are confidential. It is requested that the Bureau accept the confidential unredacted version of this document and that it is kept confidentially.

Act 57-2014⁷ 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.⁸ 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”.⁹ 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.”¹⁰

⁷ *Id.*

⁸ Section 6.15 of Act 57-2014.

⁹ *Id.*

¹⁰ *Id.* (Emphasis added).



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

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
RFI-LUMA- MI-21-0001-210406- PREB-010 Attachment 1	Excel	The Excel File in native form is confidential, must submit a Pdf version for the public	Critical Energy Infrastructure Information (Transmission Substations)	Grants partial Confidential Designation and Treatment *LUMA must file a redacted public version removing all irrelevant comments and/or notes and the facility id (name, number, and location) from the document.
RFI-LUMA- MI-21-004-210406- PREB-011- Attachment 1	PDF	Pages 3-30	Critical Energy Infrastructure Information (Generation Team Plant Assessment)	Grants Confidential Designation and Treatment

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

Table 3: Designated Public Information

Document	Document Type	Sections	Energy Bureau Determination for public access
RFI-LUMA- MI-21-0001- 210406- PREB-002	PDF	Entire Response	Does not state or identify Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674. It describes in general terms its planned EMS.

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 the Responses to the Request for Information, in accordance with the provisions of this Resolution and Order.



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.

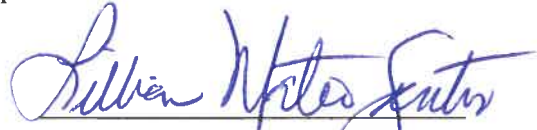
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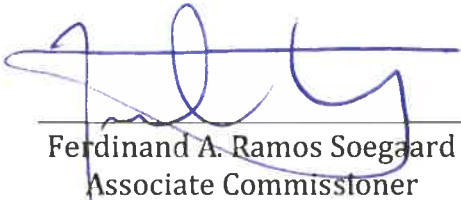
Edison Avilés Deliz
Chairman



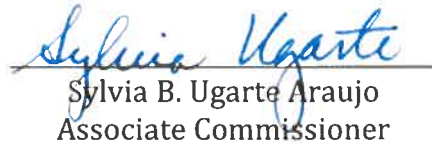
Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner

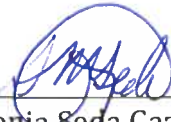


Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on May 3, 2021. I also certify that on May 3, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: kbolanos@diazvaz.law, jmarrero@diazvaz.law and margarita.mercado@us.dlapiper.com. I also certify that today, May 3, 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 May 3, 2021.



Sonia Seda Gaztambide
Clerk

