

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

<b>NEPR</b>  <b>Received:</b>  <b>May 13, 2021</b>  <b>5:40 PM</b>
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**IN RE:**

THE PERFORMANCE TARGETS FOR  
LUMA ENERGY SERVCO, LLC

**CASE NO.:** NEPR-AP-2020-0025

**SUBJECT:** Request for Clarification and to Re-Schedule Proceedings.

**REQUEST FOR CLARIFICATION AND TO RE-SCHEDULE PROCEEDINGS  
PENDING FINAL RESOLUTION AND ADJUDICATION OF LUMA'S PARTIAL  
MOTION FOR RECONSIDERATION IN CASE NEPR-MI-2019-0007**

**TO THE PUERTO RICO ENERGY BUREAU:**

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

1. This honorable Puerto Rico Energy Bureau (“Bureau”) initiated the captioned proceeding on December 23, 2021, through a Resolution and Order indicating that it would establish Performance Incentive Mechanisms (“PIMs”) applicable to LUMA (“December 23<sup>rd</sup> Performance Targets Order”).
2. In the December 23<sup>rd</sup> Performance Targets Order, the Bureau advised that the instant proceeding was initiated pursuant to the Resolution and Order issued on December 23, 2020 in a separate and parallel proceeding, Case No. NEPR-2019-0007 (“Baseline Proceeding”). *See* December 23<sup>rd</sup> Performance Targets Order”) at page 5. The Bureau explained that the Baseline Proceeding was initiated “to establish the baseline (i.e., PREPA’s current performance) and the targets or minimum compliance benchmarks with which [...] Puerto Rico’s electric system should comply.” *Id.* at 3. Furthermore, the Bureau stated the performance baseline and compliance

benchmarks to be determined in the Baseline Proceeding would be “subsequently used . . . to establish the *corresponding targets* to be applicable to certified electric service companies –such as LUMA.” *Id.* (emphasis added).

3. On December 23, 2020, the Bureau also issued an order in the Baseline Proceeding to set performance baselines for Puerto Rico’s electric system, Case No. NEPR-MI-2019-0007. The Bureau established that those performance baselines and benchmarks would be used to “develop the corresponding targets to be applied to certified electric service companies such as LUMA.” *See* December 23<sup>rd</sup> Order, Baseline Proceeding, at page 5.
4. As the case docket of the Baseline Proceeding shows, LUMA submitted three filings whereby it addressed the Bureau’s data on PREPA’s baselines, presented proposed performance baselines and metrics and provided an initial assessment on compliance benchmarks. *See* LUMA’s Motions and Exhibits filed on January 29, 2021 and February 5, 2021, Case No. NEPR-MI-2019-0007 and amended submission of February 8, 2021. Per the procedural calendar that the Bureau set in the Baseline Proceeding, on February 19, 2021, LUMA filed a reply to the comments that were filed for the record on performance baselines and compliance benchmarks (“LUMA’s February 19<sup>th</sup> Reply”). *See* Exhibit 1 to LUMA’s February 19<sup>th</sup> Reply. LUMA also filed proposed Major Outage Events Performance Metrics. *See* Exhibit 1 Appendix C to LUMA’s Reply. A Technical Conference was held on February 22, 2021 to discuss the comments and replies that had been filed. LUMA and PREPA each presented summaries of their comments and answered questions from Commissioners.

5. On February 25, 2021, LUMA filed a Petition requesting that the Bureau approve the revised Annex IX to the OMA that includes LUMA's proposed Performance Metrics Targets ("Request for Approval of a Revised Annex IX to the OMA").
6. On April 8, 2021, this Bureau issued a procedural calendar in this case to consider LUMA's Request for Approval of a Revised Annex IX to the OMA. Pursuant to the procedural calendar, among others, LUMA would file a revised Request for Approval of a Revised Annex IX to the OMA by May 14, 2021. LUMA understands that this order was issued dependent on and foreseeing that the Bureau would have issued a final order setting PREPA's baselines in the Baseline Proceeding.
7. On April 8, 2021, this honorable Bureau also issued a Resolution in the Baseline Proceeding ("April 8<sup>th</sup> Resolution and Order, Baseline Proceeding"). The April 8<sup>th</sup> Resolution and Order, Baseline Proceeding, included several determinations setting the prospective metrics to be reported by PREPA. Although the Bureau indicated that it was issuing determinations on PREPA's performance baselines, the substantive determinations include orders directing PREPA to report on new or additional performance metrics and setting the time-period for baselines. The Bureau, however, did not set the performance baselines or benchmarks that per the December 23<sup>rd</sup> Order, Baseline Proceeding, would be used to develop the corresponding targets to be applied to certified electric service companies such as LUMA.
8. As of the date of the filing of this Motion, this honorable Energy Bureau has not issued a final resolution and order setting PREPA's performance baselines as was established in the December 23<sup>rd</sup> Order, Baseline Proceeding and in the December 23<sup>rd</sup> Performance Targets Order.

9. On April 28, 2021, LUMA requested partial reconsideration of the April 8<sup>th</sup> Resolution and Order, Baseline Proceeding, that declined to set at this juncture, baselines for LUMA's proposed customer service metrics based on the J.D. Power Customer Satisfaction Surveys ("J.D. Power Surveys") ("Motion for Partial Reconsideration"). In support of the Motion for Partial Reconsideration, LUMA submitted as Exhibit 1, an update on the J.D. Power Surveys as well as proposed performance baselines that were set using the results of the J.D. Power Surveys. LUMA also requested reconsideration or clarification with respect to baseline periods set in the April 8<sup>th</sup> Resolution and Order, Baseline Proceeding.
10. At the time of the filing of this Motion, the honorable Bureau has not adjudicated LUMA's Motion for Partial Reconsideration, Baseline Proceeding.
11. Given the aforementioned procedural status of the Baseline Proceeding, considering that the Bureau has not issued a final resolution and order on PREPA's performance baselines, and given the pendency of LUMA's Motion for Partial Reconsideration, LUMA respectfully requests that the Bureau: (1) clarify whether it will issue a final resolution and order on PREPA's performance baselines in the Baseline Proceeding; and (2) re-schedule proceedings in this case until the Bureau clarifies if it will issue a final resolution and order in the Baseline Proceeding, issues the same and/or adjudicates LUMA's Motion for Partial Reconsideration.
12. It is respectfully submitted that LUMA is not currently in the position to revise its Request for Approval of a Revised Annex IX to the OMA and/or continue with the procedural calendar in this proceeding, until it receives notice whether the Bureau will issue a further or final resolution and order on PREPA's performance baselines in the Baseline Proceeding and/or until the Bureau adjudicates the Motion for Partial Reconsideration filed in the Baseline Proceeding.

13. It must be noted that the Motion for Partial Reconsideration filed in the Baseline Proceeding, has a direct impact in this proceeding given that the Request for Approval of a Revised Annex IX to the OMA includes the J.D. Power performance metric that is at the heart of LUMA's Motion for Partial Reconsideration.
14. Given the procedural course charted by the Bureau by which the final determination issued in the Baseline Proceeding would be used in the present case, interests of expediency and avoidance of duplication counsel in favor of rescheduling the procedural calendar in this proceeding until the Bureau issues a determination on LUMA's Motion for Partial Reconsideration and a clarification whether the Bureau intends to issue a final determination in the Baseline Proceeding setting PREPA's performance baselines.
15. LUMA respectfully suggests that the procedural calendar in this case be re-scheduled for later in June or July 2021, to allow the Bureau to issue the pending determinations in the Baseline Proceeding.

**WHEREFORE**, LUMA respectfully requests this Honorable Bureau to **consider** the aforementioned, **issue** the clarification requested at paragraph 11 of this Motion; and **reschedule** proceedings as requested in this Motion and within the Bureau's discretion.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 13<sup>th</sup> day of May 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](mailto:jmarrero@diazvaz.law); and Katuska Bolaños-Lugo, [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law).

Electronic notice of this Motion will also be sent to the Office of the Independent Consumer Protection Office, Lcda. Hannia Rivera Diaz, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov).

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