

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 Submission of Additional
Information Related to the Initial Budgets
Confidentially.

RESOLUTION AND ORDER

On April 20, 2021 the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order establishing the preliminary procedural calendar in the instant case and included a technical conference to be held on May 3, 4 and 5, 2021 ("April 20 Resolution"). The April 20 Resolution also directed that LUMA would have until May 7, 2021, to file additional information that the Energy Bureau could require during the technical conference. Also, during the technical conference the Energy Bureau issued bench orders to request written clarifications or additional information, and LUMA¹ representatives offered and requested leave to file additional information or responses regarding several topics.

On May 7, 2021, LUMA submitted before the Energy Bureau a document titled *Motion in Compliance with Order Submitting Additional Information and Supplemental Responses to Questions Posed in Technical Conference and Submitting Clarifications* ("Motion Submitting Additional Information"), in compliance with the April 20 Resolution and the Energy Bureau bench orders issued during the technical conference. LUMA sustains the Motion Submitting Additional Information included certain responses that are to be treated as confidential and as allowed by the Energy Bureau policy on management of confidential information,² LUMA will be submitting a separate memorandum of law in support of their request to file some the aforementioned documents under seal.

On May 14, 2021, LUMA submitted a motion titled *Memorandum of Law in Support of Request to Submit Portions of LUMA's Submission of Additional Information Related to the Initial Budgets Confidentially* ("Request of Confidential Treatment"). As part of its filing, LUMA requested confidential designation and treatment for several responses and an attachment of LUMA's responses to the Energy Bureau's bench requests.

¹ LUMA Energy, LLC (MangementCo"), and LUMA Energy ServCo, LLC ("ServCo"), (collectively referred as "LUMA").

² See Resolution in case No. CEPR- MI-2016-0009, issued on August 31, 20216.

In the Request of Confidential Treatment, LUMA alleges that several portions of the responses or attachments, include confidential information in the form of sensitive commercial information and trade secrets under Act 80-2011³ and under the Energy Bureau policy on management of confidential information,⁴ that is also protected under Puerto Rico law.⁵ LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred responses and attachment. Table 1 below details the attachments 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
TC-RFI- LUMA- MI- 21-0004- 210503- PREB- 010	PDF	One-page Response	LUMA Proprietary Confidential Information and Sensitive Commercial Information Protected under Section 13.2 of the OMA, under Act 80-2011 and Article 4 of Act 122-2019	Section III A of this Memorandum provides the legal basis to establish that the specified sections of the TC-RFI-LUMA- MI-21-0004- 210503-PREB- 010 includes confidential information.
TC-RFI- LUMA- MI- 21-0004- 210503- PREB- 013	PDF	Portions at Page 2	Sensitive Financial and Commercial Information Protected by Act 80-2011 and Article 4 of Act 122-2019.	Section III A of this Memorandum provides the legal basis to establish that the specified sections of the TC-RFI-LUMA- MI-21-0004- 210503-PREB- 013 includes confidential information.
TC-RFI- LUMA- MI- 21-0004- 210503-	Excel	5.2.1Operations, 5.2.1 Utility Transformation and	Sensitive Financial and Commercial Information Protected by Act 80-2011	Section III A of this Memorandum provides the legal basis to establish that the

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

⁴ See Resolution in case No. CEPR- MI-2016-0009, issued on August 31, 20216.

⁵ Known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.



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
PREB-013 Attachment 1		5.2.1. Support Services	and Article 4 of Act 122-2019.	specified sections of the TC-RFI-LUMA- MI-21-0004- 210503-PREB-013 Attachment 1 includes confidential information.

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 portions or attachments of responses of the Motion Submitting Additional Information, as describe in the Table 2 below, under 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
TC-RFI- LUMA-MI- 21-0004- 210503- PREB-013	PDF	Portions at Page 2	Sensitive Financial and Commercial Information The same information was designated and treated as confidential by the Energy Bureau in RFI-LUMA-21-0004-

⁶ *Id.*

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

⁸ *Id.*

⁹ *Id.* (Emphasis added).



Document	Document Type	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection
			210405-PREB-009 Attachment 2 of the instant case. (A redacted version has been filed with the Energy Bureau)
TC-RFI- LUMA-MI- 21-0004- 210503- PREB-013 Attachment 1	Excel	5.2.1 Operations, 5.2.1 Utility Transformation and 5.2.1. Support Services	Sensitive Financial and Commercial Information The same information was designated and treated as confidential by the Energy Bureau in RFI-LUMA-21-0004-210405-PREB-009 Attachment 2 of the instant case. (A redacted version has been filed with the Energy Bureau)

The Energy Bureau **DETERMINES** that the portions of the Responses to the Request for Information filed with the Motion Submitting Additional Information as described in Table 3 below, will not be designated or treated as confidential information. The Energy Bureau will publish such information under the August 31, 2016 Resolution in Case Number CEPR-MI-2016-0009, In Re: Policy on Management of Confidential Information Procedures Before the Commission, as amended by the September 20, 2016 Resolution in the same case.

Table 3: Designated Public Information

Document	Sections
TC-RFI- LUMA-MI- 21-0004- 210503- PREB-010	PDF – One-page response The information provided does not have Sensitive Financial and Commercial Information Protected by Act 80-2011 and Article 4 of Act 122-2019. It provides one sentence that is not a trade secret or commercially sensitive. LUMA must file an unredacted version of Response TC-RFI-LUMA-MI-0004-210503-PREB-010.

The Energy Bureau **ORDERS** LUMA to submit, within **two (2) days** from the notification date of this Resolution and Order, an unredacted (*i.e.*, public) version of Response TC-RFI-LUMA-MI-0004-210503-PREB-010.



The Energy Bureau **WARNS** LUMA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines under Act 57-2014¹³ 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



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 21, 2021. I also certify that on May 21, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: a margarita.mercado@us.dlapiper.com, kbolanos@diazvaz.law and jmarrero@diazvaz.law. I also certify that today, May 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 May 21, 2021.



Wanda I. Cordero Morales
Interim Clerk

