

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

<b>NEPR</b>  <b>Received:</b>  <b>May 27, 2021</b>  <b>6:18 PM</b>
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IN RE: REVIEW OF LUMA'S  
TERMS OF SERVICE (LIABILITY  
WAIVER)

**CASE NO. NEPR-MI-2021-0007**

**SUBJECT: Response in Opposition to ICSE's  
Motion Requesting Extension of Time to File  
Comments.**

**RESPONSE IN OPPOSITION TO ICSE'S MOTION REQUESTING AN EXTENSION  
OF TIME TO FILE COMMENTS**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

**COME NOW LUMA Energy, LLC** ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo"), (jointly referred to as "LUMA"), and respectfully state and request the following:

1. On February 24, 2021, LUMA filed a public *Petition for Approval of Initial budgets and Related Terms of Services* ("Initial Budgets Petition") before this honorable Puerto Rico Energy Bureau ("Bureau"), requesting the Bureau to approve all components of the Initial Budgets prepared by LUMA. *See* Docket Case No. NEPR-MI-2021-0004. As Exhibit 2 to the Initial Budgets Petition, LUMA included a request for the Bureau to approve certain terms of services in accordance with Section 4.1(g) of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA) ("Terms of Service Petition").

2. On May 4, 2021, the Bureau issued a Resolution and Order ("May 4<sup>th</sup> Order") that set a procedural calendar in this proceeding. In the May 4<sup>th</sup> Order, the Bureau stated that virtual hearings for public participation and comments related to LUMA's Terms of Service Petition would be held on May 25<sup>th</sup>, 2021 from 9:00 am to 5:30 pm. Additionally, the May 4<sup>th</sup> Order provided that "[a]ny person interested in presenting oral comments during the Virtual Public

Hearing shall, **on or before Friday May 21, 2021 at 3:00 p.m.**, . . . request a turn and obtain instructions and a link to access the virtual public hearing. *See* May 4<sup>th</sup> Order at page 3.

3. Additionally, the procedural calendar set May 26<sup>th</sup> as the deadline for the public to file commentaries. *See id.*

4. On May 25<sup>th</sup>, 2021 at 3:28 p.m., the Puerto Rico Institute for Competitiveness and Sustainable Economy (“ICSE”) filed a *Motion Requesting Extension of Time to File Comments* (“Motion Requesting Extension of Time”). ICSE requested an extension of fourteen (14) days to file its position regarding the Terms of Service Petition.

5. LUMA respectfully submits that ICSE’s request for a two-week extension to file public comments in this proceeding is untimely and fails to provide a reasonable justification or just cause for not filing timely comments within the deadlines set forth in the procedural calendar issued by the Bureau.

6. LUMA appreciates the importance of allowing stakeholder participation in proceedings before this Bureau. That opportunity was afforded in this proceeding whereby the Bureau granted time for stakeholders and the public to participate in a virtual public hearing on May 25, 2021, and file written comments both prior to the virtual public hearing and on or before May 26, 2021. It bears noting that the procedural calendar was issued and notified to the general public on May 4<sup>th</sup>, 2021 and was made available through the Bureau’s website.<sup>1</sup> Relatedly, LUMA’s Terms of Service Petition and supporting information were or should have been available to the public since the date that LUMA filed the same on February 24<sup>th</sup>, 2021. Furthermore, LUMA’s responses to the Requests for Information issued by the Bureau on May 4, 2021 were

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<sup>1</sup> **Resolution and Order** Subject: Determination on completeness and Preliminary Procedural Calendar. ( <https://energia.pr.gov/en/dockets/?docket=nepr=mi-2021-0007>) (last visited on May 26<sup>th</sup>, 2021 at 12:34 pm).

publicly available since May 11<sup>th</sup>, 2021. Finally, LUMA submitted pre-filed testimony in written form which filing was made available to the general public on May 14<sup>th</sup>.

7. ICSE, however, did not timely appear for the virtual public hearing nor did it file written comments. Instead, on the date when written comments by the public were due, ICSE requested an unduly long extension of time to file comments on the Terms of Service Petition. The only justification given by ICSE is that it is consulting with mainland experts and conducting an analysis of the issues presented in this proceeding. No further content is provided nor explanation about why the time-period for comments that the Bureau established in the procedural calendar was insufficient for ICSE to timely file its comments, if any. Respectfully, ICSE failed to justify its request for the need to upend the procedural calendar to extend proceedings until mid-June, 2021.

8. Granting ICSE's request is inconsistent with the procedural calendar set by the Bureau. The conclusory request for an extension of time would impinge on the Bureau's time to issue a determination regarding LUMA's Terms of Service Petition.

9. As this Bureau is aware, per Section 4.5 (p) of the OMA, approval of a liability waiver generally consistent with the language of Section 4.1(g) of the OMA is a condition precedent to service commencement. Thus, ICSE's request for extension of time interferes with LUMA's ability to commence operations on June 1<sup>st</sup>.

10. Pursuant to the OMA, LUMA will establish a long-term presence in Puerto Rico and will actively participate in Bureau proceedings throughout the course of the next fifteen years. LUMA looks forward to engaging with ICSE and other stakeholders on conversations beneficial to public interests. In this instance, however, LUMA must respectfully oppose ICSE's request for an extension of fourteen days to file comments to LUMA's Terms of Service Petition.

**WHEREFORE**, LUMA respectfully requests that this Bureau **deny** ICSE's request for an extension of time to file comments in this proceeding.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 27<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 notice of this motion will be sent 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). Notice 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) and to counsel for ICSE, Fernando Agrait, [agraitfe@agrailawpr.com](mailto:agraitfe@agrailawpr.com).



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