

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

**IN RE:** PERFORMANCE TARGETS FOR  
LUMA ENERGY SERVCO, LLC

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

**SUBJECT:** Procedural Calendar Modification.

**RESOLUTION AND ORDER**

A

On February 25, 2021, Luma Energy, LLC as Management Co., 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 *Submittal and Request for Approval of Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA)*, pursuant to Section 4.2(f) of the Operation and Maintenance Agreement ("OMA") ("February 25 Request").<sup>1</sup> The February 25 Request includes a high-level description of the proposed performance incentive framework along with an argument supporting the consistency of the proposal with the OMA, applicable laws, and regulations and orders of the Energy Bureau. Exhibit 1 of the February 25 Request provides the details of the proposal, while Exhibit 2 of the February 25 Request provides a comparison of the proposal with the framework included in the OMA.

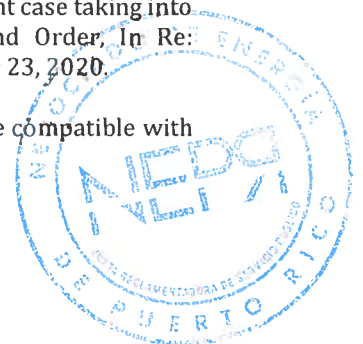
On April 8, 2021, the Energy Bureau issued a Resolution and Order ("April 8 Resolution") through which it established the procedural calendar setting dates for filings in the instant case. As part of the procedural calendar, the Energy Bureau established May 14, 2021 as the deadline for LUMA to file a revised version of the February 25 Request. The Energy Bureau noted that such filing shall be consistent with the Energy Bureau's final determination under Case No. NEPR-MI-2019-0007.

Since the Energy Bureau's final determination under Case No. NEPR-MI-2019-0007 was delayed, on May 14, 2021, the Energy Bureau issued a Resolution and Order ("May 14 Resolution") amending the procedural calendar established in the April 8 Resolution.<sup>2</sup> The May 14 Resolution established June 4, 2021 as the deadline for filing of a revised version of the February 25 Request.

On May 21, 2021, after an extensive and thorough process, which included ample opportunity for stakeholders and the general public to participate, the Energy Bureau issued

<sup>1</sup> Note that the Energy Bureau had expressly directed LUMA to make its filing under the instant case taking into consideration the final outcome of Case No. NEPR-MI-2019-0007. See Resolution and Order, In Re: Performance Targets for Luma Energy Servco, LLC Case No. NEPR-AP-2020-0025, December 23, 2020.

<sup>2</sup> The Energy Bureau determined that all other provisions of the April 8 Resolution that are compatible with the May 14 Resolution remained unaltered.



a Resolution and Order in Case No. NEPR-MI-2019-0007 (“May 21 Resolution”), through which it established baselines and benchmarks for certain performance metrics.<sup>3</sup>

On June 3, 2021, at 3:54 pm, LUMA filed a motion titled *Request to Re-Schedule Proceedings* (“Request”). In the Request, LUMA states it will be filing a request for clarifications and/or partial reconsideration of the May 21 Resolution. LUMA requested the Energy Bureau to modify the procedural calendar of the instant case.

The Energy Bureau recognizes LUMA’s active participation in our proceedings and is cognizant of the complex transition that is taking place for LUMA to take over the operation and management of the transmission and distribution system. Nevertheless, even during such hectic times, compliance with the Energy Bureau’s orders is paramount. Therefore, to avoid undue delays, LUMA must identify and align the necessary resources to fully and timely comply with the Energy Bureau’s orders, to ensure a successful transition and future operations.

The Request was filed on June 3, 2021 at 3:54 pm, thirteen days after the May 21 Resolution. It would be reasonable to infer that LUMA became aware of its alleged inability to comply with the procedural calendar well before June 3, 2021. Filing a time extension request almost at the end of the day before the deadline, as LUMA did with the Request, is not conducive to proper case management. LUMA’s actions removed the Energy Bureau discretion to evaluate the merits of the Request. The Energy Bureau **REMINDS** LUMA that, in this or any other proceeding, the Energy Bureau will only entertain requests filed in a timely manner, unless there is just cause.

The Request presents an opportunity to further encourage ample participation of intervenors and *Amicus Curiae*. Thus, the Energy Bureau considers in the public interest to extend until July 15, 2021, the deadline to present requests for intervention and *Amicus Curiae*.

The Energy Bureau **AMENDS** the procedural calendar established in the May 14 Resolution as follows:

Date	Phase
July 15, 2021	Filing of requests for intervention and <i>Amicus Curiae</i>
August 11, 2021	Filing of a revised version of the February 25 Request (“LUMA’s Revised Request”)
August 20, 2021	Determination on completeness of LUMA’s Revised Request
August 20 – September 20, 2021	Discovery Process <sup>4</sup>

<sup>3</sup> See Resolution and Order, In re: The Performance of the Puerto Rico Electric Power Authority, Case No. NEPR-MI-2019-0007, May 21, 2021 (“May 21 Resolution”).

<sup>4</sup> See Attachment A of this Resolution and Order for the requirements applicable to all discovery requests and corresponding responses.



Date	Phase
October 4, 2021	Filing of Written Testimony by the Parties
October 18-19, 2021	Virtual Evidentiary Hearing
October 21-22, 2021	Virtual Public Hearings
October 29, 2021	Filing of Comments by General Public
November 3, 2021	Filing of Final Substantive and Legal Briefs by the Parties
	Filing of Final Briefs by <i>Amicus Curiae</i>
November 12, 2021	Filing of Replies to Final Briefs by the Parties

During the Evidentiary Hearing, the parties and the Energy Bureau will have the opportunity to cross-examine the witnesses who provided Pre-Filed Testimony. All parties will also have the opportunity to present their own evidence, in accordance with applicable statutory and regulatory procedures. The Energy Bureau will provide, at a later date, more information with regards to the format of the Evidentiary Hearing, the applicable rules of behavior, and the order of the proceedings. Additionally, the Energy Bureau will timely inform whether the hearing will be held in person or remotely due to the pandemic. The Energy Bureau may extend the Technical Hearing, if necessary.

The general public will have the opportunity to present their comments regarding LUMA's Revised Request during the Public Hearing. Since public hearings are designed to obtain comments from the general public, Intervenor, LUMA or its employees, associates, witnesses or legal representation, and any other party to this proceeding will not be allowed to participate in the public hearings. To ensure ample public participation in the instant case, the Energy Bureau will timely publish a notice in a newspaper of general circulation in Puerto Rico regarding the Public Hearing. To prevent the spread of Covid-19, the foregoing Public Hearing will be held remotely via the *Microsoft Teams* platform. Any person interested in presenting oral comments during the October 21-22, 2021 Public Hearing shall, on or before Tuesday October 19, 2021 at 3:00 p.m., contact the Energy Bureau's Clerk at (787) 523-6262 or via email to [secretaria@jrsp.pr.gov](mailto:secretaria@jrsp.pr.gov) to request a turn and to obtain instructions and a link to access the virtual Public Hearing. The Public Hearing will be streamed live via the Energy Bureau's YouTube Channel. The Energy Bureau's YouTube channel may be accessed through the following link: <https://www.youtube.com/channel/UCxZYn-qt1k0Lu9TX37-11oA>.

Note that comments shall include in their title the following: "Public Comments on LUMA's Revised Request - Case No. NEPR-AP-2020-0025" and shall be addressed to the attention of Edison Avilés Deliz, Chairman, and shall be filed by electronic mail at: [comentarios@jrsp.pr.gov](mailto:comentarios@jrsp.pr.gov); through the Energy Bureau's electronic filing tool at: <https://radicacion.energia.pr.gov/>; by postal mail addressed to the Puerto Rico Energy Bureau's Clerk's Office at World Plaza Building, 268 Muñoz Rivera Ave., Plaza Level Suite 202, San Juan, PR 00918; or in person at the Energy Bureau's Clerk's Office, at the referenced address. The hours of operations of the Clerk's office are Monday through Friday from 8:30 a.m. to 5:30 p.m., excluding holidays.



All other provisions of the April 8 Resolution and the May 14 Resolution compatible with this Resolution and Order remain unaltered. The Energy Bureau may modify the foregoing procedural calendar at its discretion. The Energy Bureau **WARNS** LUMA that noncompliance with the Energy Bureau's orders or applicable legal requirements may carry the imposition on administrative fines of up to twenty thousand dollars (\$25,000.00) per day, per violation and/or other sanction that the Energy Bureau may deem appropriate.

Be it notified and published.



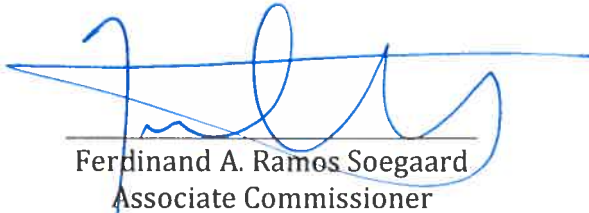
Edison Avilés Deliz  
Chairman



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 June 4, 2021. I also certify that on June 4, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com, jmarrero@diazvaz.law, kbolanos@diazvaz.law, hriviera@jrsp.pr.gov, contratistas@jrsp.pr.gov and agraitfe@agraitlawpr.com. I also certify that today, June 4, 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 June 4, 2021.



Sonia Seda Gaztambide  
Clerk



## ATTACHMENT A

The following shall apply to all discovery requests and corresponding responses:

1. Any information requirement, request for production of documents or any other discovery requirement must be sent in a ***searchable portable document format*** (i.e., PDF) via email to the party to whom the request is made. Parties need not file a physical copy of the discovery request with the Energy Bureau's Clerk.
2. All discovery requests shall be sent via email by the requesting party's authorized representative to the Energy Bureau and to the email in record of each intervenor. It will not be necessary for a discovery request to include the signature of the requesting party's authorized representative. Parties may use electronic signatures when sending such documents.
3. When answering any discovery request, the responding party shall notify its responses to the requesting party, all other intervenors and to the Energy Bureau via email. Responses to any discovery request must be filed in a ***searchable*** PDF, unless the filed document native nature does not support a PDF filing (e.g., Excel Files). All answers must be notified by the responding party's authorized representative. All Excel files or files with similar format, shall be submitted in native form with formulae intact.
4. If, due to its size, a document cannot be sent via email, the responding party shall deliver it to the requesting party, all other intervenors, and to the Energy Bureau, using a portable drive (e.g., USB memory stick) or a cloud-based storage service (e.g., Dropbox, OneDrive, Google Drive, etc.).
5. With the purpose of easing the discovery process, the Energy Bureau has determined to exempt all parties in the instant proceeding from the requirement that all answers to a discovery request be physically signed and notarized.
6. Each discovery response must clearly identify the person providing the answer to each question or requirement and include a certification regarding that, to the best of his/her knowledge, all answers provided are true and correct and none of the information provided is willingly misleading.
7. Physical copies of responses to discovery request need not be filed with the Energy Bureau's Clerk.
8. Should any party claim confidential treatment of the information provided in response to a discovery request, or a portion thereof, said party shall follow



the guidelines set forth by the Energy Bureau in its August 31, 2016 Resolution, Case No. CEPR-MI-2016-0009, as amended.

9. All emails sent to the Energy Bureau shall be sent to all three (3) of the following addresses: [secretaria@jrsp.pr.gov](mailto:secretaria@jrsp.pr.gov), [legal@jrsp.pr.gov](mailto:legal@jrsp.pr.gov) and [viacaron@jrsp.pr.gov](mailto:viacaron@jrsp.pr.gov).

