

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

**IN RE: REVIEW OF THE PUERTO
RICO ELECTRIC POWER AUTHORITY
SYSTEM REMEDIATION PLAN**

CASE NO.: NEPR-MI-2020-0019

SUBJECT: Determination on LUMA's June 1, 2021, Request for Confidential Designation and Treatment of Portions of Motion Submitting Additional Information Requested in Technical Conference, Supplemental Responses to Questions and Clarifications on SRP.

RESOLUTION AND ORDER

On April 23, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("April 23 Order") in the instant case through which it determined that the SRP Petition¹, as clarified by the April 16 LUMA's Motion in Compliance and the Supplemental Motion², was complete. Therefore, the Energy Bureau commenced its evaluation of LUMA's SRP Petition. Also, the Energy Bureau established the preliminary Procedural Calendar for the instant case, in which, it scheduled virtual technical conferences to be held on May 14th and 17th, 2021. The Energy Bureau also ordered that LUMA would have until May 19, 2021, to file any revised and/or additional information required by the Energy Bureau.

On May 20, 2021, LUMA filed 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 Clarification* ("May 20 Motion in Compliance"). Through the May 20 Motion in Compliance, LUMA submitted additional information or supplemental written responses to the bench orders issued as part of the May 14th and 17th, 2021, virtual technical conferences. Also, LUMA informed that, within ten (10) days, they will submit a separate memorandum of law supporting their request to file some attachments under seal of confidentiality.

¹ On February 24, 2021, LUMA Energy, LLC. as ManagementCo, and LUMA Energy SERVCO, LLC as ServCo (collectively, "LUMA") filed before the Energy Bureau, in the instant case, a document titled *LUMA's Submittal and Request for Approval of System Remediation Plan* ("SRP Petition") in compliance with Section 6.22(a)(2) of Act 57-2014, known as *Puerto Rico Energy Transformation and RELIEF Act*, as amended.

² See *In Re: Review of the Puerto Rico Electric Power Authority's System Remediation Plan*, Case No. NEPR-MI-2020-0019, Motion in Compliance with Resolution and Order of April 6, 2021 and Submitting Responses to Requests for Information, April 16, 2021.



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On June 1, 2021, LUMA filed a document titled *Memorandum of Law in Support of Request for Confidential Treatment of Portions of LUMA's Motion Submitting Additional Information Requested in Technical Conference, Supplemental Responses to Questions and Clarifications*. ("Request for Confidential Treatment"). LUMA requested confidential designation and treatment to certain responses and several attachments or portions thereof.

In the Request for Confidential Treatment, LUMA alleged that several attachments or portions of the responses included in the May 20 Motion in Compliance require confidential treatment, specifically: (i) one partially confidential response, TC-RFI-LUMA-MI-21-0019-210514-PREB-002; (ii) attachments 1 through 7 to TC-RFI-LUMA-MI-21-0019-210514-PREB-002; and (iii) attachment 1 to response TC-RFI-LUMA-MI-21-0019-210514-PREB-004.³ LUMA argues that the documents requesting confidential treatment includes sensitive commercial information and trade secrets protected under Act 80-2011 and identifiable information of the Puerto Rico Electric Power Authority ("PREPA") and LUMA employees that should be managed confidentially.⁴ For these reasons, LUMA requests the Energy Bureau to grant confidential designation and treatment to the referred attachments or portions of the responses. Table 1 below details the attachment or portions of the responses which LUMA requested confidential designation and treatment:

Table 1: LUMA's Request for Confidential Information Designation and Treatment

#	Response	Subject	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection, if applicable
2	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 (text of response)	Bill Print & Delivery Request for Proposal (RFP)	Portions of response that have been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011 And personal identifying information of PREPA employees.

³ Request for Confidential Treatment, p. 2.

⁴ *Id.*, p. 3.



#	Response	Subject	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection, if applicable
2.1	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 1	RFP Instructions	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011. And personal identifying information of LUMA employee.
2.2	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 2	RFP Description of Services	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.
2.3	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 3 (Excel)	RFP Detailed Requirements	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.
2.4	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 4	RFP Business Case	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.
2.5	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 5	Vendor Master Service Agreement	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.

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#	Response	Subject	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection, if applicable
2.6	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 6	Vendor Service Addendum	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.
2.7	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 7	Vendor Model Printing Rendering Service Addendum	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.
4.1	TC-RFI- LUMA-MI-21-0019- 210514-PREB-004 Attachment 1 (Excel)	SRP and Non-SRP Programs Screening	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.

Act 57-2014⁵ 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.⁶ 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”.⁷ 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.”⁸

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

⁶ *Id.*, Section 6.15.

⁷ *Id.*, Section 6.15(a).

⁸ *Id.*, Section 6. 15(a), 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

#	Response	Subject	Pages in which Confidential Information is Found	Summary of Legal Basis for Confidentiality Protection	Energy Bureau Determination
2	TC-RFI- LUMA-MI- 21-0019-210514- PREB-002 (text of response)	Bill Print & Delivery Request for Proposal (RFP)	Portions of document that have been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011 and personal identifying information of PREPA employees.	GRANTS confidential designation and treatment as requested.
2.4	TC-RFI- LUMA-MI- 21-0019-210514- PREB-002 Attachment 4	RFP Business Case	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.	GRANTS confidential designation and treatment as requested.
2.6	TC-RFI- LUMA-MI- 21-0019-210514- PREB-002 Attachment 6	Vendor Service Addendum	Portions of document that has been redacted	Sensitive Commercial Information and Trade Secrets under Act 80-2011.	GRANTS confidential designation ONLY to Exhibit A (page 2) and Schedule 1 (page 3).

The Energy Bureau **DETERMINES** that the portions and attachments of the responses described in Table 3 below, will not be treated as confidential information.



Table 3: Designated Public Information

#	Response	Subject	Pages in which Confidential Information is Found	Energy Bureau Determination for public access
2.1	TC-RFI- LUMA-MI-21-0019- 210514- PREB-002 Attachment 1	RFP Instructions	Portions of document that has been redacted	<p>Not all redacted information states or identifies Sensitive Commercial Information and Trade Secrets</p> <p>LUMA MUST file a redacted version that only protects: 1) PREPA and/or LUMA employee names and contact information; 2) third party names; 3) key dates indicated Section 2. 1; and 4) information that specifically states LUMA's internal business operations related to billing.</p> <p>LUMA must submit a redacted version of the Attachment, enumerate each redaction and justify the reasons why each of the aspects in the attachment must be kept confidential.</p>
2.2	TC-RFI- LUMA-MI-21-0019- 210514- PREB-002 Attachment 2	RFP Description of Services	Portions of document that has been redacted	<p>Does not state or identify Sensitive Commercial Information and Trade Secrets</p> <p>LUMA MUST file a public version.</p>
2.3	TC-RFI- LUMA-MI-21-0019- 210514- PREB-002 Attachment 3 (Excel)	RFP Detailed Requirements	Portions of document that has been redacted	<p>Not all redacted information states or identifies Sensitive Commercial Information and Trade Secrets</p> <p>LUMA MUST file a redacted version that only protects: 1) quantities, such as those indicated in cell C6 and C7; 2) any design criteria such as those indicated in cell C10, C11, C12 & C13; and 3) LUMA's business operation for billing as stated in cell C23.</p>

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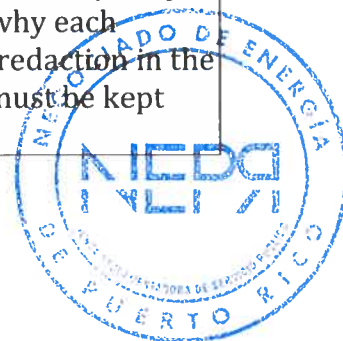


#	Response	Subject	Pages in which Confidential Information is Found	Energy Bureau Determination for public access
				LUMA must submit a redacted version of the Attachment, enumerate each redaction, and justify the reasons why each of the aspects in the attachment must be kept confidential.
2.5	TC-RFI- LUMA-MI-21-0019- 210514- PREB-002 Attachment 5	Vendor Master Service Agreement	Portions of document that has been redacted	<p>Not all redacted information states or identifies Sensitive Commercial Information and Trade Secrets.</p> <p>LUMA must submit a redacted version of the Attachment, with a minimum redaction limited specifically to sensitive information and trade secrets, enumerate each redaction, and justify the reasons why each enumerated redaction in the attachment must be kept confidential.</p>
2.6	TC-RFI- LUMA-MI-21-0019- 210514- PREB-002 Attachment 6	Vendor Service Addendum	Portions of document that has been redacted.	<p>Not all redacted information states or identifies Sensitive Commercial Information and Trade Secrets.</p> <p>LUMA must submit a redacted version of the Attachment, with a minimum redaction on page 1, limited specifically to sensitive information and trade secrets, enumerate each redaction, and justify the reasons why each enumerated redaction in the attachment must be kept confidential.</p>

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#	Response	Subject	Pages in which Confidential Information is Found	Energy Bureau Determination for public access
2.7	TC-RFI- LUMA-MI-21-0019- 210514-PREB-002 Attachment 7	Vendor Model Printing Rendering Service Addendum	Portions of document that has been redacted	Not all redacted information states or identifies Sensitive Commercial Information and Trade Secrets. LUMA must submit a redacted version of the Attachment, with a minimum, limited specifically to sensitive information and trade secrets, enumerate each redaction, and justify the reasons why each enumerated redaction in the attachment must be kept confidential.
4.1	TC-RFI- LUMA-MI-21-0019- 210514-PREB-004 Attachment 1 (Excel)	SRP and Non-SRP Programs Screening	Portions of document that has been redacted	Does not state or identify Sensitive Commercial Information and Trade Secrets

The Energy Bureau **ORDERS** LUMA to submit, within **three (3) days** from the notification date of this Resolution and Order, a revised redacted (*i.e.*, public) version of the responses in its May 20 Motion in Compliance, 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.

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 11, 2021. I also certify that on June 11, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: agraitfe@agraitlawpr.com, kbolanos@diazvaz.law, jmarrero@diazvaz.law and margarita.mercado@us.dlapiper.com. I also certify that today, June 11, 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 11, 2021.


Sonia Seda Gaztambide
Clerk

