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

IN RE:	**CASE NO.:** NEPR-MI-2019-0007
THE PERFORMANCE OF THE PUERTO RICO ELECTRIC POWER AUTHORITY	**SUBJECT:** Request for Clarifications and/or Partial Reconsideration of Resolution and Order of May 21, 2021.

MOTION FOR CLARIFICATIONS AND/OR PARTIAL RECONSIDERATION OF RESOLUTION AND ORDER OF MAY 21, 2021

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:

I. Introduction and Procedural Background

LUMA hereby respectfully requests clarifications and/or partial reconsideration of portions of the Resolution and Order issued by this honorable Puerto Rico Energy Bureau ("Energy Bureau") on May 21, 2021 ("May 21st Resolution and Order).

This honorable Energy Bureau initiated proceedings in this case to set performance baselines and compliance benchmarks for Puerto Rico's electric system. *See* Resolution and Order dated December 23, 2020. As established by the Energy Bureau, those performance baselines and benchmarks would be used to "develop the corresponding targets to be applied to certified electric service companies such as LUMA." *Id.* at page 5.

A separate proceeding was initiated under the caption, *In re Performance Targets for LUMA Energy Servo, LLC,* NEPR-AP-2020-0025, to establish Performance Incentive Mechanisms ("PIMs") applicable to LUMA. On February 25, 2021, LUMA filed its submission in case NEPR-AP-2020-0025 requesting that the Energy Bureau approve a revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement dated June 22, 2020 ("OMA") ("Request for Approval of Revised Annex IX"). On April 8, 2021, this Honorable Energy Bureau issued a procedural calendar in case NEPR-AP-2020-0025 to consider LUMA's Request for approval of a revised Annex IX to the OMA. Said calendar was amended by the Bureau in a Resolution and Order issued on June 3, 2021.

In this proceeding on PREPA's performance baselines, the Energy Bureau held an initial pre-filing technical conference, followed by the filling of written comments and replies to comments, a subsequent technical conference to discuss the comments and replies, and a final opportunity to file written comments on the information presented at the technical conference. *See* Resolution and Order of December 23, 2020, and Resolutions and Orders amending the calendar, dated February 1st and 11th, 2021, Case No. NEPR-MI-2019-007.

Pursuant to the procedural calendar originally set by the Bureau in its Resolution and Order of December 23, 2020, LUMA submitted three filings whereby it addressed the Bureau's data on PREPA's baselines and presented proposed performance baselines and metrics, and an initial assessment on compliance benchmarks. *See* LUMA's Motion filed on January 29, 2020 and Exhibits 1 through 3). On January 29, 2021, the Puerto Rico Electric Power Authority ("PREPA") filed a document styled "Comments of the Puerto Rico Electric Power Authority on the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service

Companies" ("PREPA's Comments"). PREPA later requested leave from the Bureau to re-file the January 29th comments. The Independent Office of Consumer Protection (OPIC by its Spanish acronym), the Solar and Energy Storage Association of Puerto Rico (SESA), and the Rocky Mountains Institute (RMI) also filed comments for consideration.

Per a Resolution and Order issued by this Energy Bureau on February 1, 2021 that extended the deadline to file comments, on February 5, 2021, LUMA re-submitted its comments, as well as its proposed performance baselines and metrics. *See* LUMA's Comments on Performance Metrics and Baselines of February 5th, 2021 and Exhibits 1 through 3 to same. On even date, PREPA submitted supplemental comments.

On February 8, 2021, LUMA filed a motion requesting leave to file an amended Exhibit 2 to its February 5th comments. On February 19, 2021, and in compliance with the Bureau's directives, LUMA filed a Reply to the comments that were filed for the record on performance baselines and compliance benchmarks. On even date, PREPA filed a document styled "Reply Comments of the Puerto Rico Electric Power Authority Regarding the Establishment of Performance Baseline and Compliance Benchmarks for Electric Service Companies." A Technical Conference was held via videoconference on February 22, 2021, to discuss the comments and replies that were filed on PREPA's baseline performance and performance metrics ("February 22nd Technical Conference").

On March 1, 2021, LUMA filed a Sur-Reply to the comments that were filed for the record on performance baselines and performance metrics and including comments on the information that was presented during the February 22nd Technical Conference. On even date, PREPA filed

a motion to withdraw the comments that it had filed on January 29, 2021 and February 19 and 22, 2021 ("PREPA's Motion to Withdraw Comments").

On April 8, 2021, this honorable Energy Bureau denied PREPA's Motion to Withdraw Comments because they would not be considered in an adjudicative proceeding. The Bureau furthered explained that it would consider the probative value of PREPA's Motion to Withdraw Comments. *See* April 8th Resolution and Order at page 1.

On April 8, 2021, this Energy Bureau issued a Resolution and Order with its determination on PREPA's performance baselines, addressing LUMA's submissions as well as those filed by stakeholders ("April 8th Resolution and Order"). At pages 15 through 18 of the April 8th Resolution and Order, this Bureau included "Analysis, Discussions and Findings." Then, at pages 18 through 20 of the April 8th Resolution and Order, in a Section entitled "Conclusion," this Energy Bureau issued a series of orders: (1) establishing PREPA's performance baseline; and (2) setting the prospective metrics to be reported by PREPA.

On April 28, 2021, LUMA filed a *Motion for Partial Reconsideration of Resolution and Order of April 8, 2021, Motion Submitting Information in Support Thereof, and Request for Clarifications* ("April 28th Request for Reconsideration"). LUMA requested partial reconsideration of that portion of the April 8th Resolution and Order whereby the Energy Bureau declined to set baselines for LUMA's proposed customer service metrics based on the JD Power Customer Satisfaction Surveys ("JD Power Surveys"). 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 8th

Resolution and Order, Baseline Proceeding. Finally, LUMA respectfully submitted two clarifications.

On May 21st, 2021 this honorable issued a Resolution and Order adopting principles for establishing performance metric benchmarks; establishing four categories of performance metrics applicable to the Puerto Rico Electric Power Authority (PREPA); and setting initial benchmark values for several metrics that are subject to reporting requirements ("May 21st Resolution and Order"). *See* May 21st Resolution and Order at pages 3-14. The Energy Bureau also adjudicated the April 28th Request for Reconsideration holding that consideration of inclusion of the J.D. Power Customer Satisfaction metrics and baselines requires additional thorough analysis. The Energy Bureau denied that portion of the May 28th Request for Reconsideration. The Energy Bureau stated that there is room for future revision of the baselines and benchmarks and that it may determine at a later date that a revision of the baseline period is warranted.

On June 3, 2021, this honorable Bureau directed that LUMA would have until June 11, 2021, to file a request for clarification or reconsideration of the May 21st Resolution and Order. *See* Resolution and Order of June 3, 2021. On June 11, 2021, LUMA filed an urgent request for extension of the deadline to submit clarifications to the May 21st Resolution and Order. LUMA requested an extension until June 16, 2021. On June 15, 2021, this honorable Energy Bureau denied the request for extension and imposed retroactive a daily sanction of $500 per day starting June 12, 2021, until LUMA files its requests for clarifications. LUMA hereby submits its request for clarifications or reconsideration of the May 21st Resolution and Order.[1]

[1] Under separate cover and in due course, LUMA will file a request for reconsideration of the June 15th Resolution and Order imposing sanctions.

Exhibit 1 to this Motion is entitled "Performance Metrics Baselines and Benchmarking". Also included with this Motion are Exhibits 1(a), 1(b) and 2 that are being submitted in excel format.

II. Applicable Standard

It is respectfully submitted that the May 21st Resolution and Order includes orders and directives and reporting requirements applicable to LUMA that rise above the confines of traditional rulemaking procedures and that impact directly LUMA's rights, including its rights in the separate adjudicative proceeding on LUMA's Performance Metrics Targets, Case No. NEPR-AP-2020-0025. Given the interrelation that the Energy Bureau *motu proprio* established between this "MI" proceeding and LUMA's Performance Metrics Targets proceeding, Case No. NEPR-AP-2020-0025[2] which is adjudicative in nature and conducted pursuant to Bureau Regulation 9137, *Regulation for Performance Incentive Mechanisms* ("Regulation No. 9137"), LUMA appreciates the opportunity to request clarification and/or reconsideration of the May 21st Resolution and Order. *See* Section 8, Regulation 9137 ("Any Person not satisfied with a decision made by the Energy Bureau under this Regulation may file, within the term of twenty (20) days from the date copy of the notice of such decision is filed by the Energy Bureau's Clerk, a request for reconsideration before the Energy Bureau wherein the petitioner sets forth in detail the grounds

[2] As this honorable Energy Bureau stated in the resolution and order that initiated LUMA's Performance Metrics Targets Proceeding, Case No. NEPR-AP-2020-0025, this proceeding, NEPR-MI-2019-007, 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." *See* December 23rd Performance Targets Order," Case No. NEPR-AP-2020-0025 at page 5. Furthermore, the Energy Bureau stated the performance baseline and compliance benchmarks to be determined in this Baseline Proceeding would be "subsequently used . . . to establish the corresponding targets to be applicable to certified electric service companies –such as LUMA." *Id.*

that support the request and the decisions that, in the opinion of the petitioner, the Energy Bureau should reconsider." *See also* Section 11.01 of Bureau Regulation 8543, Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings (providing that "Any party dissatisfied with the Commission's final decision may file a motion for reconsideration before the Commission, which shall state in detail the grounds supporting the petition and the remedy that, according to petitioner, the Commission should have granted," and adding that this request shall be filed and served in accordance with the terms and provisions of the Puerto Rico Uniform Administrative Procedure Act, Act 170 of August 12, 1988, which was repealed and substituted by Act 38-2017. Act 38-2017, on Section 3.15, 3 P.R. Laws Ann. § 9655, and allows a party adversely affected by a partial or final resolution or order to request reconsideration within 20 days of the notification of the resolution or order.)

III. Discussion

A. Request for Clarifications and/or Reconsideration on Benchmarking and the Bureau's Findings on Comparable Utilities.

LUMA respectfully requests guidance and explanations on the Bureau's analysis and rationale at pages 8 through 10 of the May 21st Resolution and Order where the Energy Bureau identified eight utilities to set benchmarking values. Although in the May 21st Resolution and Order the Energy Bureau mentioned some characteristics of the comparable utilities, it did not explain or identify how these comparable utilities were considered in setting the baselines that are detailed in Attachments A and B to the May 21st Resolution and Order.

As explained in Exhibit 1 to this Motion, LUMA performed an analysis of the utility benchmarking peer group chosen by the Energy Bureau in the May 21st Resolution and Order as well as several alternative utilities for consideration as shown in Exhibit 1(a). LUMA summarized

the results as shown in Exhibit 1(b). The analysis performed is specifically related to Reliability Performance Metrics. Analyses of utilities to determine a benchmarking peer group for other metrics would have required more time and effort than the period for this filing allows. However, the analysis performed provides an example of what LUMA respectfully posits is the type of analysis that is proper for determining a peer group for each metric. It is respectfully submitted that benchmarking peer groups should be specific for each metric and can vary across the complete set of metrics. There is no reason that one peer group be established and applied to all the metrics in the complete set of metrics. The appropriate peer group for some metrics may overlap other metrics and some may not.

In addition to the utility characteristics that the Energy Bureau included in its utility comparison (number of customers served, hurricane exposure, vegetation exposure, some consideration of the topography, and reported SAIFI, SAIDI, and CAIDI Reliability Performance Metrics), LUMA proposed that the Energy Bureau include other characteristics such as the one that LUMA included in its analysis, to wit, service territory size, customer density, summer peak load, average summer peak load per customer, number of transmission lines, miles of transmission lines, number of transmission substations, number of distribution lines, miles of distribution lines, number of distribution substations, and average annual rainfall. *See* Exhibit 1 to this Motion, Section 2.0. LUMA did not consider the ownership model of each utility as LUMA respectfully understands the ownership model should not affect the level of service provided to or expected from the utility's customers.

LUMA agrees with the Energy Bureau that no single utility is a perfect analog to PREPA. That is a justification for considering a wider range of characteristics in benchmarking analysis

and setting benchmarking peer groups that are specific for each metric and can vary across the complete set of metrics.

LUMA respectfully requests reconsideration and/or clarification of the Energy Bureau's decision in the May 21st Resolution and Order to choose peer group utilities and moves the Bureau to consider the benchmarking analysis performed by LUMA and explained in Section 2.0 of Exhibit 1 to this Motion which concludes that an appropriate benchmarking peer group for Reliability Performance Metrics consists of six utilities including: Dominion Energy (South Carolina), Duke Energy Progress (Florida), Hawaiian Electric Company, Entergy New Orleans, Gulf Power, and JEA. LUMA also respectfully submits that the Energy Bureau should engage in collaborative analysis and discussion with stakeholders to perform benchmarking analyses for each performance metric. As discussed in Sub Section C *infra*, LUMA proposes that, prior to setting benchmarks, the Energy Bureau conducts technical workshops throughout the course of several months to enable benchmarking analysis and discussions.

B. Request for Additional Information and/or Reconsideration and Clarifications on Baselines set by the Bureau.

In PDF Attachments A and B, to the May 21st Resolution and Order the honorable Energy Bureau fixed baselines. To wit, Attachment A includes baselines for performance metrics for which benchmarks were also set, and Attachment B fixes baselines for performance metrics for which comparisons to industry standards or peer group utilities may not be applicable and the Energy Bureau will monitor performance until such time as the Energy Bureau deems it appropriate to establish benchmarks.

In the May 21st Resolution and Order, however, the Energy Bureau did not include supporting information or data on the calculations metrics and baselines included in Attachments

A, and B, or the metrics included in Attachment C nor how the values were fixed. Consequently, LUMA is not in position to fully and responsibly comply with the prospective reporting requirements set forth both in the April 8th and the May 21st Resolutions and Orders. Likewise, LUMA does not have sufficient information to review and revise its Performance Metrics Targets filing in Case No. NEPR-AP-2020-0025.

The information underlying the Energy Bureau's calculations of the metrics and baselines is particularly important for reporting purposes and for the setting of performance metrics targets in Case No. NEPR-AP-2020-0025. As LUMA has explained in its filings in this proceeding, available data is unreliable in several respects. *See* Exhibit 2 to LUMA's Comments on Performance Metrics and Baselines of February 5th, 2021, as resubmitted on February 8, 2021 at page 2 ("As part of the assessment of current practices, LUMA has determined that there are multiple gaps between PREPA's current processes and supporting data when compared against applicable industry standards and practices for the metrics listed in Annex IX of the OMA.").

As described in Section 3.0 of Exhibit 2 to LUMA's Comments on Performance Metrics and Baselines of February 5th, 2021, regarding PREPA's baselines and metrics and based on data published by the Energy Bureau and presented during the technical conference held on January 19, 2021 in this proceeding, LUMA followed a methodical process in developing the Performance Metrics. This required many discussions and iterations (and even research) by PREPA subject matter experts over a period of several months. Almost all the validated results for the LUMA proposed metrics differed significantly from those published by PREPA, as explained in Section 1.0 Introduction & Overview and Section 2.0 Review of Process & Data of Exhibit 2 to LUMA's Comments on Performance Metrics and Baselines of February 5th, 2021.

Furthermore, a recently discovered finding by LUMA —after Service Commencement— demonstrates that inaccuracies can be present in a set of data, resulting in erroneous metric results and their meaning. Per the Energy Bureau's May 21st Resolution and Order, LUMA is called upon to report on 524 lines items of data concerning 113 performance metrics related to Transmission and Distribution. This is a considerable and weighty reporting requirement that will require extensive time and effort from LUMA with questionable value given the limited value the metrics may have if the data cannot be confirmed. Reporting on 113 metrics will be done in parallel with LUMA's efforts to conduct system remediation and recovery and transformation initiatives. Thus, LUMA worries that the reporting requirement, absent more clarity from the Bureau on the rationale and calculations of the performance baselines, will affect LUMA's remediation efforts.

LUMA is committed to complying with the orders of the Energy Bureau in this proceeding and to improve the procedures to report on performance metrics. It is respectfully submitted that to comply with this reporting requirement and provide correct and meaningful data that the Energy Bureau may use to accurately track the performance of the utility, additional processes, exchange of data and information is needed.

For example, upon reviewing the May 21st Resolution and Order, it is not evident if the Energy Bureau adjusted the data presented by PREPA or how the Energy Bureau analyzed the data. Relatedly, LUMA is not able to understand what assumptions, if any, the Energy Bureau may have made to set baselines. All in all, LUMA is cast back to a position in which it is not able to fully understand the calculations underlying the metrics and baselines that the Energy Bureau will use to track performance.

As explained in Section 3.0 of Exhibit 1 to this Motion, LUMA respectfully submits that the Energy Bureau, stakeholders and LUMA should exchange the following data:

1. For the metrics that LUMA has analyzed and compared to the those issued by the Energy Bureau as shown listed in Exhibit 2 to this Motion:
    - Formulas used to calculate each metric including any adjustments of the input or results such as using averages, medians or substituting results from some other references or methods (and supporting reasoning) and for calculations, supporting spreadsheets with formulas;
2. For the metrics that LUMA has not analyzed and compared to the those issued by the Energy Bureau as shown listed in Exhibit 2, information to aid LUMA and stakeholders in understanding the how the metric results were obtained including:
    - The data and its characteristics used,
    - An explanation of how missing or bad data was adjusted and what data was included versus what data was excluded,
    - The formulas used to calculate each metric including any assumptions made and any massaging of the input or results such as using averages or substituting results from some other references or methods (and supporting reasoning) and for calculations, supporting excel spreadsheets with formulas, and
    - Any observations or review of data collection processing and methods performed by PREPA, and
3. Definitions for terminology and the methods used for determining "sub-groups" such as regional or municipality breakdowns and itemization.

See Exhibit 1 to this Motion at pages 4-5.

LUMA understands that the Energy Bureau has not set forth a process for discovery or exchange of the aforementioned data in this proceeding. It is respectfully submitted that it is important and will benefit this procedure and the public interests, for stakeholders and LUMA to provide informed input on the calculations and assumptions made to set performance baselines and to work towards establishing accurate reporting processes that will enable the Energy Bureau to track the utility's performance over time and review baselines in the future. LUMA respectfully suggests that the Energy Bureau convene a series of technical workshops and processes whereby the Energy Bureau, LUMA and stakeholders can exchange and discuss data relevant to the performance baselines set by the Energy Bureau, including validation and correction processes, calculations and assumptions made for each of the performance metrics. Respectfully, this will enable LUMA and stakeholders to understand the performance baselines set by the Energy Bureau and provide more meaningful input now and in more future stages of this process. Within a reasonable time- frame set by the Bureau, LUMA would be available to provide certain data that LUMA used to prepare the proposed baselines that were filed in Exhibit 2 to LUMA's Comments on Performance Metrics and Baselines of February 5th, 2021.

Finally, LUMA respectfully requests clarification of the calculations for baselines on several performance metrics, including: average speed of answer, customer complaint rate, OSHA recordable incident rate, OSHA severity rate, OSHA DART rate, and DSO for government customers, among others. *See* Exhibit 2 to this Motion.

C. Recommendation to Conduct Additional Processes Prior to a Final Determinations on Baselines and Benchmarks.

LUMA respectfully proposes that a series of technical conferences or workshops be scheduled within the Bureau's discretion to discuss the data and set baselines. *See* Section 3.0, Exhibit 1 to this Motion. This will further the interest of having a transparent Performance Metrics process.

It is important to highlight that in this proceeding, the RMI proposed a phased and inclusive approach to adoption of performance-based regulations characterized by participation by collaborative stakeholder working groups and **enabling data sharing.** LUMA appreciates that the docket of this proceeding includes the data that PREPA has filed with the Energy Bureau in its quarterly reports. However, it is of crucial importance for the Energy Bureau, LUMA and stakeholders to have opportunities to discuss and understand how the Energy Bureau utilized PREPA's data to set baselines. LUMA's experience and knowledge analyzing data for the proposed performance metrics filed in LUMA's Request for Approval of Revised Annex IX filed in Case No. NEPR-AP-2020-0025, will help the Bureau and stakeholders in the process of setting performance baselines.

It is important to note that the Energy Bureau recently added performance metrics that will be subject to reporting requirements. Thus, this proceeding is at an important juncture for collaborative discussions and exchange of data to promote accurate and useful prospective reporting and enable setting of performance baselines.

D. Number of Performance Metrics to be Reported.

LUMA respectfully posits that the Energy Bureau should reconsider the number of performance metrics that are now subject to reporting requirements as set in the May 21st Resolution and Order. *See* Section 5.0 of Exhibit 1 to this Motion.

As explained in Section 5.0 of Exhibit 1 to this Motion, upon review of the number of performance metrics that utilities are required to report in other select jurisdictions (including Hawaii, Minnesota, Nevada and Washington D.C.), LUMA found that the median number of metrics reported in other jurisdictions is approximately 40 metrics. This, in in jurisdictions where the utilities are in a significantly healthier operational and organizational state and robust and mature data collection and validation processes in place.

Per the May 21st Resolution and Order, the Energy Bureaus has required the quarterly reporting of 113 unique T&D Metrics and 16 unique Generation metrics. In addition, sub-metrics are required for each those unique metrics resulting in a total of 524 reporting line items for T&D and 95 reporting line items for Generation. *See* Exhibit 1, Section 5.0. LUMA understands that many of the Performance Metrics are already being reported by PREPA. However, based on LUMA's investigations during the Front-End Transition Period and pursuant to further recent investigations post-commencement, the reliability of this data (collection, validation, correction, calculation, and assumptions) requires significant review in order to align metrics with the actual performance of the utility. Significant effort is required to report on several of these metrics every quarter. Also, data collection and metric reporting processes will be subject to significant change as Improvement Programs are implemented by LUMA.

Respectfully, to expend resources reporting on all of the metrics included in Attachments A and B to the May 21st Resolution and Order, coupled with the deficiencies and gaps in data that has not been validated, goes against the energy public policy requirement to provide value to the customer. LUMA respectfully requests that the Energy Bureau reconsider the extensive number of performance metrics included in the May 21st Resolution and Order or that it stays implementation of the reporting requirements on said metrics until such time as further processes are emplaced for stakeholders to review data and calculations of the baselines and the Bureau has had the opportunity to consider LUMA's comments and requests presented in this Motion and its exhibits.

WHEREFORE, LUMA respectfully requests this Honorable Bureau **consider** Exhibits 1, 1(a), 1(b), and 2, submitted by LUMA with this Motion; **issue** the clarifications requested herein, **reconsider** the determination that the record is ripe to set performance baselines; **reconsider** portions of the May 21st Resolution and Order as requested herein on selection of peer group utilities and adoption of reporting requirements on 113 unique T&D Metrics and 16 unique Generation metrics; **reconsider and/or stay** the performance metrics reporting requirements set in the May 21st Resolution and Order; **allow** for sharing of data and calculations underlying the performance baselines set in the May 21st Resolution and Order as requested in this Motion and explained in Exhibit 1 to this Motion; and **schedule** technical conferences and workshops in this proceeding for LUMA and other stakeholders to discuss with the Bureau the performance baselines and benchmarks that will apply to PREPA and review the data and calculations employed by the Energy Bureau to set performance baselines in Attachments A and B to the May 21st Resolution and Order.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 16th day of June 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; and Katiuska Bolaños-Lugo, kbolanos@diazvaz.law.

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Exhibit 1

Performance Metrics Baselines and Benchmarking

Performance Metrics Baselines and Benchmarking

NEPR-MI-2019-0007

June 16, 2021

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Exhibit 1 (b): PREB Selected and LUMA Considered Benchmark Utilities Compared to PR

Exhibit 2: PREB and LUMA Metrics comparison

1.0 Introduction

As part of the Puerto Rico Energy Bureau's (Bureau, Energy Bureau or PREB) proceeding NEPR-MI-2019-0007, initiated to set performance metrics and baselines for Puerto Rico's electric system, and its Resolution and Order dated May 21st, 2021, LUMA presents the following requests for clarification and reconsideration in regards to the information outlined in the above mentioned Resolution and Order.

LUMA appreciates the opportunity to provide requests for clarification and reconsideration as part of a collaborative stakeholder process to produce a robust and valuable outcome for our customers and the people of Puerto Rico. In response to the Resolution and Order dated May 21st, 2021, LUMA seeks for further clarification and reconsideration regarding the following items:

- Establishment of performance metrics utility benchmark peer groups;
- Supporting information in relation to the metrics and baselines presented in the May 21st, 2021 Resolution and Order and request for technical workshops;
- Recommendations on performance-based regulation process; and,
- The impact to LUMA's regulatory workload.

If the Bureau considers these items require further information, LUMA is available to participate in additional Technical Conferences to review such evidence and answer any questions from the Bureau, its consultants and stakeholders. The establishment of performance metrics and benchmarks is critical to align the T&D Operator's activities with public policy energy goals and to improve electricity service in Puerto Rico. LUMA believes that further conferences or working sessions will serve to create greater consensus on this key topic. A collaborative process will support metrics as well as a tracking and reporting process that will be effective and sustainable.

2.0 Performance Metrics Benchmarking

As explained in Section 1.0 Introduction of Exhibit 3 in LUMA's motion of February 5, 2021 resubmitting LUMA's comments and proposals regarding PREPA's baselines and metrics in compliance with Resolution and Order of December 23, 2020 and based on data published by the Energy Bureau and presented during technical conference held on January 19, 2021 in Case No. NEPR-MI-2019-0007, statistical benchmarking can be used in utility regulation to provide information on performance. Use of competitive benchmarking or competitive standards is a tool to measure performance against both the typical or average utility and/or other utilities with similar characteristics and circumstances. Benchmarking is not a quick or simple process tool but benchmarking can provide a clear indication of what aspects of performance most need to be examined. It is important however to have a thorough understanding of the factors that drive performance of the utility and comparable peers.

PREPA's performance was well below industry benchmarks in almost all the metrics measured when LUMA assumed operations two weeks ago. Furthermore, PREPA is subject to different characteristics and circumstances than many US utilities, including geography, recent storm and earthquake damage and years of deferred maintenance. Benchmarking can yield useful insights to the extent that it accounts for the particular characteristics and circumstances relevant to Puerto Rico. A studied approach to methods employed will ensure a robust analysis and support setting rates and/or economic incentives to ensure that benchmarking results in benefits to customers.

Performance Metrics Baselines and Benchmarking

LUMA performed a review of the utility benchmarking peer group issued by the Energy Bureau on May 21, 2021 and recommends some adjustments to the peer groups. First, benchmarking peer groups should be specific for each metric and can vary across the complete set of metrics. There is no reason that one peer group be established and applied to all metrics. One peer group may be appropriate for some metrics, but that group may not be appropriate for other metrics. In particular, LUMA suggests a preliminary set of alternative utilities for consideration as benchmarks for reliability metrics given that lead density, weather, geography and vegetation, among others, have a significant effect on reliability metrics. The alternative utilities are listed below. However, LUMA does not recommend using this same utility peer group for other metrics such as safety and financial as customer density, weather, geography and vegetation are less relevant to these metrics.

As part of LUMA's analysis of the utility peer group issued by the Energy Bureau, LUMA also included several alternative utilities for consideration as shown in Exhibit 1 (a) and summarized the results as shown in Exhibit 1 (b). As mentioned above, the preliminary analysis performed to select a utility peer group is specifically related to reliability Performance Metrics. The analysis performed for reliability metrics provides an example of LUMA's suggested analysis considerations for determining a peer group for each metric. LUMA requests that a similar process be carried out for other metrics and presented to the Bureau for consideration. LUMA recommends that additional discussion regarding benchmarking occur during a Technical Workshop as described in Section 3.0.

In addition to the utility characteristics that the Energy Bureau included in their utility comparison (number of customers served, hurricane exposure, vegetation exposure, some consideration of the topography, and reported SAIFI, SAIDI, and CAIDI Reliability Performance Metrics[1]), LUMA included service territory size, customer density, summer peak load, average summer peak load per customer, number of transmission lines, miles of transmission lines, number of transmission substations, number of distribution lines, miles of distribution lines, number of distribution substations, and average annual rainfall. Different from the Energy Bureau, LUMA did not consider the ownership model of each utility as the ownership model should not affect the level of service provided to or expected from the utility's customers. LUMA agrees with the Energy Bureau that no single utility is a perfect analog to PREPA.

The Energy Bureau identified one utility benchmarking peer group that includes Dominion Energy (South Carolina), Duke Energy Progress (North Carolina), Duke Energy Progress (Florida), Hawaii Electric Light Company ("HELCO"), Hawaiian Electric Company ("HECO"), Los Angeles Department of Water and Power ("LADWP"), City of San Antonio ("CPS Energy"), and San Diego Gas and Electric Company ("SDGE"). Note that Duke Energy Carolinas was not specifically listed in the Energy Bureau's identified eight utilities, but it was mentioned in the Bureau's discussion so LUMA included it in the analysis.

In addition to the utilities identified by the Energy Bureau, LUMA's analysis included utilities that are regularly exposed to hurricanes (Alabama Power, Entergy New Orleans, Entergy Louisiana, Gulf Power, JEA, and Mississippi Power). LUMA applied quantitative and qualitative comparisons of the utilities' characteristics listed above. This analysis resulted in a utility benchmarking peer group for reliability Performance Metrics consisting of the following six utilities to be appropriate: Dominion Energy (South Carolina), Duke Energy Progress (Florida), Hawaiian Electric Company, Entergy New Orleans, Gulf

[1] System Average Interruption Frequency Index (SAIFI), System Average Interruption Duration Index (SAIDI), and Customer Average Interruption Duration Index (CAIDI) as defined in the IEEE Guide for Electric Power Distribution Reliability Indices IEEE Std 1366™-2012.

Power, and JEA. For the reasons listed in Exhibit 1 (b), LUMA requests reconsideration to exclude Duke Energy Progress (North Carolina), Duke Energy Carolinas, Hawaii Electric Light Company, Los Angeles Department of Water and Power (LADWP), and San Diego Gas and Electric Company (SDGE) from the Bureau's identified peer group and considers Alabama Power, Entergy Louisiana, and Mississippi Power from LUMA's additionally considered list of utilities to be appropriate.

3.0 Request for Supporting Information and Technical Workshop(s)

As part of LUMA's Front-End Transition activities, LUMA investigated both the Performance Metrics proposed under the T&D Operation & Maintenance Agreement (OMA) and additional metrics proposed in the revised Annex IX filed on February 25, 2021 in Case No. NEPR-AP-2020-0025. Given the significant discrepancies between PREPA reported metrics and LUMA calculated metrics and the significant process and data issues identified, LUMA believes it is prudent to investigate and understand several aspects of the Performance Metrics and Baselines issued by the PREB on May 21, 2021. This will enable more accurate data and reporting to the PREB, and a clear, accurate, and meaningful understanding of LUMA's ongoing performance.

The metrics outlined in the May 21, 2021 Resolution and Order and a comparison with LUMA's proposed metrics are shown in the Excel spreadsheet labeled Exhibit 2.

It is important that the Bureau, LUMA and stakeholders come to an understanding regarding definitions, formulas, assumptions and data used to calculate metrics, so to have an agreed to definition of success. As seen within the utility sector in the mainland US - utilities often use different definitions, formulas, assumptions and data to calculate metrics while the same or very similar terminology is used to name and describe each metric. One example is Reliability Performance Metrics. Even though the IEEE Power & Energy Society has a long-standing Working Group on Reliability Performance Metrics and has developed and issued two standards documents covering definitions, calculations, and data (IEEE Std 1366™ - 2012[2] and IEEE Std 1782™ – 2014[3]), significant confusion and inconsistencies between utilities continue to exist. Due to this confusion and these inconsistencies, the Working Group provides a free, anonymous, annual benchmarking service to utilities having engineers that are members of the working group to provide results that are as consistent and accurate as possible. Each participating utility downloads a Benchmark Template that includes a 15 step Wizard[4] which asks a series of questions about the utility characteristics, operating practices, calculation methods, data exclusions, reporting practices, etc. to ensure as much of an apples to apples comparison is obtained in the results.

Therefore, in relation to the Performance Metrics and Baselines issued by the Energy Bureau on May 21, 2021, LUMA recommends that LUMA and other stakeholders have access to:

1. Information to aid LUMA in understanding the differences in the results for the metrics that LUMA has analyzed and compared to the those issued by the Energy Bureau as shown listed in Exhibit 2, including:

[2] IEEE Guide for Electric Power Distribution Reliability Indices IEEE Std 1366™-2012, approved May 14, 2012.

[3] IEEE Guide for Collecting, Categorizing, and Utilizing Information Related to Electric Power Distribution Interruption Events IEEE Std 1782™ – 2014, approved March 27, 2014.

[4] https://cmte.ieee.org/pes-drwg/benchmarking/ DRWG Benchmark Template Download.

a) The formulas used to calculate each metric including any assumptions made and any adjustments of the input or results such as using averages, medians or substituting results from some other references or methods (and supporting reasoning); and

b) For calculations, supporting excel spreadsheets with intact formulas.

2. Information to aid LUMA and stakeholders in understanding the how the metric results were obtained for the metrics that LUMA has not analyzed and compared to the those issued by the Energy Bureau as shown listed in Exhibit 2, including:

   a) The data and its characteristics used.

   b) An explanation of how missing or bad data was adjusted and what data was included versus what data was excluded with supporting reasoning.

   c) The formulas used to calculate each metric including any assumptions made and any massaging of the input or results such as using averages or substituting results from some other references or methods (and supporting reasoning). For calculations, supporting excel spreadsheets with intact formulas.

   d) Any observations or review of data collection processing and methods performed by PREPA.

3. The definitions for all terminology and the methods used for determining “sub-groups” such as regional or municipality breakdowns and itemization.

As described in Exhibit 2 of LUMA’s motion of February 5, 2021 resubmitting LUMA’s comments and proposals regarding PREPA’s baselines and metrics in compliance with Resolution and Order of December 23, 2020 and based on data published by the Energy Bureau and presented during technical conference held on January 19, 2021 in Case No. NEPR-MI-2019-0007, LUMA followed a methodical process in developing the baselines for the Performance Metrics proposed as part of the Front-End Transition deliverables as required by the OMA. As a result, the proposed Performance Metrics will yield meaningful and useful results. This required many discussions, iterations and research by PREPA and LUMA subject matter experts over a period of several months. Almost all of the validated results for the LUMA proposed metrics differed significantly from those published by PREPA, as explained in Section 1.0 Introduction & Overview and Section 2.0 Review of Process & Data of Exhibit 2 of the aforementioned LUMA.

Furthermore, a recently discovered finding with respect to call center data demonstrates the inaccuracies and misrepresentations that can lurk in a set of data, resulting in erroneous metric results and their meaning. LUMA recently discovered that the historical call center data is not representative, resulting in highly inaccurate and skewed reporting that does not reflect reality. PREPA managed the number of trunks available to inbound customer calls, limiting the number of calls that could be routed to agents. LUMA’s new call center system, with unlimited number of trunks available to inbound customers, has seen call volumes eight times higher than what was forecasted based on the skewed and inaccurate historical data. These findings impact multiple Customer Service metrics, including average speed to answer, percent customer calls answered, average time to respond to a service and outage complaint, number of informal customer complaints and total number of calls received, among others.

In addition to the above, LUMA recommends a Technical Workshop, or a series of Technical Workshops be held to review the data, including validation and correction process, calculations and assumptions made for each performance metric so that LUMA and stakeholders can fully understand the baselines set by the Bureau. In advance of the Technical Workshops, LUMA recommends that the Bureau provide LUMA and stakeholders access to data described above to calculate and review data for each metric including the any review of the data collection, validation and correction process performed by the Bureau.

4.0 Process

As stated in Comments Filed by Rocky Mountain Institute Related to Performance-Based Incentive Mechanism Targets on February 5th, 2021 in Case No. NEPR-MI-2019-0007 In the Performance of PREPA, 'performance-based regulation can be a powerful tool to align incentives', however this type of 'fundamental changes to the regulatory regime come with significant risks'. RMI offered four recommendations based on its experience with performance-based regulation proceedings, namely Hawaii, Minnesota and Nevada.

LUMA is supportive of RMI's comments and recommendations and believes implementation within this docket will continue to support a thorough and responsible process and support minimizing any potential risks. LUMA has also reviewed a select group of performance-based regulatory processes, in Hawaii, Minnesota, Nevada and Washington D.C. and highlights some findings below.

LUMA believes aligning Performance Metrics to a clear vision or mission and goals provides a focused scope and allows both LUMA to work towards clear and focused performance improvements. As shown in Appendix B of LUMA's February 24, 2021 System Remediation Plan filing in Case No. NEPR-MI-2020-0019 and as observed during the reviewed jurisdictions, Performance Metrics are aligned with goals for the sector. Within all jurisdictions, these goals included Service Reliability, Customer Satisfaction and Clean Energy. Safety and Financial metrics were also included as goals for most of the jurisdictions.

These goals provide a transparent framework for evaluating the advancement of public policy through Performance Metrics. Further, this allows for prioritization of Performance Metrics and reduces the risk of inefficiencies and regulatory workload with reporting on metrics not aligned with the vision for the sector. In the jurisdictions reviewed, most goals had 1-4 Performance Metrics per goal with a select few having 5-7 Performance Metrics per goal. In aggregate, the reviewed Public Utilities Commissions selected a median of 40 Performance Metrics, ranging from 31 to 58. In Hawaii, the Public Utilities Commission balanced the desire for exhaustive data, with the knowledge that requiring the utility to furnish and update that data is a burden to be minimized.

Encouraging a collaborative stakeholder process through data sharing will allow LUMA and stakeholder groups to work from a common set of data, definitions, assumptions and will allow stakeholders to engage in a meaningful way with the process. As mentioned in Section 3.0 above, even with significant standardization efforts, significant confusion and inconsistencies between utilities continue to exist within the utility sector. Transparency, data sharing and collaborative workshops with respect to the underlying processes, controls, calculations, definitions and assumptions around data and Performance Metric calculations is imperative to ensure a collaborative process that yields desired results.

LUMA respectively recommends that PREB continues to clarify and reconsider Performance Metrics within this docket to minimize risks, minimize regulatory workload and encourage a collaborative and transparent process.

5.0 Regulatory Workload

As mentioned above, a review of a select group of jurisdictions that implemented performance-based regulation indicated that the median number of metrics being reported is approximately 40. It is worth bearing in mind that these requirements are in jurisdictions where the utilities are in a significantly

healthier operational and organizational state than PREPA and have more mature data collection, review and control mechanisms.

As per the May 21, 2021 Resolution and Order, the PREB is requiring the quarterly reporting of 113 unique T&D Metrics and 16 unique Generation metrics. In addition, sub-metrics are required for each those unique metrics resulting in a total of 524 reporting line items for T&D and 95 reporting line items for Generation.

LUMA understands that many of the Performance Metrics are already being reported by PREPA, however LUMA's investigations during the Front-End Transition and further recent investigations post-commencement strongly point to significant issues with the reliability and accuracy of these Performance Metrics. Based on LUMA's Front-End Transition investigations, the collection, validation, correction, calculation, and assumptions that form the basis of the reported Performance Metrics require significant review in order to align metrics with the actual performance of the utility. It took LUMA multiple months and numerous subject matter experts, as shown in the Front-End Transition monthly reports within docket NEPR-MI-2020-0008, to understand and review the processes around approximately 20 Performance Metrics.

Further, LUMA is currently undertaking the significant effort required to report on these metrics every quarter and this metric reporting is subject to significant change as Improvement Programs are implemented. For LUMA to expend resources reporting on these metrics, based on unvalidated and unreviewed data, goes against the requirement to provide value to the customer. LUMA will also be required to report on the many improvement programs detailed in the System Remediation Plan and the Initial Budgets. A more focused approach to performance metrics will allow better execution and reporting on high priority Improvement Programs required to recover and transform the Puerto Rico T&D System for the benefit of customers and the people of Puerto Rico. LUMA proposes discussing this topic in greater detail as part of the proposed Technical Workshops.

Exhibits 1(a), 1(b) and 2 are excel files to be submitted via email