

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

**NEPR**

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**IN RE:**

THE PERFORMANCE TARGETS FOR  
LUMA ENERGY SERVCO, LLC

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

**SUBJECT:** Request to Re-Schedule Proceedings.

**REQUEST TO RE-SCHEDULE PROCEEDINGS**

**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:

1. Pursuant to a Resolution and Order dated May 14, 2021, during the months of June, July and August 2021, this honorable Puerto Rico Energy Bureau (“Energy Bureau”) will consider LUMA’s petition for approval of the revised Annex IX to the OMA that includes LUMA’s proposed Performance Metrics Targets (“Request for Approval of the Revised Annex IX to the OMA”). The first procedural event is set for June 4<sup>th</sup>, 2021, when LUMA shall file a revised Request for Approval of the Revised Annex IX to the OMA,
2. LUMA respectfully submits that on or before June 4<sup>th</sup>, 2021, it is not in position to revise and file and amended Request for Approval of the Revised Annex IX to the OMA. Additional time is needed to comply with the Bureau’s order to file a revised Request for Approval of the Revised Annex IX to the OMA and to submit supporting documentation to be considered in this proceeding.

3. As a threshold consideration, it is respectfully requested that this honorable Energy Bureau consider that, on June 1, 2021, LUMA initiated operations of the Transmission and Distribution System (“T&D System”), per the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA) as supplemented by the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement. Thus, key components of LUMA’s leadership and personnel in charge of operations who shall provide input and their expertise and participate in decisions on LUMA’s performance metrics targets and the Revised Annex IX to the OMA, are involved in pressing tasks crucial to the transition and operations of the T&D System.
4. It is respectfully informed that LUMA is working to file a request for clarifications and/or partial reconsideration of the Resolution and Order issued on May 21<sup>st</sup>, 2021 in Case No. NEPR-MI-2019-0007 (“Baseline Proceeding”), whereby the Bureau adopted principles for establishing performance metric benchmarks; established four categories of performance metrics applicable to the Puerto Rico Electric Power Authority (PREPA); and set initial benchmark values for several metrics that are subject to reporting requirements. *See* May 21<sup>st</sup> Resolution and Order at pages 3-14.
5. For example, LUMA has identified the need to request clarification of the May 21<sup>st</sup> Resolution and Order regarding the baselines on several performance metrics set by the Energy Bureau including data and calculations used to determine the baselines as this information is required to determine performance metrics targets.
6. Further, LUMA will request additional guidance and explanations on the Bureau’s analysis and rationale in identifying eight utilities to set benchmark values.

7. The Energy Bureau’s final determination on PREPA’s performance baselines and benchmarks issued in the Baseline Proceeding (NEPR-MI-2019-0007) will inform LUMA’s analysis to revise its Request for Approval of the Revised Annex IX to the OMA. Said analysis is time-intensive, requires consideration and approval by several LUMA officials, and will be done simultaneously with LUMA’s first month as Operator of the T&D System.
8. LUMA appreciates the importance of moving forward in the proceeding. It is respectfully submitted that given the interrelation between this proceeding and the Baseline Proceeding, considering the recent issuance of the May 21<sup>st</sup> Resolution and Order, and taking into account that June 2021 is LUMA’s first month of operations, it is proper and in the best interest of LUMA, intervenors and stakeholders, to postpone initiation of procedural events in this matter.<sup>1</sup> In fact, LUMA’s ability to fully present its position in the Baseline Proceeding and to partake in this adjudicative proceeding, would be materially curtailed if it is required to file an amended Request for Approval of the Revised Annex IX to the OMA without a meaningful opportunity to consider the May 21<sup>st</sup> Resolution and Order and prior to requesting certain clarifications and/or partial reconsideration of the Energy Bureau’s determinations on performance baselines and benchmarks issued in the Baseline Proceeding.

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<sup>1</sup> As this honorable Energy Bureau stated in the resolution and order that initiated this proceeding, see., Resolution and Order of December 23, 2021, (“December 23rd Performance Targets Order”), this case is intertwined with the separate and parallel proceeding, Case No. NEPR-2019-0007, Baseline Proceeding. *See* December 23rd Performance Targets Order” at page 5. To wit, this Energy Bureau explained that the Baseline Proceeding 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.” *Id.* at 3. Furthermore, the Bureau stated the performance baseline and compliance benchmarks to be determined in the Baseline Proceeding would be “subsequently used . . . to establish the corresponding targets to be applicable to certified electric service companies –such as LUMA.” *Id.*

9. At this juncture, two weeks after the Energy Bureau issued the May 21<sup>st</sup> Resolution and Order setting performance benchmarks, LUMA cannot responsibly and consistent with industry and prudent practices, conclude its review of the Bureau's May 21<sup>st</sup> Resolution and Order and concurrently file a revised Request for Approval of a Revised Annex IX to the OMA.
10. It must be noted that LUMA's filing of a revised Request for Approval of the Revised Annex IX to the OMA entails a revision of several months of work that begun when the parties of the OMA adopted Annex IX to the OMA, continued since June 22, 2020 throughout the Front-End Transition Period, and culminated with the labor-intensive and important filings that LUMA submitted in Case NEPR-MI-2019-007 and in the February 25<sup>th</sup> filing of the Request for Approval of the Revised Annex IX to the OMA.
11. LUMA has actively engaged in the Baseline Proceeding, cognizant of its importance for the Bureau's ability to exercise its statutory and regulatory duties and LUMA's Request for Approval of the Revised Annex IX to the OMA.<sup>2</sup> LUMA is confident that additional time after the Baseline Proceeding concludes, before continuing with the procedural calendar in this matter, will aid the Bureau in adjudicating LUMA's Request for Approval of the Revised Annex IX to the OMA.
12. The records before this Energy Bureau manifest LUMA's commitment to comply with the orders issued by this honorable Energy Bureau and to engage in productive discussions with the Energy Bureau, its consultants, and with stakeholders, in setting performance baselines and benchmarks

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<sup>2</sup> As the case docket of the Baseline Proceeding shows, LUMA submitted three filings whereby it addressed the Bureau's data on PREPA's baselines, presented proposed performance baselines and metrics and provided an initial assessment on compliance benchmarks. *See* LUMA's Motions and Exhibits filed on January 29, 2021 and February 5, 2021, Case No. NEPR-MI-2019-0007 and amended submission of February 8, 2021; *see also* Reply Comments filed on February 19, 2021.

that will inform the Bureau's consideration of LUMA's Request for Approval of a Revised Annex IX to the OMA. LUMA will continue its active compliance with the orders issued by this Energy Bureau. In this matter, however, said compliance requires an amendment of the procedural calendar and a grant by this Energy Bureau of additional time to file an amended Request for Approval of the Revised Annex IX to the OMA.

13. Given the aforementioned and considering that the Energy Bureau's May 21<sup>st</sup> Resolution and Order was recently issued in the Baseline Proceeding and that LUMA plans to file for reconsideration and/or clarifications, LUMA respectfully requests that the Bureau re-schedule proceedings in this case. Particularly, LUMA requests that the deadline to file LUMA's revised Request for Approval of a Revised Annex IX to the OMA be set for six (6) weeks after the Energy Bureau issues a final determination in the PREPA Baseline Proceeding issuing clarifications and/or adjudicating LUMA's request for clarifications or reconsideration of the May 21<sup>st</sup> Resolution and Order.
14. It is respectfully submitted that interests of expediency and avoidance of duplication counsel in favor of rescheduling the procedural calendar in this proceeding to allow for conclusion of procedural events in connection with the May 21<sup>st</sup> Resolution and Order issued in the Baseline Proceeding and setting performance benchmarks. Postponing the procedural calendar is also necessary to allow LUMA to fully review and incorporate the Bureau's final determination issued in the Baseline Proceeding.
15. This request is filed in good-faith without intent to delay proceedings.

**WHEREFORE**, LUMA respectfully requests this Honorable Bureau to **consider** the aforementioned, **reschedule** proceedings to file LUMA's revised Request for Approval of a

Revised Annex IX to the OMA for six weeks after the Energy Bureau issues a final determination in the PREPA Baseline Proceeding (NEPR-MI-2019-007) as explained in this Motion, and **reschedule** subsequent procedural events accordingly and within the Bureau's discretion.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 3<sup>rd</sup> 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](mailto:jmarrero@diazvaz.law); and Katuska Bolaños-Lugo, [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law), the Office of the Independent Consumer Protection Office, Lcda. Hannia Rivera Diaz, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov), and counsel for the Puerto Rico Institute for Competitiveness and Sustainable Economy ("ICSE"), Fernando Agrait, [agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com).



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