

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

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**IN RE:**

THE PERFORMANCE OF THE PUERTO  
RICO ELECTRIC POWER  
AUTHORITY

**CASE NO.:** NEPR-MI-2019-0007

**SUBJECT:** Comments on July 2<sup>nd</sup> Resolution and  
Order and Stakeholder Processes.

**LUMA’S COMMENTS ON JULY 2<sup>ND</sup> RESOLUTION AND ORDER AND  
STAKEHOLDER PROCESSES**

**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. This honorable Puerto Rico Energy Bureau (“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.
2. An initial pre-filing Technical Conference was held on January 19, 2021, where Energy Bureau consultants explained their presentation of monthly performance data as filed by the Puerto Rico Electric Power Authority (“PREPA”) in this proceeding in compliance with a Resolution and Order issued by the Energy Bureau on May 14, 2019.
3. As the Energy Bureau explained in a Resolution and Order issued on April 8, 2021, the purpose of the Technical Conference was to “present a summary of the metrics filed by PREPA and industry standard for illustrative purposes.” *See* April 8<sup>th</sup> Resolution and Order at page 5. The

record in this case does not include information to indicate that PREPA's data collection methods, processes and quality control and assurances were reviewed by the Energy Bureau as part of this process.

4. During the pre-filing Technical Conference held on January 19, 2021, the Energy Bureau also took oral questions from LUMA representatives. Energy Bureau consultants responded orally. The pre-filing technical conference lasted a little more than an hour (1:08:08). Video *available at* [https://www.youtube.com/watch?v=zi5ALBxCN\\_I](https://www.youtube.com/watch?v=zi5ALBxCN_I).
5. 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 Energy 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, 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 29<sup>th</sup> comments.
6. 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 in this proceeding.
7. 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 5<sup>th</sup>, 2021 and Exhibits 1 through 3 to same. On even date, PREPA submitted supplemental comments.

8. On February 8, 2021, LUMA filed a motion requesting leave to file an amended Exhibit 2 to its February 5<sup>th</sup> comments. On February 19, 2021, and in compliance with the Energy Bureau's directives, LUMA filed a Reply to the comments that were filed for the record on performance baselines and compliance benchmarks.
9. A Technical Conference was held on February 22, 2021, to discuss the comments and replies that were filed by LUMA, PREPA and stakeholders on PREPA's baseline performance and performance metrics ("February 22<sup>nd</sup> Technical Conference"). The Technical Conference lasted approximately two hours (1:53:48), *see* <https://www.youtube.com/watch?v=jzRbJR3XGi0>.
10. During the February 22<sup>nd</sup> Technical Conference, PREPA's representatives provided a summary of the reply comments filed by PREPA in this proceeding and answered questions from the Bureau. PREPA consultant, Mr. Robert Laurie, also participated providing comments and answering questions from the Bureau.
11. On behalf of LUMA, during the February 22<sup>nd</sup> Technical Conference, Mr. Mario Hurtado, Vice President, Regulatory, offered a summary of LUMA's February 19<sup>th</sup> Reply, and addressed the comments that were filed by PREPA, OPIC, SESA and RMI in this proceeding. Mr. Hurtado and members of the LUMA team answered questions from the Energy Bureau.
12. Mr. Grerado Cosme, representative of the OPIC commented briefly that there was a worry that at this time PREPA does not have reliable information on customer statistics or data that can allow a baseline, a good baseline to do the benchmarks for Performance Metrics. He stated:

“It is going to be difficult at this initial stage to set up the LUMA metrics if we have that lack of information. It is not good enough to have only the information from the Energy Bureau to do that task. We need much more reliable information from PREPA.” *Id.* (Starting at 1:48).

13. 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 8<sup>th</sup> Resolution and Order”). At pages 15 through 18 of the April 8<sup>th</sup> Resolution and Order, this Bureau included “Analysis, Discussions and Findings.” Then, at pages 18 through 20 of the April 8<sup>th</sup> Resolution and Order, in a Section entitled “Conclusion,” this Energy Bureau issued a series of orders on performance metrics and set the prospective metrics to be reported by PREPA.
14. 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 28<sup>th</sup> Request for Reconsideration”). LUMA requested partial reconsideration of that portion of the April 8<sup>th</sup> 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”).
15. On May 21<sup>st</sup>, 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 21<sup>st</sup> Resolution and Order”). *See* May 21<sup>st</sup> Resolution and Order at pages 3-14. The Energy Bureau also adjudicated the April 28<sup>th</sup> Request for Reconsideration. In the May 21<sup>st</sup> Resolution and

Order, 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. *Id.* at page 15.

16. On June 16, 2021, LUMA filed a *Motion for Clarifications and/or Partial Reconsideration of Resolution and Order of May 21, 2021*, addressing the Energy Bureau's determinations on benchmarks and baselines ("June 16<sup>th</sup> Motion"). LUMA also suggested that additional information and participatory processes were needed to set performance baselines.
17. On July 2, 2021, the Energy Bureau granted and denied in part LUMA's June 16<sup>th</sup> Motion. The Energy Bureau issued the following main rulings: (1) declined to revisit the number of metrics, stated that the number is subject to change as new data is available, and explained that the Bureau's interest in granular data on performance metrics is not limited to setting performance targets for LUMA in case NEPR-AP-00025 but extends to "a uniform understanding of the current level of PREPA's performance on every aspect of PREPA's decision-making process and operations"; (2) declined to revisit the benchmarks and selection of peer-group utilities; (3) additional stakeholder meetings "may not result in any more substantive information since the matter at hand is a question of PREPA's historical data brought to the attention of the Energy Bureau in motions filed by LUMA. . ."; and (4) provided comments and clarifications on certain metrics in response to LUMA's comments (average speed of answer, number of formal customer complaints per 100, 000 customers, OSHA Recordable Incident Rate, OSHA Severity Rate, OSHA DART, Days Sales Outstanding (Government), Operational Expenses versus Budget (excluding fuel)(system), and capital expenses versus budget (system)).

18. Regarding data for setting baselines, the Energy Bureau stated the following: “[t]he Energy Bureau recognizes that additional information may be identified as LUMA becomes more familiarized with the day-to-day operations of the PREPA system.” July 2<sup>nd</sup> Resolution and Order at page 6.
19. LUMA agrees that further consideration of data and revision of baselines is needed.
20. LUMA respectfully submits that stakeholder process should continue in this proceeding and further consideration should be given to the reliability of the data that the Energy Bureau had available to set performance baselines for the Transmission and Distribution System. Stakeholders, including the OPIC, raised this very important concern, and LUMA’s filings throughout the proceedings establish the need to acquire and consider additional data prior to setting performance baselines. As the record shows, RMI provided input on its experience in other jurisdiction and proposed a phased and inclusive approach to adoption of performance-based regulations characterized by participation by collaborative stakeholder working groups and enabling data sharing.
21. LUMA appreciates that the two technical conferences in this proceeding were an important first step, but respectfully submits that additional participatory processes are key to further the purposes outlined by the Energy Bureau in this proceeding and ensure that accurate performance baselines are adopted.

**WHEREFORE**, LUMA respectfully requests this Honorable Bureau **take notice** of the aforementioned.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 23<sup>rd</sup> day of July 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). Notice will also be sent to the OIPC, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov). The case docket and comments filed by SESA and RMI do not include contact information to serve them a copy of this motion via electronic mail. LUMA understands that this motion will be part of the public docket and requests that the clerk's office sends SESA and RMI a copy of this filing.



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