

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

<b>NEPR</b>  <b>Received:</b>  <b>Aug 17, 2021</b>  <b>1:42 PM</b>
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**IN RE:**

PUERTO RICO TEST FOR DEMAND  
RESPONSE AND ENERGY EFFICIENCY

**CASE NO.:** NEPR-MI-2021-0009

**SUBJECT:** Request for the Energy Bureau to Stay Resolution and Order of August 13, 2021 and Schedule Technical Workshop

**MOTION REQUESTING ENERGY BUREAU TO STAY RESOLUTION AND ORDER  
OF AUGUST 13, 2021 AND SCHEDULE TECHNICAL WORKSHOP**

**TO THE PUERTO RICO ENERGY BUREAU:**

**COME NOW LUMA Energy, LLC<sup>1</sup>, and LUMA Energy ServCo, LLC<sup>2</sup>** (jointly referred to as “LUMA”) and respectfully state, submit and request the following:

1. On May 14, 2021, this Puerto Rico Energy Bureau (“Energy Bureau”) issued a Resolution and Order (the “May 14<sup>th</sup> Resolution”) initiating the referenced proceeding to develop the Puerto Rico Benefit Cost Test (“PR Test”)<sup>3</sup>. The Energy Bureau scheduled four Technical Workshops to obtain stakeholder input to develop the PR Test based on a five-step process for developing a jurisdiction-specific cost-effectiveness test as per the National Standard Practice Manual (“NSPM”) for Benefit-Cost Analysis of Distributed Energy Resources (“DER”) of August 2020. *See* May 14<sup>th</sup> Resolution at pages 3-5 and Energy Bureau Resolution of June 16, 2021 (“June 16<sup>th</sup> Resolution”), at page 1. Two of these workshops have taken place as of this date- namely, Technical Workshop 1, held on June 30, 2021, with the purpose of “summariz[ing] the NSPM for

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<sup>1</sup> Register No. 439372.

<sup>2</sup> Register No. 439373.

<sup>3</sup> As this test is required under Section 2.01(B) of the Energy Bureau’s Regulation for Demand Response of December 21, 2020, Regulation 9246 and under the Proposed Energy Efficiency Regulation issued by the Energy Bureau on April 22, 2021.

DERs including the principles of developing a jurisdiction specific cost-effectiveness test, and an overview of the five-step process” and “cover[ing] Step 1 of the NSPM process, which is to identify Puerto Rico’s applicable goals related to DR and EE” (*see* May 14<sup>th</sup> Resolution at page 5); and Technical Workshop 2, held on July 21, 2021, with the purpose of “cover[ing] Step 2 of the NSPM process” and “involv[ing] identifying all utility system impacts to be included in the PR Test and identification of methodologies that could quantify costs and benefits” (*see id.*). LUMA attended and participated in these workshops.

2. Technical Workshop 3 is scheduled for August 25, 2021 (*see* June 16<sup>th</sup> Resolution at page 1), which has the purpose of “cover[ing] the remaining steps in the NSPM process. This will include determining which non-utility system impacts to include in the PR Test based on Puerto Rico’s applicable policy goals as identified in Workshop 1. It will also cover issues related to choice of discount rate and analysis period.” *See* May 14<sup>th</sup> Resolution at page 6. Finally, Technical Workshop 4 is scheduled for September 22, 2021 (*see* June 16<sup>th</sup> Order at page 1), which will cover “a proposed draft PR Test from the Energy Bureau and discussion of remaining open questions from the earlier workshops.” *See* May 14<sup>th</sup> Resolution at page 6.

3. According to the Energy Bureau in its May 14<sup>th</sup> Resolution, “[t]hese workshops will culminate in an Energy Bureau Order memorializing the process and the PR Test framework.” *Id.*

4. On August 3, 2021, this Energy Bureau issued a Resolution (“August 3<sup>rd</sup> Resolution”) in the instant proceeding requesting that LUMA and other stakeholders provide to the Energy Bureau, by August 13, 2021, responses to four questions listed in the August 3<sup>rd</sup> Resolution related to the identification of utility system impacts for the PR Test. In compliance

with this Resolution, LUMA submitted the required responses to these questions in an Exhibit 1 to a motion filed on August 13, 2021 (“LUMA’s August 13<sup>th</sup> Responses”).

5. On that same day- August 13, 2021- at around 3:00 pm, LUMA received a Resolution and Order issued by this honorable Energy Bureau on that same date (“August 13<sup>th</sup> Order”) requesting LUMA and PREPA to, **by August 18<sup>th</sup>, 2021- that is, a little more than three business days**, provide the Energy Bureau responses to a request for information included as Attachment A to the August 13<sup>th</sup> Order (“Attachment A”). According to the Energy Bureau, the requested information was necessary to develop a valuation test and explained that “[a]mong the inputs required for the PR Test, it is necessary for the Energy Bureau to develop a valuation for costs that could potentially be avoided (i.e., reduction on operating costs related to the production of energy, the required capital investment related to the operation and maintenance of generation assets, environmental impacts, and other costs associated with the energy system).” August 13<sup>th</sup> Order at page 1. The Energy Bureau also requested LUMA and PREPA to assign a contact representative who is able to clarify the information provided, as well as provide this person’s contact information. *See id.*

6. LUMA respectfully submits that the input referenced in the August 13<sup>th</sup> Order does not appear to have any relation to the formulation of a PR Test which is the objective of the instant proceeding, and, if deemed necessary for this proceeding, LUMA respectfully questions whether the approach in the August 13<sup>th</sup> Order is the best approach to develop this input.

7. The input the Energy Bureau is seeking is to “develop a valuation for costs that could potentially be avoided” (*see id.*)- that is, in essence an avoided cost study. Nowhere in the May 14<sup>th</sup> Resolution, which initiated this proceeding, is it indicated that the values or inputs for

this test would be developed in this proceeding. Rather, the stated purpose of the instant proceeding is to develop a “PR Test framework” (*see* May 14<sup>th</sup> Resolution at page 6), that is, essentially to formulate the construction of the PR Test. Accordingly, the presentation provided by the Energy Bureau’s consultants for Workshop 1, which provided an overview of the NSPM for DER, indicated that “[we] will not attempt to define exact methodologies or values”. (*See* presentation titled “Development of the Puerto Rico Test, Technical Workshop #1”, dated June 30, 2021 in the record of the instant proceeding, at page 6).

8. Furthermore, the subject of the remaining Technical Workshops 3 and 4 is also unrelated to the requests in the August 13<sup>th</sup> Order. As mentioned, the former will cover “[i]dentification of non-utility impacts and overarching considerations including the discount rate” and the latter will cover an “[o]verview of the proposed draft PR Test and remaining open questions from prior workshops.” *See* May 14<sup>th</sup> Resolution at page 6.

9. Moreover, if an avoided cost study were deemed necessary for this proceeding, we respectfully submit that the approach of having the Energy Bureau develop this study would result in duplication of work and would not be the most cost-efficient manner of proceeding. As indicated in LUMA’s August 13<sup>th</sup> Responses: “Avoided costs are the marginal costs a utility no longer incurs if a customer reduces energy or capacity demands from the utility. The basic theory is that if the customer reduces demand or energy, the utility avoids the need to supply the incremental capacity or energy. Therefore, measuring marginal costs is the first step in measuring avoided costs. The second step is ensuring that the cost is avoided, whole or in part, by the customer’s actions.” August 13<sup>th</sup> Responses at Page 2.

10. As can be noted, a marginal cost study is the first step to determine avoided costs. A marginal cost study has in fact already been developed by LUMA's consultants, Guidehouse, in another proceeding before this Energy Bureau- case NEPR-AP-2018-0004, *In Re: the Unbundling of the Assets of the Puerto Rico Electric Power Authority* (the "Unbundling Proceeding") which was submitted to and is currently under review by this Energy Bureau (the "Marginal Cost Study"). Given that the first and principal portion of an avoided cost study is a marginal cost study, the development of a separate avoided cost study in this or any other proceeding would appear duplicative and, therefore, unnecessary. If this Energy Bureau determines nonetheless that such separate study is necessary, having the Energy Bureau conduct it, which would result in re-doing most of the work already conducted, would not to be a cost-effective way to proceed. LUMA respectfully submits that the most cost-effective approach would be to have LUMA and its consultants conduct the study given the work already conducted in the Unbundling Proceeding. The former approach could entail additional costs that eventually would be borne by the customer. In fact, based on the experience of LUMA and its consultants, in the United States it is common for the utility to conduct marginal cost and avoided cost studies which are submitted to regulators for approval. Regulators may define the cost-benefit approaches and hire consultants to build cost-benefit tools, but rarely does the regulator develop the values. Sometimes regulators perform their own studies but usually through a separate office or "arm", and the office performing the work is required to present and defend the study, in a similar manner to the utility.

11. Moreover, there are important issues to clarify or resolve before embarking on such a study. If a separate study is conducted, how will the new avoided cost study be used vis-à-vis the existing Marginal Cost Study? How would discrepancies between the studies, if any, be addressed?

What will be the methodologies used for the new avoided cost study? What role will LUMA have in the process, including when and how will it be able to provide input and whether it will be able to raise any objections to any aspects of the study? LUMA respectfully submits that, as the affected utility, it is essential for LUMA to be a party in the process of the design and development of any utility avoided costs study for the jurisdiction of Puerto Rico.

12. In light of the above, LUMA respectfully requests that this Energy Bureau stay its August 13<sup>th</sup> Order until such time the issues described above are discussed and resolved. In its place, LUMA respectfully requests that this honorable Energy Bureau schedule a Technical Workshop to present the need for an avoided cost study in this proceeding, and, if such study is required, the acceptance of the Marginal Cost Study as part of the Unbundling Proceeding with NEPR-AP-2018-004 for use within the avoided cost study and/or the proposed approach to develop the avoided cost study, the methodology thereof, alignment with the Marginal Cost Study (if this study is not adopted) , the cost effectiveness of having the Energy Bureau perform this study, and any other matters relevant to the information requests in Attachment A of the August 13<sup>th</sup> Order.

13. This proposal should not have an impact on Technical Workshops 3 or 4 in the instant proceeding, given that, as discussed above, the subject of those Technical Workshops is unrelated to the subject matter of the August 13<sup>th</sup> Order. Rather and most importantly, this proposal supports the consistent application of marginal cost studies across the utility and would help clarify whether the proposed avoided cost study is necessary, and, if so, aid in the determination of the appropriate methodology to apply and the establishment of clear rules governing the manner in which it will be used, as well as ensuring the that the study is conducted in the most cost-efficient

manner. All of the foregoing is consistent with this Energy Bureau's guiding principles of avoiding duplication of efforts and ensuring cost-efficiency.

14. Other aspects of the August 13<sup>th</sup> Order must also be noted. The time provided in the August 13<sup>th</sup> Order to submit the information requested in Attachment A is extremely insufficient. When LUMA received the August 13<sup>th</sup> Order, its staff was involved in the preparation of several regulatory filings due on that same date and needed to prepare additional filings due between August 13<sup>th</sup> and August 18<sup>th</sup>, as well as appear at one proceeding before this Energy Bureau. Specifically, for August 13<sup>th</sup>, LUMA had to file (1) a response to the questions in the August 3<sup>rd</sup> Resolution in the instant proceeding, (2) the FCA-PPCA Reconciliations for the month of July 2021 in the case NEPR-MI-2020-0001, *In Re: Puerto Rico Electric Power Authority's Permanent Rate*, (3) the filing of the presentation to be provided by LUMA in the Virtual Compliance Hearing to be held on August 16, 2021 in case NEPR-MI-2019-0016, *In Re: Informes de Progreso de Interconexión de la Autoridad de Energía Eléctrica*, as well as the filing of a Quarterly Interconnections Progress Report and the filing of a compliance strategy or plan, both required by the Bureau in that case, and (4) an Updated Quarterly Performance Metrics Report in case NEPR-MI-2019-0007, *In Re: The Performance of the Puerto Rico Electric Power Authority*. In addition, on August 16<sup>th</sup>, LUMA was required to make a filing of updated exhibits and other documents in case NEPR-MI-2021-0008, *In Re: Review of LUMA's Model Bill*, and on August 18<sup>th</sup> is required to make a filing of a revised Request for Approval of Annex IX of LUMA's Operation and Maintenance Agreement case NEPR-AP-2020-0025, *In Re: Performance Targets for LUMA Energy ServCo, LLC*, in addition to submitting pre-filed testimonies of its witnesses in that case. Furthermore, on August 16<sup>th</sup>, LUMA was also required to appear in the mentioned Virtual

Compliance Hearing in case NEPR-MI-2019-0016. The required efforts to attend to these filings and proceeding have involved and will involve some of the LUMA's regulatory staff and other technical staff who would also be involved in the preparation of the responses to the questions in the August 13<sup>th</sup> Order and would therefore limit the time available for this staff to seek the required information and complete these responses.

15. Even if LUMA did not have such time limitations during the mentioned dates, seeking, developing and preparing the information requested in the August 13<sup>th</sup> Order requires significant effort and coordination with multiple teams to respond to the 15 requests (five main requests with multiple parts). Further, the information requested requires the review of multiple historical data points which were developed prior to LUMA's operations and updated forecasts for which regular updating does not occur. A request of such a nature requires much more time than the allotted approximately three business days. This effort would include LUMA contacting and engaging the PREPA consultants that prepared the Integrated Resource Plan to make available some of the required information and analysis thereof, coordinating with its consultants and PREPA to obtain other required data, updating multiple forecasts for future years / decades and understanding the data sources and limitations to such data. Furthermore, we respectfully submit that the requests do not take into account the current state of the electric system in Puerto Rico, given the experience in other proceedings, including the Initial Budgets, System Remediation Plan and the System Operation Principles, where similar data requested has been shown to be unavailable or unreliable. Furthermore, the development of the requested forecasts or analyses are within the approved Improvement Programs within the approved Initial Budget and System Remediation Plan and as such are not available at this time.



16. Therefore, based on the above, LUMA respectfully submits that the time frame provided to respond to the questions in the August 13<sup>th</sup> Order of approximately three working days is vastly inadequate for LUMA to conscientiously and thoroughly complete the tasks necessary for the compilation, development and preparation of the responses to these questions. LUMA estimates that the compilation, development and preparation of the available required information would take at least thirty (30) days to complete. However, this effort would not yield all of the required information, given that, as mentioned, additional steps are needed to develop most of this information so that it is accurate or reliable.

17. In sum, even if relevant, the amount of information solicited by this Energy Bureau is such, that the target date established is not realistically achievable. As mentioned before, LUMA would need at least thirty (30) days to gather the information requested, if available. This forum has accorded months to provide responses in proceedings in which similar requests for information have been made. Accordingly, LUMA asserts that this Energy Bureau should provide at least thirty (30) days to submit the information requested in Attachment A, after a determination following a calendarized Technical Workshop has been made that an avoided cost study, performed by the Energy Bureau, is necessary, and the proposed approach, methodology and alignment with the Marginal Cost Study have been discussed.

**WHEREFORE**, LUMA respectfully requests the Energy Bureau to **take notice** of the aforementioned, **stay the August 13<sup>th</sup> Order**, schedule a Technical Workshop to discuss the need for an avoided cost study in this proceeding, and, if such study is required, the acceptance of the Marginal Cost Study as part of the Unbundling proceeding within NEPR-AP-2018-0004 for use within the avoided cost study and/or the proposed approach to develop the avoided cost study, the

methodology thereof, alignment with the Marginal Cost Study (if this study is not adopted), the cost effectiveness of having the Energy Bureau perform this study, and any other matters relevant to the information requests in Attachment A of the August 13<sup>th</sup> Order. If a determination is made by this Energy Bureau after the above-described Technical Workshop has taken place, that an avoided cost study is necessary, and required to be performed by the Energy Bureau, LUMA requests that it be granted thirty (30) days to submit its responses to the requests included in Attachment A.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 17<sup>th</sup> day of August 2021.

We certify that we filed this motion using the electronic filing system of the Puerto Rico Energy Bureau.



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*/s/ Laura T. Rozas*

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