NEPR

Received:

May 28, 2021

11:36 PM

## COMMONWEALTH OF PUERTO RICO PUBLIC SERVICE REGULATORY BOARD PUERTO RICO ENERGY BUREAU

# IN RE: PUERTO RICO ELECTRIC POWER AUTHORITY'S EMERGENCY RESPONSE PLAN

CASE NO.: NEPR-MI-2019-0006

SUBJECT: Filing of Emergency Response Plan

# MOTION SUBMITING LUMA'S EMERGENCY RESPONSE PLAN

# TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

**COME NOW LUMA Energy, LLC** ("ManagementCo")<sup>1</sup>, and **LUMA Energy ServCo**, **LLC** ("ServCo")<sup>2</sup>, (jointly referred to as "LUMA"), and, through the undersigned legal counsel, respectfully submit this Petition to the honorable Puerto Rico Energy Bureau ("Energy Bureau" and/or "Bureau") to submit LUMA's Emergency Response Plan ("ERP"):

# I. Introduction

LUMA entered into the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement dated as of June 22, 2020 (the "OMA"), with the Puerto Rico Electric Power Authority ("PREPA") and the Puerto Rico Public-Private Partnerships Authority ("P3 Authority") to (i) provide management, operation, maintenance, repair, restoration and replacement, and other related services for the transmission and distribution system ("T&D System"), in each case that are customary and appropriate for a utility transmission and distribution system service provider, and (ii) establish policies, programs and procedures with respect thereto

<sup>&</sup>lt;sup>1</sup> Register No. 439372.

<sup>&</sup>lt;sup>2</sup> Register No. 439373.

([(i) and (ii), collectively], the "O&M Services") ....." *See* OMA Section 5.1.<sup>3</sup> The O&M Services are to be provided in accordance with the "Contract Standards,"<sup>4</sup> requiring compliance with Applicable Law <sup>5</sup>, Prudent Utility Practice <sup>6</sup>, and other standards, terms, conditions and requirements specified in the OMA. Contract Standards necessarily require acting consistently with policy mandates and directives in Act 57-2014, as amended, known as the "Puerto Rico Energy Transformation and RELIEF Act" ("Act 57-2014"), Act 120-2018, as amended, known as the "Electric Power System Transformation Act" ("Act 120-2018") and Act 17-2019, known as the "Puerto Rico Energy Public Policy Act" ("Act 17-2019"), among others.

In pertinent part, the O&M Services include, among others: (1) emergency preparedness planning (*id.*, Annex I, Section IIA at page I-4); (2) communications with public officials, regulators and local municipalities and counties regarding storm preparation, management,

<sup>&</sup>lt;sup>3</sup> The OMA further provides that, except for those rights and responsibilities reserved for PREPA and the P3 Authority or otherwise expressly provided in the OMA, LUMA "shall (A) be entitled to exercise all of the rights and perform the responsibilities of [PREPA] in providing the O&M Services, and (B) have the autonomy and responsibility to operate and maintain the T&D System and establish the related plans, policies, procedures and programs with respect thereto as provided in [the OMA]." *Id.* Moreover, the OMA provides that LUMA shall function as agent of [PREPA] and PREPA "irrevocably authorizes [LUMA] to (i) represent [PREPA] before [the Energy Bureau] with respect to any matter related to the performance of any O&M Services provided by [LUMA] under [the OMA]" and "(ii) prepare all related filings and other submissions before [the Energy Bureau]" among other functions. OMA, Section 5.6.

<sup>&</sup>lt;sup>4</sup> The OMA defines "Contract Standards" as "the terms, conditions, methods, techniques, practices and standards imposed or required by: (i) Applicable Law; (ii) Prudent Utility Practice; (iii) applicable equipment manufacturer's specifications and reasonable recommendations; (iv) applicable insurance requirements under any insurance procured pursuant to this Agreement; (v) the Procurement Manuals, as applicable, and (vi) any other standard, term, condition or requirement specifically contracted in this Agreement to be observed by [LUMA]." *Id.* Section 1.1 at page 9.

<sup>&</sup>lt;sup>5</sup> This term includes "any foreign, national, federal, state, Commonwealth, municipal or local law, constitution, treaty, convention, statute, ordinance, code, rule, regulation, common law, case law or other similar requirement enacted, adopted, promulgated or applied by any [governmental body][...]" in each case applicable to the parties to the OMA. *Id.*, Section 1.1 at page 3.

<sup>&</sup>lt;sup>6</sup> "Prudent Utility Practice" is defined, in pertinent part, as "...at any particular time, the practices, methods, techniques, conduct and acts that, at the time they are employed, are generally recognized and accepted by companies operating in the United States electric transmission and distribution business as such practices, methods, techniques, conduct and acts appropriate to the operation, maintenance, repair and replacement of assets, facilities and properties of the type covered by the [OMA] ....." *Id.* at page 26.

coordination and response (*see id.* Annex I, Section IV.B); and emergency response and implementation of an ERP (*id.*, Annex I, Section VII).

The O&M Services are to commence on a date referred to as the "Service Commencement Date," or the "Interim Period Service Commencement Date" if PREPA remains in Title III bankruptcy proceeding, and certain conditions precedent specified under the OMA are satisfied or waived (collectively, for purposes of this Petition, the "Commencement Date").<sup>7</sup> *See id.*, Sections 4.5 and 4.7(b). Beginning on the Effective Date (that is, June 22, 2020) and until Commencement Date<sup>8</sup> (this period, the "Front-End Transition Period"), LUMA is required to provide "Front-End Transition Services"<sup>9</sup> which are "intended to ensure an orderly transition of the responsibility for the management, operation, maintenance, repairs, restoration and replacement of the T&D System to [LUMA] by the . . . [Commencement Date], without disruption of customer service and business continuity . . . ." *Id.*, Sections 1.1 at page 15 and Section 4.1(a).

<sup>&</sup>lt;sup>7</sup>LUMA is assuming that PREPA will not exit the Title III Bankruptcy proceeding before June 1, 2021. Consistent with statements from the Executive Director of Financial Oversight and Management Board (FOMB) and PREPA Certified Fiscal Plan for FY2021, certified on June 29, 2020, the Initial Budgets assume that PREPA will exit Title III at December 31, 2021. *See e.g.*, "Natalie Jaresko: "we are going to emerge from bankruptcy in 2021", PR Headline News, https://www.puertoricoheadlinenews.com/natalie-jaresko-we-are-going-to-emerge-from-bankruptcy-in-2021/ (last visited February 22, 2021). Consequently, LUMA anticipates providing the O&M Services during the Interim Period pursuant to the Supplemental Terms Agreement agreed between the OMA parties precisely for this contingency. If PREPA exits the Title III bankruptcy proceeding contemporaneously with all other conditions precedent to Service Commencement Date, then LUMA will begin providing O&M Services without the need for an "interim period." Mentions in this document (and in all other OMA required submittals to the Energy Bureau), to "beginning of O&M Services," "start of operations," "start of operations and maintenance services," and other allusions of similar import, shall be understood to refer to the end of the Front-End Transition Period and LUMA's commencement Date."

<sup>&</sup>lt;sup>8</sup> See Id.

<sup>&</sup>lt;sup>9</sup> The Front-End Transition Services are defined in the OMA as services to "complete the transition and handover to [LUMA] of the operation, management and other rights and responsibilities with respect to the T&D System pursuant to [the OMA], including the services contemplated by the Front-End Transition Plan; provided that the Front-End Transition Services shall not be O&M Services." <sup>9</sup> Id., Section 1.1 at page 16.

During the Front-End Transition Period LUMA is required to develop in coordination with the P3 Authority and to "provide [the P3 Authority] and [the Energy Bureau], for their information, a plan of action meeting Contract Standards that takes effect from the Service Commencement Date and outlines the procedures and actions necessary for responding to any emergency affecting or reasonably likely to affect the T&D System after the Service Commencement Date (the "Emergency Response Plan" [(ERP)]), including fire, weather, environmental, health, safety and other potential emergency conditions, which [ERP] shall become effective on the Service Commencement Date." OMA, Section 4.2(g); *see also, id.*, Annex I at Section VII(B) at page I-11 and Annex II at pages II-26, II-34, and II-40.

Pursuant to the OMA, the ERP must: (i) provide for "appropriate notice of any such emergency" to the Energy Bureau and other specified Governmental Bodies<sup>10</sup> with jurisdiction; (ii) "establish measures that facilitate coordinated emergency response actions by all appropriate Governmental Bodies"; (iii) "specifically include outage minimization and response measures"; and (iv) "assure the timely availability of all personnel required to respond to any emergency" in accordance with specified requirements.<sup>11</sup> *Id.*, Section 4.2(g) (Footnotes added). The ERP is to be updated from time to time. *See id.*, Section 4.2(g).

<sup>&</sup>lt;sup>10</sup> A term defined as "any U.S. federal, state, Commonwealth, regional, municipal or local legislative, executive, judicial or other governmental board, agency, authority, commission, bureau, administration, court, instrumentality or other duly authorized body, including [the Energy Bureau] and the [Fiscal Oversight Management Board] (if then in existence), other than Owner and, in its capacity as such under this Agreement, [the P3 Authority], or any official thereof having jurisdiction with respect to any subject of [the OMA]." *Id.*, Section 1.1 at page 17.

<sup>&</sup>lt;sup>11</sup> Specified federal funding requirements apply if the Emergency Event relates, or could potentially relate, to an event that may be or has been declared a Declared Emergency or Major Disaster. *See id.*, Section 4.1(e). "Emergency" or "Emergency Event" is defined as "(i) any Outage Event, (ii) any Declared Emergency or Major Disaster and (iii) any other circumstance defined as an Emergency in the Emergency Response Plan to be prepared pursuant to Section 4.2(g) (*ManagementCo Responsibilities – Emergency Response Plan*)." *Id.*, Section 1.1 at page 11. A "Declared Emergency or Major Disaster" is "an event declared as an emergency or major disaster in accordance with the provisions of the Stafford Act." *Id.*, Section 1.1 at page 10. An "Outage Event", in turn, is defined as:

The ERP shall also address "emergency response and restoration, and all necessary emergency response, business continuity, reporting and communication functions relating to the T&D System [...]" *Id.*, Annex I, Section VIIB at page I-11. Such plans are to be coordinated with the "plans of [PREPA] and the [P3 Authority], other service providers for business continuity and disaster recovery, including response, reporting and public communications relating to storms, other unusual weather occurrences and other Emergencies." *Id.* These requirements are to be addressed by including: (i) timely reporting of emergency conditions to Governmental Bodies "as may be necessary, appropriate or advisable" including "timely regular updates"<sup>12</sup>; (ii) "storm monitoring and mobilization of [LUMA's] or Subcontractor's workforce (including workforce available under any Mutual Assistance Agreements) in connection with anticipated storms and other electrical system emergencies"; (iii) coordination with the media, fire, police and municipal, state and federal government; (iv) customer communications<sup>13</sup>; (v) "system condition monitoring";

<sup>[..]</sup> an event as a result of which (i) at least twenty thousand five hundred (20,500) T&D Customers are interrupted or (ii) at least one hundred fifty (150) outage jobs for the T&D System are logged, in each case within a twenty-four (24) hour period and due to an act of God or, in case of a storm, a storm that is designated as such by the U.S. National Weather Service, and shall end when a state in which fewer than one thousand (1,000) T&D Customers remain interrupted for a continuous period of eight (8) hours following an Outage Event is achieved.

Id., Section 1.1 at page 22.

<sup>&</sup>lt;sup>12</sup> These reports are to include courses of action taken in response to or in anticipation to emergency events and the response progress. *See id*, Annex I, Section VII(B), paragraph (1). In this regard, Section IV of Annex I also provides, in pertinent part, that LUMA is to keep PREPA and the P3 Authority and other government entities informed and act in consultation with PREPA and the P3 Authority, which communications are to be made in accordance with System Operation Principles, and be responsible for "coordinating, conducting and formulating communications" with government entities related to the operation and maintenance of the T&D System "in accordance with such policies and procedures as Operator may from time to time adopt in its sole and absolute discretion". *See id.*, Section IV(B) and (C). <sup>13</sup> To include all inbound and outbound customer communications systems. *See id*, Section VII(B), paragraph (3). In this regard, Section IV of Annex I also provides LUMA is responsible for "establishing and maintaining customer contact" through call centers with toll free service numbers, customer offices and authorized payment centers, including "maintaining a phone line for outage calls, until there is an alternative communication system or technology that makes this information otherwise available and for "maintaining

(vi) "repair and replacement of damaged components of the T&D System [...]"<sup>14</sup>; (vii) "public safety activities"; (viii) "restoration of the T&D System to pre-emergency conditions"; (ix) conducting periodic drills;<sup>15</sup> and (x) "preparing and analyzing all information and data required to support [...]" qualification for certain federal funding and reimbursement claims. *See id.*, Annex I, Section VII(B).

OMA provisions associated directly or indirectly with the ERP include provisions requiring that: (1) in Emergency Events (as determined by LUMA in good faith) LUMA take measures that it determines in good faith to be reasonable and appropriate in accordance with the ERP to: (a) protect the safety of the public, and its and PREPA's employees; (b) protect the T&D System's safety or integrity or prevent or limit environmental harm, or (c) mitigate immediate consequences of the Emergency Event, *see id.*, Section 5.14(b)<sup>16</sup>; (2) "purchase, maintain and store inventory in a manner also consistent with [...] the [ERP] [...]" among other specified policies and procedures, *see id.*, Annex I, Section II(B) at page I-4; (3) in connection with the System Operation Principles and during Emergency Operating Conditions "implement the [ERP] per established protocols" and after such conditions have passed to "conduct post-event reviews with

and overseeing a customer online and mobile website, mobile applications including iPhone and Android, and other electronic media, inbound and outbound customer communication systems." *Id.*, Section IV(E) at page I-7.

<sup>&</sup>lt;sup>14</sup> These include repair and replacement due to Outage Events or Declared Emergencies or Major Disasters. *See id*, Section VII(B), paragraph (5).

<sup>&</sup>lt;sup>15</sup> These drills include those required by Applicable Law. At least one system wide test of the [ERP] processes and procedures, technical and communications equipment, and personnel readiness is to be conducted per year to take place three (3) months prior to the commencement of the Atlantic Hurricane Season, which season runs from June 1 through November 30. *See Id.*, Section VII(B), paragraph 9.

<sup>&</sup>lt;sup>16</sup> These provisions further provide for specified notifications to the P3 Authority and the Energy Bureau regarding to LUMA's response, regular updates thereto with specified information, and when the event has ended. *See Id.*, Section 5.14(b). Similar notification provisions are set forth in Annex I, Section VII(A) of the OMA, including notice to the Owner and other Stakeholders as defined in the Emergency Response Plan. Any announcement concerning Emergency Events made to the public or the media be made in accordance with the provisions of the ERP and Section IV of Annex I of the OMA. *Id.*, Annex I, Section VII(A) at page I-10.

stakeholders, gather and analyze data from the Emergency Management System to determine appropriateness of actions taken during the Emergency Event, and communicate and implement lessons learned," *id.*, Annex I, Schedule 1 at page I-21; and (4) "maintain and enhance the customer outage data and information on the Operator managed web page and in other communication channels consistent with the [ERP]." *See id.* 

Pursuant to the aforementioned OMA provisions, LUMA prepared an ERP with the input of the P3 Authority. The final version of the ERP is submitted herewith to the Bureau as Exhibit 1. A near final version of this ERP was submitted to this honorable Bureau on May 14, 2021, in compliance with the Bureau's Resolution and Order of May 11, 2021 in case number NEPR-MI-2021-0001, *In Re: Review of the T&D Operator's System Operation Principles*. Following that submittal, LUMA conducted a table-top exercise prior to finalizing it into the version in Exhibit 1. On May 26, 2021, LUMA submitted the final ERP to the P3 Authority.

#### **II.** Energy Bureau's Authority

As the main entity in charge of ensuring compliance with energy public policy and to carry out energy policy mandates, this honorable Bureau has authority to receive and review the ERP pursuant to Act 57-2014 and Act 17-2019.

Act 57-2014 gives the Energy Bureau authority and regulatory oversight over electric services and electric power service companies such as PREPA and LUMA. See Act 57-2014 as amended by Act 17-2019, Sections 6.3 and 6.4, 22 LPRA § 1054b and c and §1054c. Among other powers, the Energy Bureau may establish public policy standards with respect to electric power service companies, establish rates, regulate any transaction, action or omission in connection with the electric power grid and the electric power infrastructure, and exercise jurisdiction over claims filed against certified electric power companies. *See Id.*, Sections 6.3 (a) and (c) and 6.4 (c). The Energy Bureau is also tasked with overseeing the quality, efficiency and

reliability of electric power services provided by electric power companies certified in Puerto Rico, to guarantee a robust grid that serves the needs of the island. *See id.* Section 6.3 (d), of Act 57-2014, 22 LPRA §1054b. Finally, the Energy Bureau has authority to require that certified electric power service companies keep, maintain and file regularly with the Bureau those records, data, documents and plans that are necessary to implement Act 57-2014 as amended by Act 17-2019. *See id.* Section 6.3 (s) of Act 57-2014, 22 LPRA §1054b.

#### III. Legal Requirements Related to ERP

The legal requirements associated with the ERP arise under Section 6 (m) of Act 83 of May 2, 1941 ("Act 83"), as amended by Act 17-2019, which requires PREPA to submit to the Governor, the Energy Bureau, and both Houses of the Legislative Assembly, an annual report on emergency preparedness, "stating the measures taken during the preceding calendar year to address emergencies that may arise regarding the upcoming hurricane season and other atmospheric disturbances," adopted plans and protocols for cases of fires in PREPA facilities and establishments and "any preventive measure identified for the conservation of the power lines if an earthquake occurs" that should include, among others: (1) "[i]mprovements to ... [PREPA's] Revised Operating Plan for Emergencies due to Atmospheric Disturbances"; (2) "development of an emergency plan to face ... earthquake[s]; (3) "adopted plans and protocols in case of a fire in PREPA's facilities or establishments; (4) "status of the tree trimming program to protect power transmission lines ..."; (5) "[d]ecision-making protocol and process to enforce the shutting down of the electrical system[,]"; (6)"[t]rainings offered to . . . essential personnel to qualify it on the procedure to be followed in case of emergencies arising from atmospheric disturbances, fire in the facilities or establishments of [PREPA], or earthquakes, as well as a certification attesting that all the personnel performing supervisory functions in the operating areas has been duly advised on

the norms of the operating emergency plan in effect" <sup>17</sup>; and (7) "[c]ontingency plans to address the situation after a storm, a hurricane, a fire in the facilities or establishments of PREPA, or an earthquake, directed to normalizing or reestablishing the electrical system as soon as possible." Act 83, Section 6(m), 22 LPRA §196.

#### IV. Bureau Resolution and Order of December 31, 2020

Pursuant to its authorities under Acts 57-2014 and 17-2019, on December 31, 2020, this honorable Energy Bureau issued a Resolution and Order that initiated the captioned proceeding to evaluate the ERP that LUMA is required to develop pursuant to Section 4.2(g) of the OMA ("Resolution and Order of December 31, 2020"). In its Resolution and Order, this honorable Bureau ordered LUMA to ensure that the filing conducted by LUMA before the Energy Bureau under Section 4.2(g) of the OMA "complies with [the] content required under Section 6(m) of Act 83." Resolution and Order of December 31, 2020 at page 3. The Resolution and Order of December 31, 2020 at page 3. The Resolution and Order of the ERP, to "ensure that duplicity of efforts, which result in imprudent costs, is avoided." *Id*.

In addition, the Resolution and Order of December 31, 2020 scheduled a Pre-Filing Technical Conference for January 15, 2020 at 2:00 pm. *Id.* On the scheduled date and time, LUMA attended this technical conference by videoconference during which LUMA provided a presentation discussing its approach in preparing the ERP and received input from this honorable Energy Bureau regarding the filing and its contents.<sup>18</sup>

<sup>&</sup>lt;sup>17</sup> A requirement which in the case of LUMA should be understood to apply with respect to LUMA's employees.

<sup>&</sup>lt;sup>18</sup> LUMA filed with this Energy Bureau a copy of its presentation on January 15, 2021. *See* LUMA's Motion in Compliance with Order Submitting LUMA's Presentation Given on January 15, 2021, at the Pre-Filing Technical Conference" in the referenced case.

## V. Contents of the Emergency Response Plan

The ERP attached as Exhibit 1 to this Motion provides for "LUMA's response, immediate recovery, and restoration operations to emergency events efficiently and effectively to protect lives, public health, safety, and property; to restore essential services; and to enable and assist economic recovery." Exhibit 1 at page 5. The ERP addresses "emergency events caused by any hazard or threat that results in, or could result in, a major potential impact to the integrity of [the T&D System] and/or a disruption of electrical service to LUMA customers." *Id.* at page 19. The ERP covers "all hazards"- that is, it covers hazards or threats resulting from natural causes, human causes and technological causes that result in significant customer interruptions. *See id.* at pages 5 and 7. It applies to LUMA personnel, staff, affiliate company employees, contractors, mutual aid resources and any other personnel working at the direction or under the authority of LUMA. *Id.* at page 19.

The ERP covers, among other things: measures to respond, recover and mitigate disasters; coordination of operations and structures that implement them; stabilization and restoration endstates; ensuring delivery of critical services that alleviate immediate threats to life and property; an incident management structure to coordinate and deploy necessary resources for LUMA's response; and provision for planning, training and exercising in connection with the plan. *See id.*, pages 5 and 7.

The Emergency Response Plan uses the National Incident Management System ("NIMS") as the guide for a comprehensive approach to incident management for an effective emergency response across a wide spectrum of potential incidents or hazards and consistent coordination at all levels of government (*see* Exhibit 1 at page 20 and Annex A at page 10).<sup>19</sup> The ERP also

<sup>&</sup>lt;sup>19</sup> NIMS "guides all levels of government, nongovernmental organizations and the private sector to work together to prevent, protect against, mitigate, respond to and recover from incidents." See Federal Emergency Management Agency, Departament of Homeland Security, https://www.fema.gov/emergency-managers/nims (last visited May 28, 2021).

incorporates the use of Incident Command System (ICS) principles "which provides a consistent, all hazards incident management methodology that allows LUMA's organization to integrate seamlessly into a nationally standardized response and recovery structure." *See id.* 

The ERP includes a Major Outage Restoration Annex, attached to the ERP as Annex A, which provides a more detailed set of steps and measures of response during major emergencies for: (i) restoration of electric service and sequencing of energy restoration; (ii) emergency response progress notification of applicable government agencies, customers, public, and employees; and (iii) response to official requests for specific incidents, events, or actions. *See id.*, pages 5, 7, 69, and Annex A to the ERP. In addition, the ERP includes a Fire Response Annex, as Annex B, and an Earthquake Response Annex, as Annex C, to support an emergency response of the T&D System for these hazards, all in compliance with Section 6(m) of Act 83.

The ERP also includes myriad provisions for effective coordination of emergency response with appropriate Governmental Bodies, including: the use of NIMS as the guide for a comprehensive approach to incident management (*see* Exhibit 1 at page 20 and Annex A at page 10); the establishment of the LUMA Emergency Response Organization for both internal and external coordination, that is aligned with NIMS and utilizes the Incident Command Structure (*see id.* at pages 44, 72); the establishment of a Liaison Officer to serve as primary point of contact for external entities such as the Government of Puerto Rico, municipal officials, and federal agencies (including with PREB, P3 Authority, PREPA and PREMB) (*see id.* at page 47); processes and protocols for emergency response progress notifications to applicable government agencies and government officials, media outlets, customers, lifeline residential service customers, public, and employees and for responding to official requests for specific incidents, events, or actions (*see id.* at pages 73-76 and Annex A); pre-event and restoration stage reports to government entities, the public and costumers, including media outreach, among others (*see id.* at pages 78 and 79); exercises, workshops and meetings throughout the year with government officials and other stakeholders to be documented in an Advance Planning and Training Report filed annually (*see id.* at page 75); and updates to Municipal Officials during emergency events (*see id,* at pages 75-76.).

Regarding mobilization of the workforce and timely availability of personnel, the ERP includes, among other things: detailed procedures/protocols for mobilization of personnel (*see* Annex A at pages 28-31); the use of consistent monitoring to determine pre-event planning activities, including the maintenance of a mutual aid roster and established process to request mutual aid, as well as activation of personnel and mutual aid requests (*see* Exhibit 1 at page 35 and 71); the use of a decision methodology to establish the level of emergency response needed and mobilization (*see id.* at page 35); the use of a flexible and standardized management structure that is scalable based on the size, scale and complexity of the emergency event (*see id.* at page 44); and a process for timely and effective activation of personnel in a cascading fashion to maximize response efficiency and consistency (*see id.* at pages 34-35).

With safety as the main goal, the ERP focuses on Community Lifelines<sup>20</sup> essential to human health, safety or economic security to enable continuous operations of critical functions and necessary actions to restore these, including their restoration and stabilization (*see* Exhibit 1 at pages 7 and 22-34); a critical infrastructure and facilities prioritization approach wherein all outages are prioritized using a variety of factors including, but not limited to, community lifelines and outages involving safety conditions (including downed wires) (*see id.* at pages 42-43 and Annex A at pages 40-45); the establishment of a System Emergency Restoration Team addressing emergency and life-threatening conditions such as public safety hazards or downed wires reported

<sup>&</sup>lt;sup>20</sup> Community lifelines are defined in the ERP as "critical government and busines functions essential to human health and safety or economic security. *See* Exhibit 1 at page 93.

as a priority (see Exhibit 1 at pages 57-58 and Annex A at page 23); distribution of appropriate safety, preparedness and restoration information (see Exhibit 1 at pages 48 and 75); the establishment of a Safety Officer position to recommend measures for ensuring employee and public safety (*see id.* at page 49); emphasis on public and employee safety as top priority during a response (*see id.* at page 72); ensuring all applicable workplace safety rules and policies are complied with during the restoration effort (*see id.* at page 49); conducting initial safety briefings with mutual aid and contractor crews and providing safety briefing documents during the restoration process for employees and mutual aid or contractors (*see id.* at page 50); and the establishment of a Site Safety Branch Director position responsible for developing and recommending measures for assuring employee and public health and safety, anticipate hazardous and unsafe situations, and provide advice on environmental and safety issues (*see id.* at page 56).

Lastly, on maintaining customer contact during an emergency event, the ERP provides that, among other things, LUMA will: provide a variety of critical information to LUMA customers using a set of diverse communications resources, procedures and interactive tools in advance of and following the emergency event (*see id.* at pages 74-75, 78 and 79); communicate information related to the emergency via the LUMA website (with real time information and a Customer Outage Map showing outage and restoration information), news media and social messaging (*see id.* at page 75 and Annex A at page 52) as well as the use of the customer call center (*see* Exhibit 1 at page 33); maintain a Lifeline Residential Service for elderly customers and customers with a disability or medical condition, for which a database will be created and to whom automated outbound telephone calls will be made pre-event (*see id.* at page 74); and report and provide updates on estimated restoration times (for events of certain levels) via telephone by the Customer

Call Center Representative, LUMA's outage central website, or an established LUMA call center (when activated) (*see id.* at page 79).

# VI. Compliance by the ERP with Act 83 and Energy Bureau Resolution and Order of December 31<sup>st</sup>

### A. Compliance with Act 83 in preparing for and responding to emergencies

The requirements under Section 6(m) of Act 83 are addressed by the ERP, as relevant and appropriate, as described below next to the description of each provision:

#### (1) Improvements to PREPA's Revised Operating Plan for Emergencies due to

Atmospheric Disturbances (which in the case of LUMA should be understood to refer to improvements or updates to the ERP relating to atmospheric disturbances): The ERP includes the implementation of post-event review processes and the creation of After-Action Reports (to capture observations and make recommendations) and Improvement Plans. *See* Exhibit 1 at pages 8, 23 and 80. The information in these reports and plans will be used, as necessary or appropriate, to assess and determine any improvements to the ERP and to file a report in the year 2022, among other things.

(2) **Development of an emergency plan to face earthquakes**: The ERP includes an Earthquake Annex to support an emergency response of the T&D System for this hazard. See *id*. at page 21 and Annex C.

(3) Plans and protocols in case of a fire in facilities or establishments: The ERP includes a Fire Annex to support an emergency response of the T&D System for this hazard. See *id.* at page 21 and Annex B.

(4) Status of the tree-trimming program to protect transmission lines: LUMA provided the required status of the tree-trimming program covered under LUMA's Vegetation Management Plan and within LUMA's gap assessment, which were filed with the Energy Bureau

on April 11, 2021, Case No. NEPR-MI-2019-0005 and April 12, 2021, Case No. NEPR-MI-2021-0004, respectively.

(5) A decision-making protocol and process for shutting down of the electrical system: The ERP provides for the use of event classification types for major events and phases of response, as well as a Decision Flowchart to help the level of emergency response needed and activation of resources (*see id.*, at pages 34-35 and Annex A at pages 34-39); the use of a priority matrix for critical infrastructure and facilities restoration prioritization (*see id.* at page 42); and the establishment of a T&D System Operations Branch Director to direct the Systems Operation Center to follow specific procedures for emergency response execution and black-start operations in accordance with the System Operation Principles, control what comes on or off the system, isolate the grid as necessary during system constraints or lack of capacity, and provide system restoration priorities, among other things (*see id.* at page 55).

(6) **Trainings offered to essential personnel**: The ERP provides for "training, drills, and exercises designed and conducted to develop and improve the knowledge and skills of personnel assigned to emergency response activities, and to support the safe and reasonably prompt completion of all required actions during ERP activations" (*see id.* at page 83); an exercise program following the guidelines from the Homeland Security Exercise Evaluation Program (*see id.*); and operations-based exercises (including drills and functional exercises) to validate and/or evaluate plans, policies and procedures, among other things (*see id.* at page 82).

(7) Contingency plans to address the situation after a storm, hurricane, fire, or earthquake to normalize or reestablish the electrical system as soon as possible: The ERP includes storms, hurricanes, fires and earthquakes and provides, among other things, for: the use of the Major Outage Restoration Annex that establishes an operational and tactical comprehensive

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framework for responding to major outage restoration events (see Annex A); the use of a Restoration Priority Matrix and Guidelines providing for the most efficient approach in restoring electrical outages and prioritizing outages using a variety of factors including community lifelines, customer type, number of affected customers, and outages involving safety conditions (see Exhibit 1 at pages 42-43 and Annex A at page 40); measures to restore community lifelines as rapidly as possible (see Exhibit 1 at pages 7 and 22-34); the establishment of the LUMA Emergency Operations Center, an Incident Commander, Command and General Staff, and a Crisis Management Committee, as required, to effectively manage the disaster (see Exhibit 1 at pages 34 and 35); the establishment of an Operations Section to make necessary repairs to the system and direct response and restoration activities, with functions such as creating achievable restoration objectives, ensuring outages are restored within projected global estimated time of restoration and communicated as required, coordinating with a LUMA Planning and Intelligence Section for adequate resource and restoration monitoring, and compiling the detailed damage assessments to determine the extent of damage and expedite restoration of service used to estimate the amount of resources, materials and equipment needed to repair the system and estimated time of restoration (see id. at pages 50-52); the creation of a Priority Restoration Group, whose Branch Director will be primarily responsible for priority restoration of electrical service using the Outage Management System, Storm Scale Operational and Research Meteorology (STORMs) and system control centers (see id. at page 56); the establishment of a System Emergency Restoration Team to carry tactical activities to restore operations (see id. at page 57, Appendix at page 24); the use of a LUMA Planning and Intelligence Section to monitor weather forecasts and provide updates, manage efforts of collecting, processing and reporting emergency service restoration information and overseeing and developing distribution of routine restoration status reports and work with East and

West Branch Directors<sup>21</sup> to ensure proper restoration times are being provided by the regions (see id. at page 64); provide procurement for response and restoration activities through the Finance and Administration Section (see id. at page 68); use of mutual aid assistance for restoration, as appropriate (see id. at page 71); guidelines to establish estimated times of restoration, reporting and communicating this information (see Annex A at pages 46-50); a performance metric for restoration (see id., Annex A, Attachment 4); working with municipal officials to share information, including community restoration priorities (see Exhibit 1 at page 47); management of restoration progress information through established communications protocols (see id. at page 47); distribution of restoration information via various social media outlets as appropriate (see id. at page 48); broadcasting of customer outage estimated times of restoration across all available LUMA platforms (see id. at page 48); use of real-time data and an Outage Map in LUMA's website to provide restoration information (see id. at page 75); communications with Municipalities regarding restoration performance (see id. at pages 75-76 and 80); submission of service restoration stage reports to agencies, customers and the public (see id. at page 79); advanced planning and training to aid in efficient restoration (see id. at pages 82-84); establishment of a Logistics Section with the responsibility to acquire all materials as requested, monitor the Materials Management System to order or re-stock materials, maintain a list of vendors, suppliers, contractors, and others who provide materials and support services, and coordinate support of services and materials in support of system restoration activities, among other things (see id. at pages 58-59); and the utilization and analysis of Community Lifelines essential to human health,

<sup>&</sup>lt;sup>21</sup>The East and West Branch Directors are part of the general staff of the operations sections. *See* Exhibit 1 at pages 50-51. They are responsible for overseeing the response to the event within each of the regions. *Id.* at pages 53-54.

safety, and economic security and to enable continuous operations of critical functions and necessary actions to restore these (*see id.* at pages 22-23 and 34).

Act 83's underlying purpose is to ensure that an emergency response plan is adopted and implemented to prepare for and manage emergencies and atmospheric disturbances that predictably affect the provision of electric power services. Emergency preparedness and handling of emergencies includes several components that are included in the ERP and that satisfy the public policy goals and mandates of Act 83 as well as prudent utility practices, including a coordinated emergency response approach, timely mobilization of workforce, public and employee safety and communications with customers.

#### **B.** Avoidance of Duplication

During the Front-End Transition Period, LUMA examined the current state of PREPA's related processes, practices, and performance. As part of this process, LUMA reviewed a copy of PREPA's ERP provided by PREPA. LUMA conducted interviews with numerous PREPA employees across all levels of the organization and reviewed the materials management system to understand stock levels and types of inventory. Based on knowledge of the industry and in consideration of applicable laws, LUMA conducted a gap analysis and leveraged some of this information to prepare the ERP. This approach helped avoid duplication of some efforts in the preparation of this ERP.

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **consider and accept** the ERP included as Exhibit 1 to this Petition and **deem** LUMA in Compliance with the requirements of the Energy Bureau's Resolution and Order of December 31, 2020 in the referenced matter.

#### **RESPECTFULLY SUBMITTED.**

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In San Juan, Puerto Rico, this 28<sup>th</sup> day of May 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.



**DLA Piper (Puerto Rico) LLC** 500 Calle de la Tanca, Suite 401 San Juan, PR 00901-1969 Tel. 787-945-9107 Fax 939-697-6147

/s/ Margarita Mercado Echegaray Margarita Mercado Echegaray RUA NÚM. 16,266 margarita.mercado@us.dlapiper.com Exhibit 1, LUMA's Emergency Response Plan

El presente Exhibit contiene información confidencial, por lo cual fue removido y no se puede hacer público.

La **versión pública** de este Exhibit 1 fue presentada como Exhibit 1 en la *Motion in Compliance with Order and Request for Confidential Treatment* de 1ro de septiembre de 2021.