

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

**IN RE: PERFORMANCE TARGETS FOR
LUMA ENERGY SERVCO, LLC**

CASE NO.: NEPR-AP-2020-0025

SUBJECT: Motion Requesting the Energy Bureau to Allow LUMA to Answer and/or Object to LECO's First Discovery Request in 20 Days.

RESOLUTION AND ORDER

On August 25, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("August 25 Resolution"), through which, among other things, determined that the information filed by LUMA¹ as part of its Revised Filing² complied with the minimum requirements established by the Energy Bureau to continue its evaluation as part of the instant case.

On August 30, 2021, LUMA filed before the Energy Bureau a document titled *Motion Requesting the Energy Bureau to Allow LUMA to Answer and/or Object to LECO's First Discovery Request in 20 Days* ("Motion"). Through its Motion, LUMA states that, as part of the procedural calendar issued in the April 8 Resolution³, the Energy Bureau established that LUMA would have a ten-day term to answer information requests.⁴ LUMA argues that the Energy Bureau did not address the time frame to respond to interrogatories, requests for

¹ LUMA Energy, LLC ("ManagementCo") and LUMA Energy ServCo, LLC ("ServCo") (collectively "LUMA").

² See, collectively, LUMA's Submittal of Request for Approval of Revised Annex IX to the OMA, *In Re: Performance Targets for LUMA Energy Servco, LLC*, Case No. NEPR-AP-2020-0025, August 18, 2021; Motion Submitting Pre-Filed Testimonies, *In Re: Performance Targets for LUMA Energy Servco, LLC*, Case No. NEPR-AP-2020-0025, August 18, 2021; Motion Submitting Redline Version of the Revised Request for Approval of the Revised Annex IX to the OMA, *In Re: Performance Targets for LUMA Energy Servco, LLC*, Case No. NEPR-AP-2020-0025, August 20, 2021; and Motion Submitting Amended Exhibit to the Revised Request for Approval of the Revised Annex IX to the OMA, *In Re: Performance Targets for LUMA Energy Servco, LLC*, Case No. NEPR-AP-2020-0025, August 23, 2021.

³ See Resolution and Order, *In Re: Performance Targets for LUMA Energy Servco, LLC*, Case No. NEPR-AP-2020-0025, April 8, 2021.

⁴ Motion, p. 1.



production of documents and requests for admission, which are regulated by Section 8.03 and 8.04 of Regulation 8543^{5,6}

LUMA states that on August 27, 2021 it was served with the Puerto Rico Local Environmental and Civil Organizations (“LECO”) first discovery request (“ROI 1”), comprised of thirteen interrogatories and one request for production of documents.⁷ LUMA argues that, under Regulation 8543, it would have two different terms to provide responses to LECO, a term of twenty (20) days to address interrogatories, and a term of ten (10) days to answer requests for production of documents.⁸ Therefore, LUMA requests the Energy Bureau to clarify and allow LUMA to respond to LECO’s ROI 1 within twenty (20) days of the date it was served.

Regulation 8543 establishes the general provisions for the discovery processes held by the Energy Bureau as part of its adjudicative proceedings. Section 8.01(J) of Regulation 8543 establishes that:

The disclosure of evidence shall begin after the presentation and notice of the responsive pleadings and shall conclude within sixty (60) days. However, the [Energy Bureau] may, at its discretion, reduce this term, as deemed necessary, in view of the circumstances and the nature of the case. **Similarly, the [Energy Bureau] may, at its discretion, limit the methods for disclosure of evidence that the parties may use and the terms to respond to them.**⁹

Through the April 8 Resolution, the Energy Bureau established the instructions for the discovery process to be held as part of the instant case. The Energy Bureau established there will be a ten- (10) day term for LUMA to answer all information requests, and that the instructions in Attachment A to the April 8 Resolution shall apply to all discovery requests and the corresponding responses.¹⁰ Therefore, the Energy Bureau, exercising its discretion pursuant to Section 8.01(J) of Regulation 8543, already determined that LUMA shall provide answers to all information requests in a ten- (10) day term. Although the April 8 Resolution is extremely clear regarding this requirement, the Energy Bureau further **CLARIFIES** that

⁵ Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigations Proceedings, December 18, 2014 (“Regulation 8543”).

⁶ Motion, pp. 1-2.

⁷ *Id.*, p. 2.

⁸ *Id.*, p. 3.

⁹ Emphasis added.

¹⁰ April 8 Resolution, p. 3, n. 8.

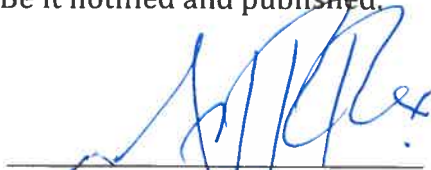


the term "all information requests" includes, but is not limited to, information requirements, requests for production of documents, interrogatories and any other discovery requirement, as established in Attachment A to the April 8 Resolution.

For all of the above, the Energy Bureau **DENIES** LUMA's Motion.

The Energy Bureau **WARNS** LUMA that noncompliance with the Energy Bureau's orders or applicable legal requirements may carry the imposition on administrative fines of up to twenty-five thousand dollars (\$25,000.00) per day, per violation and/or other sanction that the Energy Bureau may deem appropriate.


Be it notified and published.



Ángel R. Rivera de la Cruz
Associate Commissioner



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on August 31, 2021. President Edison Avilés Deliz did not intervene. I also certify that on August 31, 2021 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com, jmarrero@diazvaz.law, kbolanos@diazvaz.law; hriviera@jrsp.pr.gov, contratistas@jrsp.pr.gov; agraitfe@agraitlawpr.com; rstgo2@gmail.com, pedrosaade5@gmail.com; larroyo@earthjustice.org; flcaseupdates@earthjustice.org; rolando@bufete-emmanuelli.com; notificaciones@bufete-emmanuelli.com; jessica@bufete-emmanuelli.com; rhoncat@netscape.net. I also certify that today, August 31, 2021, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today August 31, 2021.



Sonia Seda Gaztambide
Clerk

