

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

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

CASE NO.: NEPR-AP-2020-0025

**SUBJECT: MOTION TO COMPEL
LUMA TO RESPOND TO LECO'S
THIRD REQUEST OF
INFORMATION**

**MOTION TO COMPEL LUMA TO RESPOND TO LECO'S THIRD REQUEST OF
INFORMATION**

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW, Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc. - Enlace Latino de Acción Climática, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, and Sierra Club and its Puerto Rico chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (collectively, "LECO"), to respectfully request that the Energy Bureau compel responses from LUMA to Questions 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11 from LECO's Third Set of Information Requests pursuant to Article VIII, Regulation No. 8543.¹

LECO served to LUMA the third request of information (ROI) on September 23, 2021.² LUMA provided responses to the third ROI on October 4, 2021.³ LECO included an Introduction, intended to help LUMA and its witnesses understand the

¹ Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings, Regulation No. 8543, December 18, 2014, <https://energia.pr.gov/wp-content/uploads/sites/7/2015/09/RE-8543-ES.pdf>.

² See Attachment 1.

³ See Attachment 2.

context of the requests. In these responses, first, LUMA objected to the Introduction and argued that the content “meant to harass LUMA witnesses and should be stricken from the discovery request”. At the same time, LUMA's responses to Questions 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11 are incomplete and remain unanswered, because most of them are not supplemented by copies of the documents that support them and that were required.

The Introduction of the third ROI is not intended to harass witnesses

LUMA objects to the Introduction section⁴ of the third ROI submitted by LECO on the grounds that it “includes legal arguments and conclusions of counsel.” They add: “Legal arguments are not part of discovery. The arguments are meant to harass LUMA witnesses and should be stricken from the discovery request.”⁵ The simple

⁴⁴ See Attachment 1, at pp. 2-3, Introduction: “Puerto Rico OSHA (PR OSHA) has exclusive jurisdiction over all work sites in Puerto Rico, both in the public and private sectors, except in those industries dedicated to Marine Cargo Handling (SIC 4463), Ship Construction and Repair (SIC 3731) and the Postal Service (USPS) (SIC 4311), which remain under the jurisdiction of the federal government. The jurisdiction and competence of PR OSHA has its legal basis in Act No. 16 of August 5, 1975, as amended, known as the Occupational Safety and Health Act of Puerto Rico, and operates through a state plan approved by federal OSHA.

The general rule in Occupational Safety and Health is that each employer shall furnish to each of his employees, employment, and place of employment free from recognized hazards which are causing or may cause death or physical harm. LUMA, as the company in charge of managing the distribution and transmission of energy in Puerto Rico, is required to comply with the standards that PR OSHA adopts and that apply in the electricity industry. The foregoing, because electricity is considered a serious risk in the workplace since employees are exposed to electric shocks, explosions, fires, and electrocution.

It is significant that neither in the report of performance metrics targets, nor in the testimony proposed by LUMA, do they mention PR OSHA as a local reference and support entity, when PR OSHA is the office that will be inspecting and supervising them in matters of safety and occupational health. Even more so, when PR OSHA has a free consultation service and voluntary programs to which LUMA can benefit themselves to achieve better results in occupational safety and health. In consideration of the above-mentioned, the following questions relate to the Performance Metrics that LUMA is submitting to the Energy Bureau in matters of Occupational Health and Safety.”

⁵ See Attachment 2, at p.1, LUMA responses and objections to third ROI by LECO, general objection # 5: “LUMA objects to the introduction of the Third Set of Information Requests that includes legal arguments and conclusions of counsel. Legal arguments are not part of discovery. The arguments are meant to harass LUMA witnesses and should be stricken from the discovery request. LUMA reserves the right to request protective relief from the Puerto Rico Energy Bureau.”

purpose of the Introduction is to provide context to LECO's questions on the performance metrics and testimony submitted by LUMA related to occupational health and safety. This is necessary because this Bureau must have before it what is the basic legal framework that applies to performance metrics in terms of occupational health and safety, especially when LUMA does not mention any of them, in the testimony nor in the performance metrics. At the end of the day, the primary purpose of occupational health and safety performance metrics is to promote best health and safety practices in the place of employment and prevent unfortunate life-threatening incidents of LUMA workers. And this is not a light matter.

LUMA Has Misinterpreted The Scope Of Issues To Be Considered In This Proceeding.

As detailed in LECO's October 7th Motion to Compel, the scope of metrics to be considered in this proceeding is set by Law 17-2019 and Regulation No. 9137.⁶ In discovery responses to various parties, LUMA incorrectly narrows that scope, claiming that all information requests must be connected to its own Proposed Performance Metrics Targets filing – including in responses to Questions 1,⁷ 3, 4, 6,

⁶ Regulation For Performance Incentive Mechanisms, Regulation No. 9137, December 13, 2019, <https://energia.pr.gov/wp-content/uploads/sites/7/2020/02/9137-Regulation-for-Performance-Incentive-Mechanisms.pdf>.

⁷ See Attachment 1, at p. 3, Question 1 of third ROI from LECO: "What years does LUMA's evaluation of PREPA PR OSHA-300 correspond to? Was only the registration for the 2019-2020 fiscal year considered? If LUMA only considered fiscal year 2019-2020, why not evaluate previous years to have a wider context of employee incidents recorded by PREPA?"

See Attachment 2, at p. 2, LUMA Response to Question 1: "LUMA objects to this request because it employs the vague term "wider context" and does not provide sufficient context to ascertain the relevance of the request in connection with LUMA's Revised Performance Metrics Targets Submission and proposed Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") filed on September 24, 2021 ("LUMA's Revised Performance Metrics Targets filing"). LUMA also objects to this request because it is argumentative.

8,⁸ 9,⁹ 10, and 11¹⁰ in LECO's third ROI. This is wrong: LUMA made the same objection to several PREB information requests, and PREB struck that objection as invalid in its October 7th Resolution and Order:

Without waiving the foregoing objections, LUMA performed a review of data related to PREPA PR OSHA-300 including fiscal year 2017 forward.

Fiscal Year 2019-2020 was not the only fiscal year considered; however, it was the period considered for baseline calculation as described in Section 2.5.2 of the Revised Performance Metric Filing submitted August 18, 2021, then amended on September 24, 2021."

⁸ See Attachment 1, at p. 4, Question 8 of third ROI from LECO: "Is LUMA aware that the Puerto Rico Occupational Safety and Health Administration ("PR OSHA") provides consulting services? Has LUMA requested the consulting services that PR OSHA provides?"

See Attachment 2, at p. 9, LUMA Response to Question 8: "LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, I am aware that PR OSHA has consulting services to assist in scenarios if help is needed by LUMA. However, using OSHA consulting services is optional, and LUMA has not requested their services currently."

⁹ See Attachment 1, at p. 4, Question 9 of third ROI from LECO: "How many inspections, if any, has PR OSHA performed at LUMA-managed and supervised workplaces since June 1, 2021? PREB's orders in this docket, as well as PREB's orders in Docket No. NEPR-MI-2019-0007, make it clear that metrics, baselines, and benchmarks will continue to evolve and that this evolution will be informed by LUMA's ongoing performance. LUMA's performance since June 1, 2021, therefore, is relevant evidence in this proceeding."

See Attachment 2, at p. 10, LUMA Response to Question 9: "LUMA objects to this request because it is argumentative and includes a legal conclusion by counsel. LUMA also objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. LUMA specifically objects to this request that seeks information related to occurrences since LUMA took over the transmission and distribution system in June 2021. This proceeding does not involve performance or data after the Energy Bureau set the applicable baselines in the Resolutions and Orders of May 21, 2021, and July 2, 2021, issued in Case No. NEPR-MI-2019-0007. Thus, the requested information on OSHA inspections related to health and safety after June 1st, 2021, is not relevant to this proceeding.

Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, LUMA has no active OSHA investigations since June 1, 2021."

¹⁰ See Attachment 1, at p. 5, Question 11 of third ROI from LECO: "Has LUMA already received citations and penalty proposals from PR OSHA?"

a. If yes, how many?

b. In what workplace was the inspection that led to the issuance of the citations and penalty proposal?

c. Submit a copy of all correspondence between LUMA and PR OSHA, and any documents in LUMA's possession related to PR OSHA, specifically including documents related to citations and penalties issued by PR OSHA to LUMA."

See Attachment 2, at p. 12, LUMA Response to Question 11: "LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably

LUMA also alleged that “the information sought is irrelevant to the controversy at issue on LUMA’s Revised Performance Metrics Targets Submission... Upon review of the objections made by LUMA in its Responses, the Energy Bureau DETERMINES that the questions issued by the Energy Bureau are warranted and discoverable to the instant proceeding and require suitable responses by LUMA.”¹¹

Since the scope of discovery is not limited by LUMA’s proposed Performance Metrics Targets filing, compliance with OSHA is expressly included in the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 (T&D OMA),¹² and the questions are relevant to the case, we request PREB to compel LUMA to answer properly and include all documents to support the answers.

calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. LUMA specifically objects to this request that seeks information related to occurrences since LUMA took over the transmission and distribution system in June 2021. This proceeding does not involve performance or data after the Energy Bureau set the applicable baselines in the Resolutions and Orders of May 21, 2021, and July 2, 2021, issued in Case No. NEPR-MI-2019-0007. Thus, the requested information on incidents related to health and safety after June 1st, 2021, is not relevant to this proceeding.

LUMA also objects to this request to the extent that it purports to obtain information on ongoing investigations that includes confidential data.

Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, as of this date, OSHA has not issued citations to LUMA for potential violations nor notices of imposition of penalties.”

¹¹ *In Re* Performance Targets for LUMA Energy Servco, LLC, Resolution and Order to Compel Responses to Requirements of Information, NEPR-AP-2020-0025, at 7 (October 7, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/10/20211007-AP20200025-Resolution-and-Order.pdf>.

¹² Section 5.7 (b) of the T&D OMA establishes the following: “OSHA. Operator shall take all actions which may be required in order to bring the T&D System into and maintain compliance with the applicable Commonwealth and federal requirements in accordance with and related to the Occupational Safety and Health Act.”

LUMA Must Supplement The Answers On The Health And Safety Performance Metrics And Provide The Requested Documents.

LUMA, in their answer to Question 2 of LECO's third ROI, state that the company compared information collected through the Edison Electric Institute to review information compiled from other comparable electrical utilities in the United States. In response to the question,¹³ the answer is incomplete because LUMA failed to provide the information or material reviewed through Edison Electric Institute, and from which companies of other states or jurisdictions they refer.¹⁴ All of LECO's information requests sought supporting documentation, as detailed by Instruction #4 in each of our requests: "These discovery requests are to be answered with reference to all information in your possession, custody or control or reasonably available to you." LUMA also adds: "Other companies' OSHA information is not directly available to LUMA". This is incorrect: LUMA has access to information from PREPA concerning OSHA safety standards. We know this because LUMA has used the PR OSHA 300 forms to support several metrics.

¹³ See Attachment 1, at p. 3, Question 2 of third ROI from LECO: "Did LUMA compare the information collected through the PREPA PR OSHA-300 with information or material from other comparable electrical utilities of other states or jurisdictions?"

¹⁴ See Attachment 2, at p. 3, LUMA Response to Question 2: "It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the Puerto Rico Energy Bureau were adopted within the competitive negotiated processes conducted by the Puerto Rico Public-Private Partnerships Authority that led to the execution of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 (T&D OMA). LUMA was not required to conduct an independent utility industry assessment in connection with the health and safety performance metrics. To the extent that this request seeks to elicit information on OSHA processes pertaining to other utilities, it is clarified that LUMA compared information collected through the Edison Electric Institute to review information compiled from other comparable electrical utilities in the United States. Other companies' OSHA information is not directly available to LUMA."

LUMA did not provide complete answers to Questions 3¹⁵ & 4¹⁶ from LECO's Third ROI on the basis of being vague, ambiguous and unintelligible, allegedly because they don't have enough context to understand and identify relevant standards to respond to this request.¹⁷ LUMA's objection is invalid for two reasons. First, LECO's third ROI included an Introduction for this precise reason: to provide the necessary context for LUMA to answer questions on occupational health and safety.¹⁸ Second, because LUMA has a legal duty as an employer to know and comply with all local and federal labor laws that apply in Puerto Rico. Question 4 is a simple yes-or-no question: Did LUMA or any LUMA witness review the Regulations developed and approved by PR OSHA, or not?¹⁹

¹⁵ See Attachment 1, at p. 3, Question 3 of third ROI from LECO: "What standards adopted by PR OSHA did LUMA use to prepare performance metrics in safety and health?"

¹⁶ See Attachment 1, at p. 3, Question 4 of third ROI from LECO: "Did LUMA or any LUMA witness review the Regulations developed and approved by PR OSHA and with Act No. 16 of August 5, 1975, as amended?"

¹⁷ See Attachment 2, at p. 4, LUMA Response to Question 3: "LUMA objects to this request as ambiguous and unintelligible. It references standards adopted by PR OSHA without sufficient context to allow LUMA to understand and identify relevant standards responsive to this request. Also, LUMA is not in a position to ascertain the relevance of the request in connection with LUMA's Revised Proposed Performance Metrics Targets filing, and thus, LUMA's witness cannot answer. LUMA also objects to this request as argumentative and because it is based on the unsupported and unexplained premise that OSHA PR has adopted specific standards. Without waiving the foregoing objections, PR OSHA does not have specific standards related to injury recordability different from the industry standards provided by OSHA."

¹⁸ See Attachment 2, at p. 5, LUMA Response to Question 4: "LUMA objects to this request because it is vague and overly broad. It does not specify the relevant timeframe nor the specific regulatory or statutory provisions that the request purports to cover. The request does not provide sufficient context to allow LUMA to understand the request and identify responsive information. Also, LUMA is not in a position to ascertain the relevance of the request in connection with LUMA's Revised Proposed Performance Metrics Targets filing. However, LUMA is aware of how the legislation enacted impacts the reporting and recording of workplace injuries."

¹⁹ The question, verbatim, is quoted in Footnote No. 9.

LUMA objects to Question 5²⁰ from LECO's third ROI on the basis that it is repetitive and because this request allegedly ignores José Meléndez's testimony of September 9, 2021.²¹ LECO's request clearly required a copy of all documents that LUMA used to prepare occupational health and safety performance metrics. In its response, LUMA refers to RFI-LUMA-AP-2020-0025-LECO-10SEPT21-002, Pre-filed Testimony of José Meléndez, lines 32-42 and 81-86 and Exhibit 1. Although José Meléndez's testimony mentions that they used PREPA PR OSHA 300 forms, they have not presented copies of them, as required by Question #5.

LUMA objects to Question 6²² from LECO's third ROI on the basis that the information requested falls beyond the scope of the subject matter of this proceeding and allegedly is not reasonably calculated to lead to the discovery of admissible evidence. However, LUMA mentioned in its response that the witness José Meléndez participated in OSHA Electrical Transmission & Distribution (ET&D) Partnership 10 hours and OSHA Electrical Transmission & Distribution (ET&D) Partnership 10 hours OSHA 20 hours.²³ They also mention that allegedly José Meléndez participated

²⁰ See Attachment 1, at p. 4, Question 5 of third ROI from LECO: "What documents, in addition to PREPA PR OSHA-300, did LUMA use to prepare performance metrics in safety and health?"

a. Submit a copy of all documents that LUMA used."

²¹ See Attachment 2, at p. 6, LUMA Response to Question 5: "LUMA objects to this request as repetitive of, for example, RFI-LUMA-AP-2020-0025- LECO-10SEPT21-002. LUMA also objects to this request as it ignores the pre-filed testimony of J. Meléndez of September 9, 2021, and the exhibits to said testimony. Without waiving the foregoing objections, please refer to RFI-LUMA-AP-2020-0025- LECO-10SEPT21-002, Pre-Filed Testimony of J. Meléndez, lines 32-42 and 81-86 and Exhibit 1."

²² See Attachment 1, p. 4, Question 6 of third ROI from LECO: "Has witness Jorge Meléndez obtained any training regarding OSHA standard number 1910.269: "Electric power generation, transmission, and distribution"? If so, please provide certifications and evidence of those trainings."

²³ See Attachment 2, p. 7, LUMA Response to Question 6: "LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance

in several other training courses related to electrical safety, but provide no supporting evidence. The response is incomplete because LECO asked LUMA in Question 6 to provide evidence of the witness's certifications or training, and LUMA did not provide it.

LECO asked LUMA in Question 10 how many incidents related to health and safety have occurred since June 1, 2021 and required the details and documents from the investigative reports.²⁴ LUMA objects to Question 10 from LECO's third ROI, on the grounds that the request seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence.²⁵ LUMA also argues that the information requested is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. PREB's October 7th Resolution and Order ruled this objection is invalid, and

Metrics Targets. Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, witness Meléndez has participated in OSHA Electrical Transmission & Distribution (ET&D) Partnership 10 hours and OSHA Electrical Transmission & Distribution (ET&D) Partnership 10 hours OSHA 20 hours. He has also participated in several other training courses related to electrical safety.”

²⁴ See Attachment 1, pp. 4-5, Question 10 of third ROI from LECO: “How many incidents related to health and safety have occurred since June 1, 2021?”

a. Provide the details, documents generated in investigative reports made.”

²⁵ See Attachment 2, p. 11, LUMA Response to Question 10: “LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. LUMA specifically objects to this request that seeks information related to occurrences since LUMA took over the transmission and distribution system in June 2021. This proceeding does not involve performance or data after the Energy Bureau set the applicable baselines in the Resolutions and Orders of May 21, 2021, and July 2, 2021, issued in Case No. NEPR-MI-2019-0007. Thus, the requested information on incidents related to health and safety after June 1st, 2021, is not relevant to this proceeding.

Without waiving this objection and without acquiescing to the relevance or admissibility of the information, LUMA has recorded a total of 24 OSHA Recordable Injuries related to health and safety have occurred since June 1, 2021.”

required LUMA to provide several pieces of information related to LUMA's current performance, after June 1st.²⁶

The truth is that if LUMA aspires to the best performance in occupational health and safety, it must be clear in the way it records incidents and reports them to PR OSHA, because that is the mandate of Act No. 16 of August. 5 of 1975. LECO was specific in requesting the details and documents generated by the incident investigations. This information is very pertinent when it comes to the safety and health of LUMA workers and strict compliance with the laws and regulations administered by PR OSHA. The Puerto Rico Supreme Court has ruled that relevant documents and information must be made available through discovery to eliminate surprises, simplify issues, improve the efficiency of hearings and trials and facilitates the search of the truth. García Rivera et al. v. Enriquez, 153 D.P.R. 323 (2001).²⁷ In this case, the information related to LUMA's occupational safety and health metrics is clearly within the broad scope of the discovery detailed by the Supreme Court. Ades v. Zalman, 115 D.P.R. 514, 518 (1984); Rivera Alejandro v. Algarín, 112 DPR 830 (1982). *See also* García Rivera et al. v. Enriquez, 153 D.P.R. 323, 334 (2001) (Discovery rules must be interpreted liberally and require the cooperation and good faith of both parties).

Wherefore, LECO respectfully requests that the Energy Bureau compel responses from LUMA to Questions 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11 from LECO's Third

²⁶ Resolution and Order to Compel Responses to Requirements of Information, *supra* note 11, at 4.

²⁷ The high court has established that the purposes of the rules for discovery of evidence are to: (1) specify the issues in dispute; (2) obtain evidence to be used in the trial; (3) facilitate the search for the truth, and (4) perpetuate evidence. Rivera v. Bco. Popular, 152 D.P.R. 140 (2000).

ROI, and any other remedy that is deemed appropriate according to Section 8.03(F) of Regulation No. 8543.

Respectfully submitted. In San Juan Puerto Rico, October 13, 2021.

/s/ Laura Arroyo

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CERTIFICATION OF SERVICE

I hereby certify that on October 13, 2021, I served this Motion to Compel to the following parties:

- Puerto Rico Energy Bureau: secretaria@energia.pr.gov; secretaria@jrsp.pr.gov; legal@jrsp.pr.gov and viacaron@jrsp.pr.gov
- LUMA Energy LLC and LUMA Energy ServCo LLC: mmercado@mercado-echegaray-law.com; margarita.mercado@us.dlapiper.com; yahaira.delarosa@us.dlapiper.com
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ATTACHMENT 1

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

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

CASE NO. NEPR-AP-2020-0025

**SUBJECT: Response to Third Set of
Information Requests by the Puerto
Rico Local Environmental and Civil
Organizations (“LECO”)**

**LUMA’S RESPONSES AND OBJECTIONS TO
THIRD SET OF INFORMATION REQUESTS BY LECO**

TO: Puerto Rico Local Environmental and Civil Organizations (“LECO”)

Through counsels:

Ruth Santiago, rstgo2@gmail.com, Rolando Emmanuelli, notificaciones@bufete-emmanuelli.com, rolando@bufete-emmanuelli.com, Jessica Méndez, jessica@bufete-emmanuelli.com, Pedro Saadé pedrosaade5@gmail.com., jessica@bufete-emmanuelli.com, and Laura Arroyo, larroyo@earthjustice.org.

FROM: LUMA Energy, LLC, and LUMA Energy ServCo, LLC (“LUMA”),

Through counsels:

Margarita Mercado Echegaray, margarita.mercado@us.dlapiper.com and Yahaira De la Rosa, yahaira.delarosa@us.dlapiper.com.

LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred to as “LUMA”), by and through its attorneys, and pursuant to Regulation No. 8543 of the Puerto Rico Energy Bureau, responds and objects to the Local Environmental and Civil Organizations (“LECO”) Third Set of Information Requests as follows:

PRELIMINARY STATEMENT

1. By making the accompanying responses and objections to LECO's requests, LUMA does not waive, and hereby expressly reserves, its right to assert any and all objections as to the admissibility of such responses into evidence in this proceeding, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege. Further, LUMA makes the responses and objections herein without in any way implying that it considers the requests, and responses to the requests, to be relevant or material to the subject matter of this proceeding.

2. LUMA will produce responsive documents only to the extent that such documents are in its possession, custody, or control.
3. LUMA expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections, in one or more subsequent supplemental response(s).
4. Publicly available documents including, but not limited to, documents matter of public record that are available electronically, will not be produced, but sufficient information will be provided to easily identify and access the electronic public records in which they are located.

GENERAL OBJECTIONS

LUMA makes the following general objections, which are incorporated into each of its responses below as if stated in full therein:

1. LUMA objects to LECO's requests which call for information and the production of documents not relevant to the subject matter of the proceeding.
2. LUMA expressly limits its responses to LECO's requests to the information that could be located by each of the responders after a reasonable search of its records believed most likely to contain the responsive information.
3. LUMA's decision to provide information notwithstanding the objectionable nature of some of LECO's discovery requests are not to be construed as an admission that the information is relevant, as a waiver of the general or specific objections, or as an agreement that future requests for similar discovery will be treated in a similar manner.
4. LUMA reserves its right to supplement, modify or amend these responses as discovery progresses in this proceeding.
5. LUMA objects to the introduction of the Third Set of Information Requests that includes legal arguments and conclusions of counsel. Legal arguments are not part of discovery. The arguments are meant to harass LUMA witnesses and should be stricken from the discovery request. LUMA reserves the right to request protective relief from the Puerto Rico Energy Bureau.

LUMA'S OBJECTIONS AND RESPONSES TO LECO'S REQUESTS

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-001

REQUEST:

What years does LUMA's evaluation of PREPA PR OSHA-300 correspond to? Was only the registration for the 2019-2020 fiscal year considered? If LUMA only considered fiscal year 2019-2020, why not evaluate previous years to have a wider context of employee incidents recorded by PREPA?

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request because it employs the vague term “wider context” and does not provide sufficient context to ascertain the relevance of the request in connection with LUMA's Revised Performance Metrics Targets Submission and proposed Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") filed on September 24, 2021 (“LUMA’s Revised Performance Metrics Targets filing”). LUMA also objects to this request because it is argumentative. Without waiving the foregoing objections, LUMA performed a review of data related to PREPA PR OSHA-300 including fiscal year 2017 forward.

Fiscal Year 2019-2020 was not the only fiscal year considered; however, it was the period considered for baseline calculation as described in Section 2.5.2 of the Revised Performance Metric Filing submitted August 18, 2021, then amended on September 24, 2021.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-002

REQUEST:

Did LUMA compare the information collected through the PREPA PR OSHA-300 with information or material from other comparable electrical utilities of other states or jurisdictions?

RESPONDER:

Jorge Meléndez

RESPONSE:

It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the Puerto Rico Energy Bureau were adopted within the competitive negotiated processes conducted by the Puerto Rico Public-Private Partnerships Authority that led to the execution of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 (T&D OMA). LUMA was not required to conduct an independent utility industry assessment in connection with the health and safety performance metrics. To the extent that this request seeks to elicit information on OSHA processes pertaining to other utilities, it is clarified that LUMA compared information collected through the Edison Electric Institute to review information compiled from other comparable electrical utilities in the United States. Other companies' OSHA information is not directly available to LUMA.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-03

REQUEST:

What standards adopted by PR OSHA did LUMA use to prepare performance metrics in safety and health?

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request as ambiguous and unintelligible. It references standards adopted by PR OSHA without sufficient context to allow LUMA to understand and identify relevant standards responsive to this request. Also, LUMA is not in a position to ascertain the relevance of the request in connection with LUMA's Revised Proposed Performance Metrics Targets filing, and thus, LUMA's witness cannot answer. LUMA also objects to this request as argumentative and because it is based on the unsupported and unexplained premise that OSHA PR has adopted specific standards. Without waiving the foregoing objections, PR OSHA does not have specific standards related to injury recordability different from the industry standards provided by OSHA.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-04

REQUEST:

Did LUMA or any LUMA witness review the Regulations developed and approved by PR OSHA and with Act No. 16 of August 5, 1975, as amended?

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request because it is vague and overly broad. It does not specify the relevant timeframe nor the specific regulatory or statutory provisions that the request purports to cover. The request does not provide sufficient context to allow LUMA to understand the request and identify responsive information. Also, LUMA is not in a position to ascertain the relevance of the request in connection with LUMA's Revised Proposed Performance Metrics Targets filing. However, LUMA is aware of how the legislation enacted impacts the reporting and recording of workplace injuries.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-005

REQUEST:

What documents, in addition to PREPA PR OSHA-300, did LUMA use to prepare performance metrics in safety and health?

- a. Submit a copy of all documents that LUMA used.

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request as repetitive of, for example, RFI-LUMA-AP-2020-0025-LECO-10SEPT21-002. LUMA also objects to this request as it ignores the pre-filed testimony of J. Meléndez of September 9, 2021, and the exhibits to said testimony. Without waiving the foregoing objections, please refer to RFI-LUMA-AP-2020-0025-LECO-10SEPT21-002, Pre-Filed Testimony of J. Meléndez, lines 32-42 and 81-86 and Exhibit 1.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-006

REQUEST:

Has witness Jorge Meléndez obtained any training regarding OSHA standard number 1910.269: “Electric power generation, transmission, and distribution”? If so, please provide certifications and evidence of those trainings.

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets.

Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, witness Meléndez has participated in OSHA Electrical Transmission & Distribution (ET&D) Partnership 10 hours and OSHA Electrical Transmission & Distribution (ET&D) Partnership 10 hours OSHA 20 hours. He has also participated in several other training courses related to electrical safety.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-007

REQUEST:

Please refer to Mr. Meléndez’s testimony p. 6, referring to a new report titled “Casi Casi.” Considering that LUMA indicates that they evaluated a report entitled “Casi Casi”, which refers to the incidents known as “near misses”, what explanation, if any, did PREPA give to begin recording the “near misses” cases since the end of 2019 and not before? What additional investigative steps did LUMA take to validate the information collected in the report entitled “Casi Casi”?

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to the first sentence of this request as repetitive. LUMA provided responsive information in RFI-LUMA-AP-2020-0025-PREB-R1-10SEPT21-011.

LUMA objects to the second sentence of this request because it employs the vague term “validate” and does not place LUMA in a position to ascertain the relevance of this request or provide an answer. Without waiving the foregoing objections, if by “validate” the request refers to an independent investigation or assessment of the underlying incidents or occurrences, it is clarified that LUMA did not have sufficient data or information to conduct an independent assessment. Such investigation or assessment is not required. In setting performance baselines in Case No. NEPR-MI-2019-0007, the Energy Bureau did not require an independent investigation, assessment, or validation of PREPA’s data on health and safety performance metrics.

Without waiving the foregoing objections, PREPA did not provide any explanation related to the recording on near misses. Additionally, we were unable to specifically validate the reports that PREPA provided outside of comparing to the OSHA logs. As stated in lines 128 and 129 of my direct testimony, LUMA reviewed the data provided on the Casi Casi report to determine what was accurately reported on the OSHA log and what may have been excluded.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-008

REQUEST:

Is LUMA aware that the Puerto Rico Occupational Safety and Health Administration (“PR OSHA”) provides consulting services? Has LUMA requested the consulting services that PR OSHA provides?

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, I am aware that PR OSHA has consulting services to assist in scenarios if help is needed by LUMA. However, using OSHA consulting services is optional, and LUMA has not requested their services currently.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 3: LECO Requests 3**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-009**REQUEST:**

How many inspections, if any, has PR OSHA performed at LUMA-managed and supervised workplaces since June 1, 2021? PREB's orders in this docket, as well as PREB's orders in Docket No. NEPR-MI-2019-0007, make it clear that metrics, baselines, and benchmarks will continue to evolve and that this evolution will be informed by LUMA's ongoing performance. LUMA's performance since June 1, 2021, therefore, is relevant evidence in this proceeding.

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request because it is argumentative and includes a legal conclusion by counsel. LUMA also objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. LUMA specifically objects to this request that seeks information related to occurrences since LUMA took over the transmission and distribution system in June 2021. This proceeding does not involve performance or data after the Energy Bureau set the applicable baselines in the Resolutions and Orders of May 21, 2021, and July 2, 2021, issued in Case No. NEPR-MI-2019-0007. Thus, the requested information on OSHA inspections related to health and safety after June 1st, 2021, is not relevant to this proceeding.

Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, LUMA has no active OSHA investigations since June 1, 2021.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-010

REQUEST:

How many incidents related to health and safety have occurred since June 1, 2021?

- a. Provide the details, documents generated in investigative reports made.

RESPONDER:

Jorge Meléndez

RESPONSE:

LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. LUMA specifically objects to this request that seeks information related to occurrences since LUMA took over the transmission and distribution system in June 2021. This proceeding does not involve performance or data after the Energy Bureau set the applicable baselines in the Resolutions and Orders of May 21, 2021, and July 2, 2021, issued in Case No. NEPR-MI-2019-0007. Thus, the requested information on incidents related to health and safety after June 1st, 2021, is not relevant to this proceeding.

Without waiving this objection and without acquiescing to the relevance or admissibility of the information, LUMA has recorded a total of 24 OSHA Recordable Injuries related to health and safety have occurred since June 1, 2021.

Performance Metrics
Docket ID: NEPR-AP-2020-0025

Information Response Round 3: LECO Requests 3

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R3-04OCT21-011

REQUEST:

Has LUMA already received citations and penalty proposals from PR OSHA?

- a. If yes, how many?
- b. In what workplace was the inspection that led to the issuance of the citations and penalty proposal?
- c. Submit a copy of all correspondence between LUMA and PR OSHA, and any documents in LUMA's possession related to PR OSHA, specifically including documents related to citations and penalties issued by PR OSHA to LUMA.

RESPONDER:

Jorge Meléndez

RESPONSE:

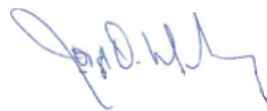
LUMA objects to this request as it seeks information that falls beyond the scope of the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. Further, LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. LUMA specifically objects to this request that seeks information related to occurrences since LUMA took over the transmission and distribution system in June 2021. This proceeding does not involve performance or data after the Energy Bureau set the applicable baselines in the Resolutions and Orders of May 21, 2021, and July 2, 2021, issued in Case No. NEPR-MI-2019-0007. Thus, the requested information on incidents related to health and safety after June 1st, 2021, is not relevant to this proceeding.

LUMA also objects to this request to the extent that it purports to obtain information on ongoing investigations that includes confidential data.

Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, as of this date, OSHA has not issued citations to LUMA for potential violations nor notices of imposition of penalties.

CERTIFICATION

It is hereby certified that the answers provided to this Third Set of Information Requests, by each responder are true to the best of his/her knowledge, information and belief



Jorge Meléndez

RESPECTFULLY SUBMITTED.

We hereby certify that, as required by the Energy Bureau in the April 8th Resolution and Order, Attachment A, and by Section 8.01(K) of Energy Bureau Regulation 8543, we will send an electronic copy of this response and exhibits to same to the attorneys for PREPA, Joannely Marrero-Cruz, jmarrero@diazvaz.law; and Katuska Bolaños-Lugo, kbolanos@diazvaz.law, the Office of the Independent Consumer Protection Office, Hannia Rivera Diaz, hrivera@jrsp.pr.gov, and counsel for the Puerto Rico Institute for Competitiveness and Sustainable Economy ("ICSE"), Fernando Agrait, agraitfe@agraitlawpr.com, counsel for the Colegio de Ingenieros y a de Puerto Rico ("CIAPR"), Rhonda Castillo, rhoncat@netscape.net, and counsels for Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace Latino de Acción Climática, Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club and its Puerto Rico Chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (jointly, Puerto Rico Local and Environmental Organizations), larroyo@earthjustice.org, rsto2@gmail.com, notificaciones@bufete-emmanueli.com, pedrosaade5@gmail.com, jessica@bufete-emmanueli.com; rolando@bufete-emmanueli.com.

An electronic copy of this response and exhibits will also be sent to: viacaron@jrsp.pr.gov; secretaria@jrsp.pr.gov; and legal@jrsp.pr.gov.

In San Juan, Puerto Rico, this 4th day of October 2021.



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ATTACHMENT 2

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

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

CASE NO. NEPR-AP-2020-0025

SUBJECT: THIRD SET OF
INFORMATION REQUESTS

**THIRD SET OF INFORMATION REQUESTS FROM LOCAL
ENVIRONMENTAL AND CIVIL ORGANIZATIONS TO LUMA ENERGY
SERVCO LLC**

Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc. - Enlace Latino de Acción Climática, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club and its Puerto Rico chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (Local Environmental and Civil Organizations, or “LECO”), by and through their legal counsel, hereby submit this Third Set of Information Requests to LUMA Energy LLC and LUMA Energy ServCo LLC (collectively, LUMA). Please forward responses to the discovery requests below to all attorneys of record within ten days.¹ The General Instructions for these Requests are enclosed as well.

If any document is being withheld or redacted based on a claim of privilege, please also provide a privilege log identifying and justifying with specificity such withholding or redacting.

¹ As required by the Puerto Rico Energy Bureau’s April 8th Resolution and Order and August 30th Resolution and Order.

Responses are to be provided in electronic format please (e.g., text documents should be in the original word processor file format or searchable PDF, data files should be in Excel format in original, electronic, unlocked, format, where possible, with formulas in-tact).

Introduction

Puerto Rico OSHA (PR OSHA) has exclusive jurisdiction over all work sites in Puerto Rico, both in the public and private sectors, except in those industries dedicated to Marine Cargo Handling (SIC 4463), Ship Construction and Repair (SIC 3731) and the Postal Service (USPS) (SIC 4311), which remain under the jurisdiction of the federal government. The jurisdiction and competence of PR OSHA has its legal basis in Act No. 16 of August 5, 1975, as amended, known as the Occupational Safety and Health Act of Puerto Rico, and operates through a state plan approved by federal OSHA.

The general rule in Occupational Safety and Health is that each employer shall furnish to each of his employees, employment, and place of employment free from recognized hazards which are causing or may cause death or physical harm. LUMA, as the company in charge of managing the distribution and transmission of energy in Puerto Rico, is required to comply with the standards that PR OSHA adopts and that apply in the electricity industry. The foregoing, because electricity is considered a serious risk in the workplace since employees are exposed to electric shocks, explosions, fires, and electrocution.

It is significant that neither in the report of performance metrics targets, nor in the testimony proposed by LUMA, do they mention PR OSHA as a local reference and support

entity, when PR OSHA is the office that will be inspecting and supervising them in matters of safety and occupational health. Even more so, when PR OSHA has a free consultation service and voluntary programs to which LUMA can benefit themselves to achieve better results in occupational safety and health. In consideration of the above-mentioned, the following questions relate to the Performance Metrics that LUMA is submitting to the Energy Bureau in matters of Occupational Health and Safety.

Information Requests

For each question, please provide all relevant reports, documents, or supporting information and data.

1. What years does LUMA's evaluation of PREPA PR OSHA-300 correspond to? Was only the registration for the 2019-2020 fiscal year considered? If LUMA only considered fiscal year 2019-2020, why not evaluate previous years to have a wider context of employee incidents recorded by PREPA?
2. Did LUMA compare the information collected through the PREPA PR OSHA-300 with information or material from other comparable electrical utilities of other states or jurisdictions?
3. What standards adopted by PR OSHA did LUMA use to prepare performance metrics in safety and health?
4. Did LUMA or any LUMA witness review the Regulations developed and approved by PR OSHA and with Act No. 16 of August 5, 1975, as amended?

5. What documents, in addition to PREPA PR OSHA-300, did LUMA use to prepare performance metrics in safety and health?
 - a. Submit a copy of all documents that LUMA used.
6. Has witness Jorge Meléndez obtained any training regarding OSHA standard number 1910.269: “Electric power generation, transmission, and distribution”? If so, please provide certifications and evidence of those trainings.
7. Please refer to Mr. Meléndez’s testimony p. 6, referring to a new report titled “Casi Casi.” Considering that LUMA indicates that they evaluated a report entitled “Casi Casi”, which refers to the incidents known as “near misses”, what explanation, if any, did PREPA give to begin recording the “near misses” cases since the end of 2019 and not before? What additional investigative steps did LUMA take to validate the information collected in the report entitled “Casi Casi”?
8. Is LUMA aware that the Puerto Rico Occupational Safety and Health Administration (“PR OSHA”) provides consulting services? Has LUMA requested the consulting services that PR OSHA provides?
9. How many inspections, if any, has PR OSHA performed at LUMA-managed and supervised workplaces since June 1, 2021? PREB’s orders in this docket, as well as PREB’s orders in Docket No. NEPR-MI-2019-0007, make it clear that metrics, baselines, and benchmarks will continue to evolve and that this evolution will be informed by LUMA’s ongoing performance. LUMA’s performance since June 1, 2021, therefore, is relevant evidence in this proceeding.
10. How many incidents related to health and safety have occurred since June 1, 2021?

- a. Provide the details, documents generated in investigative reports made.
11. Has LUMA already received citations and penalty proposals from PR OSHA?
- a. If yes, how many?
 - b. In what workplace was the inspection that led to the issuance of the citations and penalty proposal?
 - c. Submit a copy of all correspondence between LUMA and PR OSHA, and any documents in LUMA's possession related to PR OSHA, specifically including documents related to citations and penalties issued by PR OSHA to LUMA.

GENERAL INSTRUCTIONS

1. Responses are to be provided in electronic format (e.g., text documents should be in the original word processor file format or searchable PDF, data files should be in Excel).
2. If you contend that any response to any discovery request may be withheld under the attorney-client privilege, the attorney work product doctrine or any other privilege or basis, please state the following with respect to each such response in order to explain the basis for the claim of privilege and to permit adjudication of the propriety of that claim:
 - a. The privilege asserted and its basis;
 - b. The nature of the information withheld; and,
 - c. The subject matter of the document, except to the extent that you claim it is privileged.
3. For any document or set of documents you object to providing to on the grounds it is burdensome or voluminous, please identify the specific document.
4. These discovery requests are to be answered with reference to all information in your possession, custody or control or reasonably available to you. These discovery requests are intended to include requests for information, which is physically within your possession, custody or control as well as in the possession, custody or control of your agents, attorneys, or other third parties from which such documents may be obtained.
5. If any discovery request cannot be responded to or answered in full, answer to the extent possible and specify the reasons for your inability to answer fully.

6. These discovery requests are continuing in nature and require supplemental responses should information unknown to you at the time you serve your responses to these discovery requests subsequently become known.
7. For each response, identify all persons that were involved in the preparation of the answers to the interrogatories below and/or are responsible for compiling and providing the information contained in each answer.
8. Identify which witness(es) at the hearing(s) is competent to adopt and/or discuss the response.
9. Please produce the requested documents in electronic format to all attorneys of record.
10. Wherever the response to an interrogatory or request consists of a statement that the requested information is already available to us, provide a detailed citation to the document that contains the information. This citation shall include the title of the document, relevant page number(s), and to the extent possible paragraph number(s) and/or chart/table/figure number(s).
11. In the event that any document referred to in response to any request for information has been destroyed, specify the date and the manner of such destruction, the reason for such destruction, the person authorizing the destruction and the custodian of the document at the time of its destruction.
12. We reserve the right to serve supplemental, revised, or additional discovery requests as permitted in this proceeding.

Definitions: For the purposes of these data requests, the following definitions shall apply:

1. "Document" means all written, recorded or graphic matters, however produced or reproduced, pertaining in any manner to the subject of this proceeding, whether or not now in existence, without limiting the generality of the foregoing, all originals, copies and drafts of all writings, correspondence, telegrams, notes or sound recordings of any type of personal or telephone communication, or of meetings or conferences, minutes of directors or committee meetings, memoranda, inter-office communications, studies, analyses, reports, results of investigations, reviews, contracts, agreements, working papers, statistical records, ledgers, books of account, vouchers, bank checks, x-ray prints, photographs, films, videotapes, invoices, receipts, computer printouts or other products of computers, computer files, stenographer's notebooks, desk calendars, appointment books, diaries, or other papers or objects similar to any of the foregoing, however denominated. If a document has been prepared in several copies, or additional copies have been made, and the copies are not identical (or which, by reasons of subsequent modification of a copy by the addition of notations, or other modifications, are no longer identical) each non-identical copy is a separate "document."
2. "And" or "or" shall be construed conjunctively or disjunctively as necessary to make the requests inclusive rather than exclusive.
3. The term "you" and "your" refer to LUMA Energy Servco, LLC.
4. The term "person" means any natural person, corporation, corporate division, partnership, limited liability company, other unincorporated association, trust, government agency, or entity.

5. The term “regarding” means consisting of, containing, mentioning, suggesting, reflecting, concerning, regarding, summarizing, analyzing, discussing, involving, dealing with, emanating from, directed at, pertaining to in any way, or in any way logically or factually connected or associated with the matter discussed.
6. The singular as used herein shall include the plural and the masculine gender shall include the feminine and the neuter.
7. “Identify” or “identifying” or “identification” when used in reference to a person that is a natural person means to state: the full name of the person and any names under which he conducts business; the current employer of the person, the person’s job title and classification, the present or last known work address of the person; and, the present or last known telephone number of the person.
8. “Identify” or “identifying” or “identification” when used in reference to a person other than a natural person means to state: the full name of the person and any names under which it conducts business; the present or last known address of the person; and, the present or last known telephone number of the person.
9. “Identify” or “identifying” or “identification” when used in reference to a document means to provide with respect to each document requested to be identified by these discovery requests a description of the document that is sufficient for purposes of a request to produce or a subpoena duces tecum, including the following:
 - a. the type of document (e.g., letter, memorandum, etc.);
 - b. the date of the document;
 - c. the title or label of the document;
 - d. the Bates stamp number or other identifier used to number the document for use in litigation;
 - e. the identity of the originator;
 - f. the identity of each person to whom it was sent;
 - g. the identity of each person to whom a copy or copies were sent;
 - h. a summary of the contents of the document;
 - i. the name and last known address of each person who presently has possession, custody or control of the document; and,
 - j. if any such document was, but is no longer, in your possession, custody or control or is no longer in existence, state whether it: (1) is missing or lost; (2) has been destroyed; or (3) has been transferred voluntarily or involuntarily, and if so, state the circumstances surrounding the authorization for each such disposition and the date of such disposition.
10. “Identify” or “identifying” or “identification” when used in reference to communications means to state the date of the communication, whether the communication was written or oral, the identity of all parties and witnesses to the communication, the substance of what was said and/or transpired and, if written, identify the document(s) containing or referring to the communication.
11. “Current” when used in reference to time means in the present time of this data request.
12. “Customer” means a person who buys retail electricity on a regular and ongoing basis.
13. “Workpapers” are defined as original, electronic, unlocked, Excel format (where possible) with formulas in-tact.

Respectfully submitted,

/s/ Ruth Santiago

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/s/ Rolando Emmanuelli Jiménez

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flcaseupdates@earthjustice.org

CERTIFICATION OF SERVICE

I hereby certify that on September 23, 2021, I caused this Information Request to be served upon the following parties:

- Puerto Rico Energy Bureau: secretaria@energia.pr.gov; secretaria@jrsp.pr.gov; legal@jrsp.pr.gov and viacaron@jrsp.pr.gov
- LUMA Energy LLC and LUMA Energy ServCo LLC: mmercado@mercado-echegaray-law.com; margarita.mercado@us.dlapiper.com; yahaira.delarosa@us.dlapiper.com
- PREPA: jmarrero@diazvaz.law; kbolanos@diazvaz.law
- Oficina Independiente de Protección al Consumidor (OIPC): contratistas@oipc.pr.gov; hrivera@oipc.pr.gov
- Instituto de Competitividad y Sostenibilidad Económica de Puerto Rico (ICSE): agraitfe@agraitlawpr.com
- Colegio de Ingenieros y Agrimensores de Puerto Rico (CIAPR): rhoncat@netscape.net

/s/ Pedro Saadé Lloréns

Pedro Saadé Lloréns

RUA No. 4182

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