

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

NEPR Received: Oct 15, 2021 6:54 PM
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IN RE: PERFORMANCE METRICS
TARGETS FOR LUMA ENERGY SERVCO,
LLC

CASE NO. NEPR-AP-2020-0025

**SUBJECT: Motion Informing Compliance
with Resolution and Order of October 7,
2021**

**MOTION INFORMING COMPLIANCE WITH
RESOLUTION AND ORDER OF OCTOBER 7, 2021**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME now **LUMA Energy, LLC** (“ManagementCo”), and **LUMA Energy ServCo, LLC** (“ServCo”), (jointly referred to as the “Operator” or “LUMA”), and respectfully state and request the following:

1. On September 24, 2021, this Honorable Puerto Rico Energy Bureau issued its Fifth Requirement of Information (“ROI 5”) to LUMA, which included thirty-nine (39) questions to be answered on or before October 4, 2021. On the same date, the Energy Bureau issued the Sixth Requirement of Information (“ROI 6”) to LUMA, comprised of fourteen (14) questions to be answered on or before October 4, 2021.

2. On October 4, 2021, LUMA served LUMA’s Responses and Objections to Fifth Requirement of Information by PREB (“ROI 5 Responses”) and LUMA’s Responses and Objections to Sixth Requirement of Information by PREB (“ROI 6 Responses”) (together “Responses”). LUMA posed objections to requests related to interconnections procedures and vegetation management because those requests sought information that fell beyond the scope of

this proceeding and was irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets Submission and Proposed Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement filed on September 24, 2021. Moreover, this Energy Bureau specifically initiated proceedings (including NEPR-MI-2019-0016 and NEPR-MI-2019-0005) to consider these matters.

3. On October 7, 2021, this Energy Bureau issued a Resolution and Order, wherein it determined that the questions issued in ROIs 5 and 6 were warranted and discoverable in the instant proceeding and require suitable responses by LUMA. Therefore, this Energy Bureau ordered LUMA to provide suitable responses that adequately answer questions 1 through 13 of ROI 5 (interconnections procedures) and questions 11-14 of ROI 6 (vegetation management) on or before October 14, 2021.

4. The Resolution and Order deprived LUMA of due process guarantees to a fair procedure by an impartial adjudicator. LUMA did not receive notice that a request based on legal or factual arguments had been submitted to the Energy Bureau to compel LUMA to amend or supplement responses provided in ROIs 5 and 6. Furthermore, this Energy Bureau did not offer to meet and confer with LUMA to discuss the Responses, nor was LUMA otherwise allowed to further defend its objections to this Energy Bureau issuance of the above-cited Resolution and Order. In summary, this Energy Bureau issued a ruling on the relevancy of certain information without prior notice to LUMA and without providing LUMA the opportunity to be heard.

5. Section 8.03 (F) of Regulation No. 8543 on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings of December 18, 2014, provides that

a party who receives an interrogatory may object to answering via a written motion: (“[a] party serving an interrogatory may object the answers on motion to the Commission, which shall include a transcript, verbatim, of the question and answer concerned, as well as the grounds for objecting.”). Regulation No. 8543, however, is silent as to whether this Energy Bureau is considered a party that may object to a response to a discovery request. Further, Regulation No. 8543 does not state the procedures that this Energy Bureau will follow in connection with responses to discovery requests it issues. This regulation also does not provide procedural guidance or guarantees on how discovery disputes involving requirements for information issued by this Energy Bureau will be handled. Thus, there is a lack of regulatory provisions on the procedure by which this Energy Bureau may participate in discovery processes in adjudicative proceedings and serve as adjudicator of discovery disputes related to its requirements for information. As such, LUMA is deprived of the opportunity to adequately protect its procedural and substantive rights.

6. Notwithstanding the above, LUMA hereby informs that on October 14, 2021, it submitted supplemental responses to ROIs 5 and 6 with certain reservations of rights. LUMA understands that the supplemental responses adequately answer the questions posed by this Energy Bureau.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take** notice of the above and **deem** LUMA complied with the Resolution and Order of October 7, 2021.

RESPECTFULLY SUBMITTED.

We hereby certify that we 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, 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 Agrimensores 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, rstgo2@gmail.com, notificaciones@bufete-emmanueli.com, pedrosaade5@gmail.com, jessica@bufete-emmanueli.com; rolando@bufete-emmanueli.com.

In San Juan, Puerto Rico, this 15th day of October 2021.



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