

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: REPLY IN SUPPORT
OF OIPC'S MOTION

**REPLY IN SUPPORT FOR OIPC'S MOTION IN REQUEST FOR MODIFICATION
OF THE PROCEDURAL CALENDAR**

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 express support for the Motion In Request For Modification of the Procedural Calendar filed by Oficina Independiente de Protección al Consumidor de la Junta Reglamentadora de Servicio Público ("OIPC").

As OIPC states, a modification to the procedural calendar is necessary to account for the ongoing delays in receiving discovery responses from LUMA Energy, for example:

Request of Information	Original Deadline	Revised Deadline
LECO 1st ROI	September 7th	September 10th ¹
PREB 2nd ROI	September 11th	September 16th ²
PREB 3rd ROI	September 13th	September 16th ³
PREB 5th ROI, Questions 1-12	October 4th	October 14th ⁴
PREB 6th ROI, Questions 11 through 14	October 4th	October 14th ⁵
OIPC 1st ROI	October 12th	October 14th ⁶

¹ LUMA requested an extension of time through *Motion Requesting a Brief Extension for LUMA to Answer LECOS's First Discovery Request*, NEPR-AP-2020-0025, (September 2, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/09/Motion-Requesting-a-Brief-Extension-for-Luma-to-Answer-Lecos-First-Discovery-Request-NEPR-AP-2020-0025.pdf>.

PREB granted LUMA's motion, see *Resolution*, In Re Performance Targets for LUMA Energy Servco, LLC, Resolution, NEPR-AP-2020-0025, (September 3, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/09/20210903-AP20200025-Resolution.pdf>.

² [LUMA requested an extension of time through *Motion Requesting a Brief Extension of Time for LUMA to Answer the Energy Bureau's Second and Third Requirements of Information*, NEPR-AP-2020-0025, \(September 2021\), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/09/Motion-Requesting-a-Brief-Extension-of-Time-for-LUMA-to-Answer-PREB-Discovery-Requests-2-and-3-NEPR-AP-2020-0025.pdf>.](https://energia.pr.gov/wp-content/uploads/sites/7/2021/09/Motion-Requesting-a-Brief-Extension-of-Time-for-LUMA-to-Answer-PREB-Discovery-Requests-2-and-3-NEPR-AP-2020-0025.pdf)

PREB granted LUMA's motion in: *Resolution and Order*, In re: Performance Targets for LUMA Energy Servco, LLC, NEPR- AP-2020-0025, (September, 10, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/09/20210910-AP20200025-Resolution-and-Order.pdf>.

³ LUMA requested an extension of time through *Motion Requesting a Brief Extension of Time for LUMA to Answer the Energy Bureau's Second and Third Requirements of Information*, NEPR-AP-2020-0025, (September 10, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/09/Motion-Requesting-a-Brief-Extension-of-Time-for-LUMA-to-Answer-PREB-Discovery-Requests-2-and-3-NEPR-AP-2020-0025.pdf>.

PREB granted the requested extension in: *Resolution and Order*, In re: Performance Targets for LUMA Energy Servco, LLC, NEPR- AP-2020-0025, (September, 10, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/09/20210910-AP20200025-Resolution-and-Order.pdf>.

⁴ Upon review of objections made by LUMA in its Response to the 5th ROI served by PREB, PREB ordered LUMA to answer questions 1- 12, via *Resolution and Order*, In Re Performance Targets for LUMA Energy Servco, LLC, NEPR-AP-2020-0025, October 7, 2021, <https://energia.pr.gov/wp-content/uploads/sites/7/2021/10/20211007-AP20200025-Resolution-and-Order.pdf>.

⁵ Upon review of objections made by LUMA in its Response to the 6th ROI served by PREB, PREB ordered LUMA to answer questions 1 through 14 via *Id*.

⁶ LUMA requested an extension of time through: *Motion Requesting a Brief Extension for LUMA to Answer ICPO's First Requirement of Information*, NEPR-AP-2020-0025, (October 8, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/10/20211008-Motion-Requesting-a-Brief-Extension-for-LUMA-to-Answer-ICPOs-First-Requirement-of-Information-1.pdf>.

Not only LUMA has requested extensions of time to provide little to no answers to the discovery requests, but also LUMA has refused to answer dozens of questions in LECO's First, Second, Third, and Fourth Requests of Information, forcing LECO to file Motions to Compel adequate responses. On top of that, LUMA requested time (until October 18th) to “file response and opposition” to our Motion to Compel,⁷ which was also granted.⁸ Those Motions and the receipt of adequate responses and documents most likely will not be resolved nor received before October 21st, the current date for submission of expert testimony, and experts would not have the necessary time to properly review all the information still needed to provide an adequate testimony. Maintaining the current procedural calendar will unduly burden intervenors for LUMA’s lack of responses and transparency and will position intervenors in a grave disadvantage.

Additionally, a quick review of LUMA’s supplemental responses to PREB’s 5th and 6th ROIs shows that these may be inadequate, necessitating more time for LUMA to provide complete answers. LUMA’s supplemental responses note that the material

PREB granted the request for a time extension in: *Resolution*, In Re Performance Targets for LUMA Energy Servco, LLC, NEPR-AP-2020-0025, (October 13, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/10/20211013-AP20200025-Resolution-1.pdf>.

⁷ LUMA’s Notice of Intent to File Response and Opposition to LECO’s Motion to Compel, NEPR-AP-2020-0025, (October 11, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/10/Notice-of-Intent-to-File-Response-and-Opposition-to-LECOs-Motion-to-Compel-NEPR-AP-2020-0025.pdf>.

⁸ Resolution and Order, In Re Performance Targets for LUMA Energy Servco, LLC, Resolution, NEPR-AP-2020-0025, (October 14, 2021), <https://energia.pr.gov/wp-content/uploads/sites/7/2021/10/20211014-AP20200025-Resolution-and-Order-1.pdf>.

covered by those requests may require “amendment of the procedural calendar to announce additional witnesses” or “opportunity to conduct further discovery...”⁹

Experts preparing testimony must have an adequate amount of time to review complete answers from LUMA. For that reason, we respectfully request that expert testimony be deferred by at least four weeks, subject to the resolution of the discovery issues. Consequently, LECO’s also would like to propose to reschedule the other dates and suggests that the evidentiary hearing be held on January 13th and 14th of 2022.

One final reason for LECO’s support for OIPC’s request to amend the schedule: Rolando Emmanuelli Jiménez and Jessica Méndez-Colberg, the attorneys representing UTIER, an intervenor to this proceeding, are not available on the currently scheduled hearing dates of Nov. 30th and Dec. 1st due to a previously scheduled, prepaid business trip.¹⁰

Wherefore, LECO expresses its support for OIPC’s Motion in Request for Modification of the Procedural Calendar, and respectfully request PREB to grant said motion and our proposal to reschedule the remaining dates for this proceeding.

Respectfully submitted. In San Juan Puerto Rico, October 15, 2021.

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⁹ LUMA’s Supplemental Responses to PREB’s Fifth Requirement of Information in Compliance with October 7th Resolution and Order and Reservation of Rights, at p. 2, NEPR-AP-2020-0025, (October 14, 2021); LUMA’s Supplemental Responses to PREB’s Sixth Requirement of Information in Compliance with October 7th Resolution and Order and Reservation of Rights, at p. 2, NEPR-AP-2020-0025, (October 14, 2021).

¹⁰ We can provide proof of the business trip upon request.

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CERTIFICATION OF SERVICE

I hereby certify that on October 15, 2021, I served this Reply in Support of OIPC's Motion 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
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