

**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: Procedural Calendar
Amendment.

RESOLUTION

On September 27, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("September 27 Resolution") through which, among other matters, amended the procedural calendar for the instant case. The Energy Bureau determined that all provisions of the April 8 Resolution¹, the May 14 Resolution², the June 4 Resolution³, the July 2 Resolution⁴, and the August 9 Resolution⁵ compatible with the September 27 Resolution remained unaltered. As part of the procedural calendar established in the September 27 Resolution, the Energy Bureau established the period to conduct discovery from August 27, 2021 to October 7, 2021.

On October 12, 2021, the Independent Consumer Protection Office ("ICPO") filed before the Energy Bureau a document titled *Moción en Solicitud de Modificación del Calendario Procesal* ("ICPO Request"). ICPO stated that, although the discovery period ended, at the time it filed the ICPO Request several issues regarding discovery remained unresolved that directly affected the testimony to be provided by intervenors in the case.⁶ ICPO argued that the totality of the evidence is vital for the written testimony to be submitted by intervenors.⁷

¹ Resolution and Order, *In Re: Performance Targets for LUMA Energy ServCo, LLC*, Case No. NEPR-AP-2020-0025, April 8, 2021, pp. 2-3 ("April 8 Resolution").

² Resolution and Order, *In Re: Performance Targets for LUMA Energy ServCo, LLC*, Case No. NEPR-AP-2020-0025, May 14, 2021 ("May 14 Resolution").

³ Resolution and Order, *In Re: Performance Targets for LUMA Energy ServCo, LLC*, Case No. NEPR-AP-2020-0025, June 4, 2021 ("June 4 Resolution").

⁴ Resolution and Order, *In Re: Performance Targets for LUMA Energy ServCo, LLC*, Case No. NEPR-AP-2020-0025, July 2, 2021 ("July 2 Resolution").

⁵ Resolution and Order, *In Re: Performance Targets for LUMA Energy ServCo, LLC*, Case No. NEPR-AP-2020-0025, August 9, 2021 ("August 9 Resolution").

⁶ ICPO Request, p. 2. (Translation provided).

⁷ *Id.*, p. 3.



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On October 15, 2021, the Puerto Rico Local Environmental and Civil Organizations (“LECO”) filed before the Energy Bureau a document titled *Reply in Support of OIPC’s Motion in Request for Modification of the Procedural Calendar* (“LECO Reply”). LECO argued that a modification to the procedural calendar is necessary to account for ongoing delays in receiving discovery responses from LUMA^{8,9} LECO argued that it has filed Motions to Compel LUMA to provide adequate responses, and that the receipt of such responses and documents most likely will not be received before October 21, 2021, which is the deadline for intervenors to provide written testimony.¹⁰ LECO requested for the submission of intervenor written testimony to be deferred by at least four (4) weeks, subject to resolving the discovery issues.¹¹ Further, LECO requested for the evidentiary hearing to be rescheduled to mid January 2021 due to schedule conflicts of part of its legal representation.¹²

On October 19, 2021, LUMA filed before the Energy Bureau a document titled *Motion in Response to Requests by the ICPO and LECO to Modify the Procedural Calendar and Request to Modify Procedural Calendar* (“LUMA’s Motion”). LUMA agrees that an amendment to the procedural calendar is warranted. In support to its request, LUMA stated it needs equitable time to that granted to intervenors during the discovery period in order to conduct discovery on intervenor’s written testimony and to submit rebuttal testimonies.¹³

To that effect, LUMA argues that the period granted for LUMA to conduct discovery in the current procedural calendar is insufficient and unreasonably short.¹⁴ LUMA also argues that the current period to submit rebuttal testimony places LUMA in a material procedural disadvantage. LUMA alleged that such timeframe does not consider the possibility that the time for intervenors to answer discovery request may expire after the date for conclusion of discovery and LUMA may not have such responses before submitting rebuttal testimonies.¹⁵

⁸ LUMA Energy, LLC (“ManagementCo”) and LUMA Energy ServCo, LLC (“ServCo”) (collectively “LUMA”).

⁹ LECO Reply, p. 1.

¹⁰ *Id.*, p. 3.

¹¹ *Id.*, p. 4.

¹² *Id.*

¹³ LUMA’s Motion, p. 3.

¹⁴ *Id.*

¹⁵ *Id.*, p. 5



LUMA also proposes for the Energy Bureau to schedule a pre-hearing conference to discuss case management and calendar options for the evidentiary hearing.¹⁶

Upon review of the ICPO Request, LECO Reply and LUMA's Motion , and given the fact that there are certain controversies regarding discovery pending to be resolved, the Energy Bureau **AMENDS** the procedural calendar of the instant case as follows:

Date	Phase
August 27, 2021 - October 7, 2021	Discovery
November 17, 2021	Filing of Written Testimony by Intervenors
November 18, 2021 - December 28, 2021	Discovery on Intervenors' Written Testimony
January 14, 2022	Pre-Hearing Conference ¹⁷
January 18, 2022	Rebuttal on Intervenors' Written Testimony Due
January 31 - February 4, 2022	Virtual Evidentiary Hearing ¹⁸
February 10 - 11, 2022	Virtual Public Hearings ¹⁹
February 18, 2022	Filing of Comments by General Public
February 25, 2022	Filing of Final Substantive and Legal Briefs by the Parties; Filing of Final Brief by <i>Amicus Curiae</i>
March 11, 2022	Filing of Replies to Final Briefs by the Parties

All other provisions of the April 8 Resolution, the May 14 Resolution, the June 4 Resolution, the July 2 Resolution, the August 9 Resolution, and the September 27 Resolution compatible with this Resolution and Order remain unaltered.

Be it notified and published.

¹⁶ *Id.*, p. 6.

¹⁷ The purpose of the Pre-Hearing Conference is to address any conflicts that may arise with the agenda of the Evidentiary Hearing and any matters that need to be addressed by the parties regarding the Evidentiary Hearing.

¹⁸ Note that in order to prevent the spread of Covid-19, the Virtual Evidentiary Hearing will be held remotely via the *Microsoft Teams* platform from 9:00 a.m. to 5:30 p.m. each day.

¹⁹ Note that in order to prevent the spread of Covid-19, the Virtual Public Hearings will be held remotely via the *Microsoft Teams* platform from 9:00 a.m. to 5:30 p.m. each day.


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Edison Avilés Deliz
Chairman


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 October 20, 2021. I also certify that on October 20, 2021 a copy of this Resolution 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, October 20, 2021, I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today October 20, 2021.


Sonia Seda Gaztambide
Clerk

