

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

NEPR Received: Oct 26, 2021 11:16 AM

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

CASE NO. NEPR-AP-2020-0025

**SUBJECT: LUMA's Notice of Intent to
File Response to LECO's Third Motion to
Compel**

**LUMA'S NOTICE OF INTENT TO FILE
RESPONSE TO LECO'S THIRD MOTION TO COMPEL**

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 April 8, 2021, this Honorable Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order ("April 8 Resolution") establishing the procedural calendar in the instant case to evaluate the *Request for Approval of Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA)* ("LUMA's February 25 Request").

2. As part of the procedural calendar, this Energy Bureau established a discovery deadline. It also set forth that every intervenor would have the right to issue Requests for Information ("ROIs") regarding LUMA's February 25 Request, according to the provisions of Regulation No. 8543 on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings of December 18, 2014 ("Regulation 8543").

3. On July 15, 2021, the Puerto Rico Local Environmental and Civil Organizations (“LECO”) filed a Joint Petition for Intervention before this Energy Bureau. Their request for intervention was granted by a Resolution issued on August 5, 2021.

4. On August 31, 2021, the Energy Bureau issued a Resolution and Order (“August 31 Resolution”) clarifying that, according to the April 8 Resolution, the time frame to respond to all information requests in the instant proceeding is ten (10) days.

5. On September 27, 2021, LECO served a *Fourth Discovery Request* on LUMA (“LECO’s Fourth Discovery Request”). This set of requests comprised twenty-two interrogatories. *See* LECO’s Fourth Discovery Request.

6. On that same day, September 27, 2021, this Energy Bureau issued a Resolution and Order to amend the procedural calendar. It extended the discovery period to October 7, 2021.

7. On October 7, 2021, LUMA submitted its responses and objections to LECO’s Fourth Discovery Request.

8. Without first extending to LUMA an offer to meet and confer, on October 22, 2021, LECO filed a *Motion to Compel LUMA to Respond to LECO’s Fourth Request of Information* before this Energy Bureau (“LECO’s October 22nd Motion to Compel”). LECO alleges that the responses to the interrogatories are incomplete and remain unanswered. Also, LECO argues that the information sought is relevant to the controversy, even if the information goes beyond the performance metrics targets proposed by LUMA. Finally, LECO claims data pertaining to the period after LUMA took over operations after June 1, 2021, is relevant.

9. Regulation 8543 allows a party to whom a discovery request has been served to seek a protective order. It does not authorize the moving party to file a motion to compel a party to produce documents nor provide a procedure for this Energy Bureau to rule upon such a motion. Therefore, LECO's *Motion to Compel LUMA to Respond to LECO's Fourth Request of Information* runs afoul of the applicable norms in this proceeding regarding the production of documents. Nonetheless, LUMA contends that it has responded adequately to all the interrogatories. Thus, LUMA has sound factual and legal arguments to respond to LECO's October 22nd Motion to Compel.

10. In view of the foregoing, LUMA submits this notice of intent to file an opposition to LECO's October 22nd Motion to Compel. LUMA requests that this Energy Bureau concede ten (10) days to expire on November 1, 2021, to submit its response to LECO's October 22nd Motion to Compel. A ten-day period is reasonable considering that this Energy Bureau has set such a timespan for LUMA to file an opposition to LECO's first motion to compel. *See* Resolution and Order of October 14, 2021. This petition is not intended to cause unnecessary delay and should not cause any inconvenience to the parties.

WHEREFORE, LUMA respectfully requests that the Energy Bureau, in its discretion, grant LUMA ten days to file an opposition to LECO's *Motion to Compel LUMA to Respond to LECO's Fourth Request of Information*.

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 26th day of October 2021.



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