

**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
FOURTH REQUEST OF
INFORMATION**

**MOTION TO COMPEL LUMA TO RESPOND TO LECO'S FOURTH 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 2, 14, 15, 18, 20, and 22 from LECO's Fourth Discovery Request pursuant
to Article VIII, Regulation No. 8543.¹

LECO served LUMA the fourth request of information (ROI) on September
27th, 2021. LUMA responded on the 7th of October of 2021, and the next day LUMA

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>. Pursuant to Section 8.03(F) of Regulation No. 8543, LECO's questions and LUMA's responses and objections at issue are contained within the Attachments to this Motion.

provided supplemental responses and objections. In the response, LUMA provided answers to a few questions, however some key questions remain unanswered.

I. LUMA Must Answer Questions for Which PREB has Already Struck LUMA’s Objections as Invalid.

LUMA refuses to answer Questions 2, 14, and 15 in LECO’s Fourth ROI. The specific Questions and LUMA’s inadequate responses are set out below:

| LECO Request ² | LUMA Answer ³ |
|---|--|
| <p>Question 2:</p> <p>PREB’s May Order includes a metric for “Capital expenses vs. Budget – Transmission & Distribution” and sets a baseline for a 9.9% ratio of T&D capital expenses to operating budget. Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?”</p> | <p>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. The proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA.</p> <p>Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, LUMA is using this metric in the revised Annex IX of the T&D OMA. “Capital Expenses vs. Budget – Transmission & Distribution” is the equivalent of LUMA’s “Capital Budget: Non-Federally Funded”. PREPA previously did not have a metric to report on Federal Funds being spent and consistent with the T&D OMA, LUMA included separate budgets for federal and non-federal capital spending, and correspondingly a metric for performance to budget for Capital Budget: Federally Funded and a separate one for Capital Budget: Non-Federally Funded.</p> |

² Attachment 1, Fourth Set of Information Requests from LECO to LUMA at 2, 6-7, *In RE: Performance Targets for LUMA Energy Servco, LLC*, PREB Dkt. NO. NEPR-APR-2020-0025 (Sept. 27, 2021).

³ Attachment 2, LUMA’s Responses and Objections to Fourth Discovery Request by LECO at 4, 22-25, *In RE: Performance Targets for LUMA Energy Servco, LLC*, PREB Dkt. NO. NEPR-APR-2020-0025 (Oct. 7, 2021).

Question 14:

PREB's Attachment A includes Generation from RPS-eligible PPOAs as a metric, with a baseline of 3% and benchmark of 40% by 2025 (including distributed resources). Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. The proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA.

LUMA also objects to this request as it calls for speculation or a hypothetical scenario and because it does not consider 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 T&D OMA. LUMA further objects to this request because it is argumentative and includes a legal interpretation by counsel.

Without waiving the foregoing objections, it is clarified that Section 5.1 and Annex 1 to the T&D OMA (Scope of Services) outline LUMA's duty to provide O&M Services. The O&M Services do not include generation-related procurement activities which are managed by the P3 Authority with oversight by the PREB. As stated in Section 5.13 (d) of the T&D OMA, LUMA's role regarding the procurement of generation projects and generation supply contracts includes:

- (i) preparation of risk assessments and analysis in support of Resource Adequacy and Generation Project or Generation Supply Contract procurement prioritization and planning, which shall take into account the Integrated Resource Plan and Applicable Law (and which assessments and analyses PREB may request from time to time);
- (ii) prepare long and short-range transmission and distribution planning analyses and forecasts to determine the need for Generation Project or Generation Supply Contract procurement, which shall take into account the Integrated Resource Plan to the extent applicable (and which analyses and forecasts PREB may request from time to time);
- (iii) meet with PREB on an annual basis to review and assess the prepared analyses, demand projections (prepared in accordance with the Integrated Resource Plan), existing System Power Supply, Legacy Generation Assets and generation assets owned by IPPs related to the supply of Power and Electricity,

| | |
|---|--|
| | <p>and determine whether additional power supply sources are needed; and</p> <p>(iv) coordinate any start-up-related services required from the Owner in connection with any such Generation Project or Generation Supply Contract.</p> <p>To be clear, while the OMA goes into extensive detail to describe the O&M Services, including those related to Generation, LUMA is not tasked with managing any procurement process for new generation.</p> <p>Accordingly, LUMA's Revised Performance Metrics Targets filing does not cover performance categories on generation from RPS PPOAs that are not part of LUMA's O&M Services and, thus, are not under LUMA's control.</p> |
| <p>Question 15:</p> <p>PREB's Attachment A includes several other metrics not included in LUMA's proposed Annex IX:</p> <ol style="list-style-type: none"> Customer Average Interruption Duration Index (CAIDI) as a metric, with a baseline of 145 minutes and a benchmark of 101 minutes. Absenteeism, with a Baseline of 13.1% and a Benchmark of 2.4%. wait time in commercial offices % of customer calls answered average time to resolve billing disputes percent of customers billed percent of bills estimated vs. read average time to respond to service and outage complaints <p>For each metric: Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?</p> | <p>LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets.</p> <p>LUMA also objects to this request as it calls for speculation or a hypothetical scenario and because it does not consider 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 P3 Authority that led to the execution of the T&D OMA. LUMA further objects to this request because it is argumentative and includes a legal interpretation by counsel.</p> <p>Without waiving the foregoing objections, the metrics selected for the revised Annex IX of the T&D OMA represent a broad list of activities across the utility that fairly represent a utility's performance. Furthermore, the metrics listed above are reported on a quarterly basis as part of Case No. NEPR-MI-2019-0007. As ordered by PREB, LUMA will continue to file reports on each quarter. Lastly, LUMA would like to clarify that while Annex IX contains only Performance Metrics as defined in the OMA, the list of items that will be reported on quarterly is not exclusive of the other key indicators that may be tracked, utilized throughout the utility's operations, and provided to the PREB.</p> <p>As relates specifically to CAIDI, it was eliminated by LUMA as explained in table 1-1 of LUMA's Revised Performance Metrics Targets filing on page 7 and in the pre-filed testimony of Don Cortez at lines 212 -232, filed in this proceeding Case No. NEPR-AP-2020-0025.</p> |

LUMA incorrectly objects to these questions on the grounds that “the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets.” 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:

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.”⁴

Furthermore, LECO previously detailed in the October 7th Motion to Compel that the scope of the metrics to be considered in these proceedings is set by Law 17-2019 and Regulation No. 9137.⁵ LUMA erroneously limits the scope, claiming that information sought is irrelevant because “the proposed Performance Metrics Targets submitted for consideration by PREB were adopted within the competitive negotiated process conducted by the P3 authority that led to the execution of the T&D OMA.”

Furthermore, it is a known fact that the discovery of evidence is intended to be “broad and liberal” Rivera Alejandro v. Algarín, 112 D.P.R. 830, 834 (1982). In addition, relevant evidence, is defined as “that which tends to make the existence of

⁴ *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>.

⁵ 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>.

a fact, which has consequences for the adjudication of the action, more probable or less probable than it would be without such evidence.” Rule 401 of Evidence, 32 LPRA Ap. VI, R. 401; Pueblo v. Otero Robles, 2021 TSPR 40. Relevant evidence is admissible except when provided otherwise by constitutional imperative, by provision of law or by the rules of evidence. *Id.*

The Supreme Court of Puerto Rico has also stated that “[f]or a matter to be the object of discovery, it suffices that there is a reasonable possibility that the information sought is relevant to the subject matter of the action.” General Electricity v. Concessionaires, Inc., 118 D.P.R. 32, 39 (1986); ELA v. Casta, 162 D.P.R. 1, 9-10 (2004). While also indicating that “the relevancy test includes ‘all issues that can be possibly related to the subject matter of the action, even if they are not related to the specific controversies outlined in the pleadings.’” Alvarado v. Alemany, 157 D.P.R. 672, 683 (2002). In this direction, the Supreme Court of Puerto Rico has recommended that “courts should refuse as irrelevant any question that has no reasonable possibility of being related or relevant to the subject matter of the action.” Sierra v. Tribunal Superior, 81 DPR 554, 558 (1951). In fact, the Supreme Court has also concluded that “any doubts as to the relevancy of the investigation should be decided in favor of the interrogatory party.” *Id.*

Considering that the scope of this case is geared towards the establishment of the Performance Metrics as envisioned by Law 17-2019, the information sought by LECO is relevant to the controversy, even if the information goes beyond the Performance Metrics proposed by LUMA. More specifically, they are relevant because

they seek to discover information related to the Performance Metrics set by PREB in its May 21, 2021 Order, and how those metrics could be applied to LUMA.

II. LUMA Must Provide Information Related To The Outage Data From June Through August 2021.

In Questions 18, 20, and 22, LECO also requested relevant information about system outage data from June through August 2021, that LUMA nonetheless refused to answer. The specific Questions and LUMA's inadequate responses are set out below:

| LECO Request⁶ | LUMA Answer⁷ |
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| <p>Question 18:</p> <p>Do the SAIDI and SAIFI calculations that LUMA presented for the months of June through August reflect the same methodology used to calculate the SAIDI and SAIFI values that LUMA presented for months prior to June 2021? If not, please specify all changes to methodology.</p> | <p>LUMA objects to that portion of the request that seeks information related to calculations since LUMA took over the transmission and distribution system, in June 2021. This proceeding does not involve performance or data after the Energy Bureau issued the Resolutions and Orders of May 21, 2021, and July 2, 2021, in Case No. NEPR-MI-2019-0007. Thus, the requested information on data after June 1st, 2021, is not relevant to this proceeding.</p> <p>Without waiving the foregoing objections nor acquiescing to the relevance of the information requested, LUMA's commencement of T&D Operations began on June 1, 2021. LUMA did not present any SAIFI or SAIDI values for the months prior to the month of June 2021. PREPA presented the monthly metrics prior to June 1, 2021. In the Resolution and Order in Case No. NEPR-MI-2019-0007 dated May 21, 2021, the PREB ordered PREPA to resubmit recalculated values for the reliability metrics consistent with the IEEE Guide for Electric Power Distribution Reliability Indices IEEE Std 1366TM-2012. For a discussion of LUMA's pre-commencement analysis and findings of PREPA's historical methodology, please refer to Exhibit 2 - LUMA's Comments on Performance</p> |

⁶ Attachment 1, Fourth Set of Information Requests from LECO to LUMA at 7-8, *In RE: Performance Targets for LUMA Energy Servco, LLC*, PREB Dkt. NO. NEPR-APR-2020-0025 (Sept. 27, 2021).

⁷ Attachment 2, LUMA's Responses and Objections to Fourth Discovery Request by LECO at 30, 34, *In RE: Performance Targets for LUMA Energy Servco, LLC*, PREB Dkt. NO. NEPR-APR-2020-0025 (Oct. 7, 2021); Attachment 3, LUMA's Supplemental Responses and Objections to Fourth Discovery Request by LECO at 4, *In RE: Performance Targets for LUMA Energy Servco, LLC*, PREB Dkt. NO. NEPR-APR-2020-0025 (Oct. 8, 2021).

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| | <p>Metrics Baselines dated February 5, 2021, in LUMA’s filing in Case No. NEPR-MI-2019-0007 and based on data published by the Energy Bureau and presented during the technical conference held on January 19, 2021: Technical discussion beginning on page 12. PREPA recalculated reliability metrics for March 2021 going forward based on the Energy Bureau’s order. While the current quarterly report to the PREB breaks the T&D SAIFI and SAIDI into T SAIFI and SAIDI and D SAIFI and SAIDI, LUMA’s proposed SAIFI and SAIDI metrics are for the combined T&D system as is considered a common industry practice for T&D utilities. Requiring the inclusion of performance for generation operations—which are explicitly excluded from LUMA’s O&M Services—in the reliability metrics would mean evaluating an item that LUMA does not control.</p> |
| <p>Question 20:</p> <p>Please provide the raw outage data from January 1, 2021 through August 31, 2021. Data from the system after LUMA’s June 1st takeover is relevant because PREB’s orders in Docket # NEPR-MI-2019-0007 have made it clear that baselines and benchmarks must be informed by ongoing collection of data on LUMA’s performance.</p> | <p>LUMA objects to this request because 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. LUMA objects to the request because it seeks information related to performance 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. The requested information on outage data after June 1st, 2021, is not relevant to this proceeding. LUMA also objects to this request because it is argumentative and includes legal interpretations by counsel.</p> |
| <p>Question 22:</p> <p>Provide monthly SAIDI and SAIFI values by region for June 2020 through August 2021 without excluding Major Event Days.</p> | <p>LUMA objects to that portion of the request that seeks information related to data since LUMA took over the T& D System in June 2021. This proceeding does not involve performance or data after the Energy Bureau issued the Resolutions and Orders of May 21, 2021, and July 2, 2021, in Case No. NEPR-MI-2019-0007. Thus, the requested information on data after June 1st, 2021, is not relevant to this proceeding. LUMA is not required to perform these calculations for this proceeding.</p> |

LUMA, in its answers 18, 20, and 22, states that “the requested information on data after June 1st, 2021, is not relevant to this proceeding” and therefore “Luma is not required to perform these calculations for this proceeding”. LUMA is wrong. As clearly stated by PREB “[t]he establishment of performance compliance metrics and benchmarks shall be an ongoing process.”⁸ Therefore, data after the June 1st takeover is unquestionably relevant.

Moreover, 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 facilitate the search of the truth. García Rivera et al. v. Enriquez, 153 D.P.R. 323 (2001).⁹ In this case, the information related to LUMA's reliability 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 D.P.R. 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 2, 14, 15, 18, 20, and 22 from LECO's Fourth ROI, and any other remedy that is deemed appropriate according to Section 8.03(F) of Regulation No. 8543.

⁸ *In Re*: The Performance of the Puerto Rico Electric Power Authority, Resolution and Order, NEPR-MI-2019-007 at 15 (May 21, 2021). <https://energia.pr.gov/wp-content/uploads/sites/7/2021/05/Resolution-and-Order-NEPR-MI-2019-0007.pdf>.

Respectfully submitted. In San Juan Puerto Rico, October 22, 2021.

/s/ Laura Arroyo

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CERTIFICATION OF SERVICE

I hereby certify that on October 22, 2021, I caused this Motion to Compel 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
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ATTACHMENT 1

Fourth Set of Information Requests from LECO
to LUMA

**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: FOURTH SET OF
INFORMATION REQUESTS

**FOURTH SET OF INFORMATION REQUESTS FROM LOCAL
ENVIRONMENTAL AND CIVIL ORGANIZATIONS TO LUMA ENERGY**

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 Fourth 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.

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

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

be in Excel format in original, electronic, unlocked, format, where possible, with formulas in-tact).

Information Requests

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

1. LUMA's proposed Annex IX includes a metric named "Operating Budget". PREB's May Order Attachment A includes a metric named "Operational Expenses v. Budget (excluding fuel)(system)".
 - a. Are there any differences between LUMA's proposed metric and the metric set forth by PREB?
 - b. PREB set the baseline for this metric at 80.4%. LUMA proposes a baseline of 100%. Please provide a detailed description of the reason LUMA is proposing a different baseline then the baseline set by PREB.
 - c. PREB's May Order, Attachment A that the benchmark for this metric is to remain "within budget". Please provide a detailed description of LUMA's understanding of that benchmark.
2. PREB's May Order includes a metric for "Capital expenses vs. Budget – Transmission & Distribution" and sets a baseline for a 9.9% ratio of T&D capital expenses to operating budget. Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

3. PREB's Attachment A and LUMA's proposed Annex IX both include a metric for System Average Interruption Frequency Index ("SAIFI"). PREB set a benchmark of 1, while LUMA's proposed benchmarks would allow for significantly more interruptions: 9.8; 8.5; 7.4 for Years 1, 2, and 3, respectively. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.
4. PREB's Attachment A and LUMA's proposed Annex IX both include a metric for System Average Interruption Duration Index ("SAIDI"). PREB set a benchmark of 102 minutes, while LUMA's proposed benchmarks would allow for significantly longer interruptions: 1,119; 932, and 749 minutes for Years 1, 2, and 3, respectively. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.
5. PREB's Attachment A and LUMA's proposed Annex IX both include a metric for Average Speed of Answer.
 - a. PREB set a baseline of 8.3 minutes, while LUMA proposes a higher baseline of 10.0 minutes. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.
 - b. PREB proposed a benchmark of 0.4 minutes; LUMA's proposed benchmarks are significantly higher. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.
6. PREB's Attachment A and LUMA's proposed Annex IX both include a metric for Customer Complaint Rate.

- a. PREB set a baseline of 841 complaints per 100,000 customers. LUMA's proposed baseline is 11.10. How does that relate to PREB's baseline? Is LUMA's baseline a percentage? Does it equate to 1,110 complaints per 100,000 customers?
 - b. PREB set a benchmark of 7 complaints per 100,000 customers. LUMA's proposed benchmarks appear to be significantly higher. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.
 - c. LUMA specifies that only "justified" complaints would be counted. Who would decide whether complaints are "justified"? What criteria would be used to determine whether complaints are "justified"?
7. PREB's Attachment A and LUMA's proposed Annex IX both include a metric for OSHA Recordable Incident Rate.
- a. PREB sets a baseline of 6.9, while LUMA proposes a higher baseline of 8.75. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.
 - b. PREB sets a benchmark of 1.8, and 2.3 specifically for Transmission & Distribution only. Which of these benchmarks should apply to LUMA?
8. LUMA proposes higher benchmarks of 6.56, 5.25, and 4.2 for Years 1, 2, 3. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.

9. PREB's Attachment A and LUMA's proposed Annex IX both include a metric for OSHA Severity Rate. PREB sets a baseline of 31.00, while LUMA proposes a higher baseline of 58.03. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.
10. PREB's Attachment A and LUMA's proposed Annex IX both include a metric for OSHA DART Rate.
- a. PREB proposes a baseline of 4.8, while LUMA proposes a higher baseline of 6.85. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.
 - b. PREB sets a benchmark of 0.9, and 1.1 specifically for Transmission & Distribution only. Which of these benchmarks should apply to LUMA?
11. LUMA proposes higher benchmarks of 5.14, 4.11, 3.29 for Years 1, 2, 3. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.
12. The original Annex IX of Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 includes metrics for Customers Experiencing Multiple Interruptions (CEMI), Momentary Average Interruption Frequency Index (MAIFI), First Call Resolution, and Reduction in Network Line Losses. These metrics are absent from LUMA's proposed Annex IX. For each metric, provide a detailed description of LUMA's reasoning for removing that metric from proposed Annex IX.

13. PREB's May Order rejected LUMA's proposed J.D. Power Customer Satisfaction Survey metrics, and stated that LUMA would have to provide "a more thorough analysis" to justify those metrics. Has LUMA provided that more thorough analysis in this proceeding? If so, please provide specific citations in LUMA's testimony and filings.

14. PREB's Attachment A includes Generation from RPS-eligible PPOAs as a metric, with a baseline of 3% and benchmark of 40% by 2025 (including distributed resources). Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

15. PREB's Attachment A includes several other metrics not included in LUMA's proposed Annex IX:

- a. Customer Average Interruption Duration Index (CAIDI) as a metric, with a baseline of 145 minutes and a benchmark of 101 minutes.
- b. Absenteeism, with a Baseline of 13.1% and a Benchmark of 2.4%.
- c. wait time in commercial offices
- d. % of customer calls answered
- e. average time to resolve billing disputes
- f. percent of customers billed
- g. percent of bills estimated vs. read
- h. average time to respond to service and outage complaints

For each metric: Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

16. When developing performance-based incentives and penalties, Law 17-2019 requires PREB to take into account "options to manage electric power costs available to customers;" Do any of LUMA's metrics address that criteria? If LUMA has not included any metrics that address this required criteria, please explain why not.

17. Law 17-2019 requires that PREB consider metrics on the following:

- a. revenue per kilowatt-hour (kWh),
- b. operating and maintenance expenses per kilowatt-hour,
- c. operating and maintenance expenses of the distribution system per customer,
- d. customer service expenses per customer,
- e. general and administrative expenses per customer
- f. total energy cost per capita
- g. total energy cost per capita in urban areas
- h. total energy cost per capita in non-urban areas

For each metric: Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

18. Do the SAIDI and SAIFI calculations that LUMA presented for the months of June through August reflect the same methodology used to calculate the SAIDI and

SAIFI values that LUMA presented for months prior to June 2021? If not, please specify all changes to methodology.

19. Please provide the raw outage data from May 1, 2018 through December 31, 2020 used by PREPA to calculate Tmed (according to p. 7 of <https://energia.pr.gov/wp-content/uploads/sites/7/2021/05/Motion-to-Substitute-Exhibit-A-of-Motion-filed-on-April-29-2021-NEPR-MI-2019-0007.pdf>). Is this the same data used by LUMA to calculate Tmed? If not, please specify the timeframe used by LUMA to calculate Tmed.

20. Please provide the raw outage data from January 1, 2021 through August 31, 2021. Data from the system after LUMA's June 1st takeover is relevant because PREB's orders in Docket # NEPR-MI-2019-0007 have made it clear that baselines and benchmarks must be informed by ongoing collection of data on LUMA's performance.

21. Do LUMA's SAIDI and SAIFI calculations include both transmission and distribution system outages, or only distribution?

22. Provide monthly SAIDI and SAIFI values by region for June 2020 through August 2021 without excluding Major Event Days.

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 in San Juan, Puerto Rico on September 27, 2021,

/s/ Ruth Santiago

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CERTIFICATION OF SERVICE

I hereby certify that on September 27, 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; hriviera@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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ATTACHMENT 2

LUMA's Responses and Objections to Fourth Discovery Request by LECO

**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 Fourth
Discovery Request by the Puerto Rico
Local Environmental and Civil
Organizations ("LECO")**

**LUMA'S RESPONSES AND OBJECTIONS TO
FOURTH DISCOVERY REQUEST 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") Fourth Discovery Request 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.

LUMA'S OBJECTIONS AND RESPONSES TO LECO'S REQUESTS

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-001

REQUEST:

LUMA's proposed Annex IX includes a metric named "Operating Budget". PREB's May Order Attachment A includes a metric named "Operational Expenses v. Budget (excluding fuel)(system)".

- a. Are there any differences between LUMA's proposed metric and the metric set forth by PREB?
- b. PREB set the baseline for this metric at 80.4%. LUMA proposes a baseline of 100%. Please provide a detailed description of the reason LUMA is proposing a different baseline than the baseline set by PREB.
- c. PREB's May Order, Attachment A that the benchmark for this metric is to remain "within budget". Please provide a detailed description of LUMA's understanding of that benchmark.

RESPONDER:

Kalen Kostyk

RESPONSE:

It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the Puerto Rico Energy Bureau ("PREB") were adopted within the competitive negotiated processes conducted by the Puerto Rico Public-Private Partnerships Authority ("P3 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). Without acquiescing to the relevance of this request:

- a. Both metrics are calculated the same way by taking the actual operating expenses and dividing by the approved budget for the same period.
- b. As described in Section 2.5.3 of the Revised Performance Metric filing,

While the FY2020 data PREPA submitted shows an 80.4% baseline, LUMA remains at 100% of the budget. As this is funded by the rate order, it is in the customers' best interest

that LUMA use the funds appropriately to build a stronger, more resilient utility.

To expand on LUMA's comments as noted above, PREPA's historical underspending of Operational Expenses reflect the failure of PREPA's management team and the overall utility to deliver on annual approved plans. PREPA's historical underspending was not consistent with prudent practice. The state of the Transmission and Distribution system (T&D System) is indicative of this failure. Therefore, in the absence of an accurate and reflective historical baseline, LUMA utilized the current state of PREPA to determine that a true baseline, had PREPA been able to prudently deliver on approved annual plans to the betterment of the T&D system, should have been 100%. Therefore, LUMA has filed a Baseline Performance Level of 100%.

- c. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. Requests for interpretation or clarification of the Resolutions and Orders issued by the PREB in Case No. NEPR-MI-2019-0007, should be addressed as legal matters to the PREB and should not be directed at LUMA's witnesses which testimonies pertain to 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"). Without waiving the foregoing objections, pursuant to the T&D OMA, Annex IX, Section D:

For the three approved budget-related metrics, Operating Budget, Capital Budget – Federally Funded and Capital Budget – Non-Federally Funded, exceeding 102% of the applicable Budget results in no points while spending less than or equal to 100% of the applicable Budget results in awarding full Base Points. The Operator can earn full Base Points by spending up to 102% of the budget, pending Administrator approval.

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

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-002

REQUEST:

PREB's May Order includes a metric for "Capital expenses vs. Budget – Transmission & Distribution" and sets a baseline for a 9.9% ratio of T&D capital expenses to operating budget. Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

RESPONDER:

Kalen Kostyk

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. The proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA.

Without waiving the foregoing objections and without acquiescing to the relevance or admissibility of the information, LUMA is using this metric in the revised Annex IX of the T&D OMA. "Capital Expenses vs. Budget – Transmission & Distribution" is the equivalent of LUMA's "Capital Budget: Non-Federally Funded". PREPA previously did not have a metric to report on Federal Funds being spent and consistent with the T&D OMA, LUMA included separate budgets for federal and non-federal capital spending, and correspondingly a metric for performance to budget for Capital Budget: Federally Funded and a separate one for Capital Budget: Non-Federally Funded.

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-003

REQUEST:

PREB's Attachment A and LUMA's proposed Annex IX both include a metric for System Average Interruption Frequency Index ("SAIFI"). PREB set a benchmark of 1, while LUMA's proposed benchmarks would allow for significantly more interruptions: 9.8; 8.5; 7.4 for Years 1, 2, and 3, respectively. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.

RESPONDER:

Don Cortez

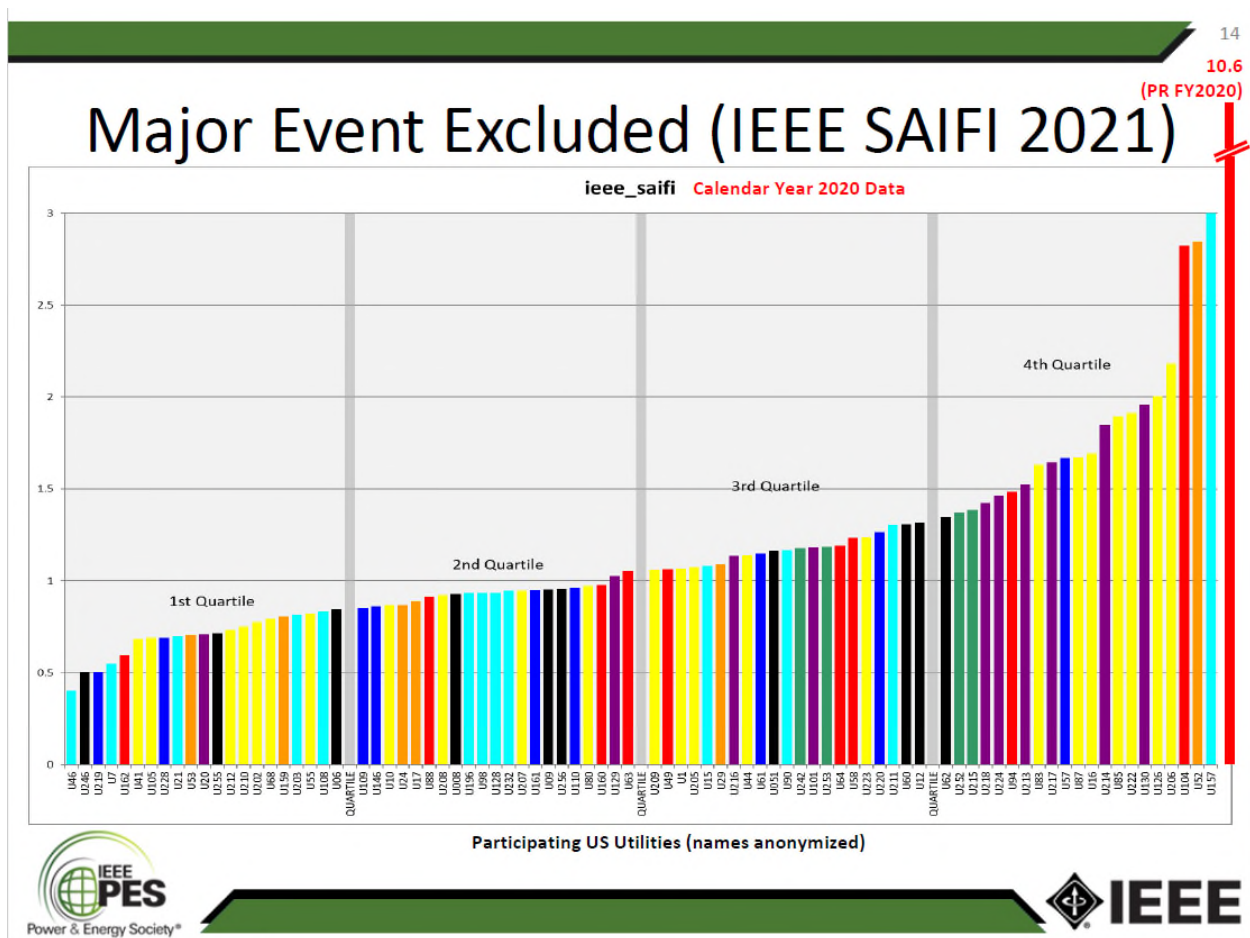
RESPONSE:

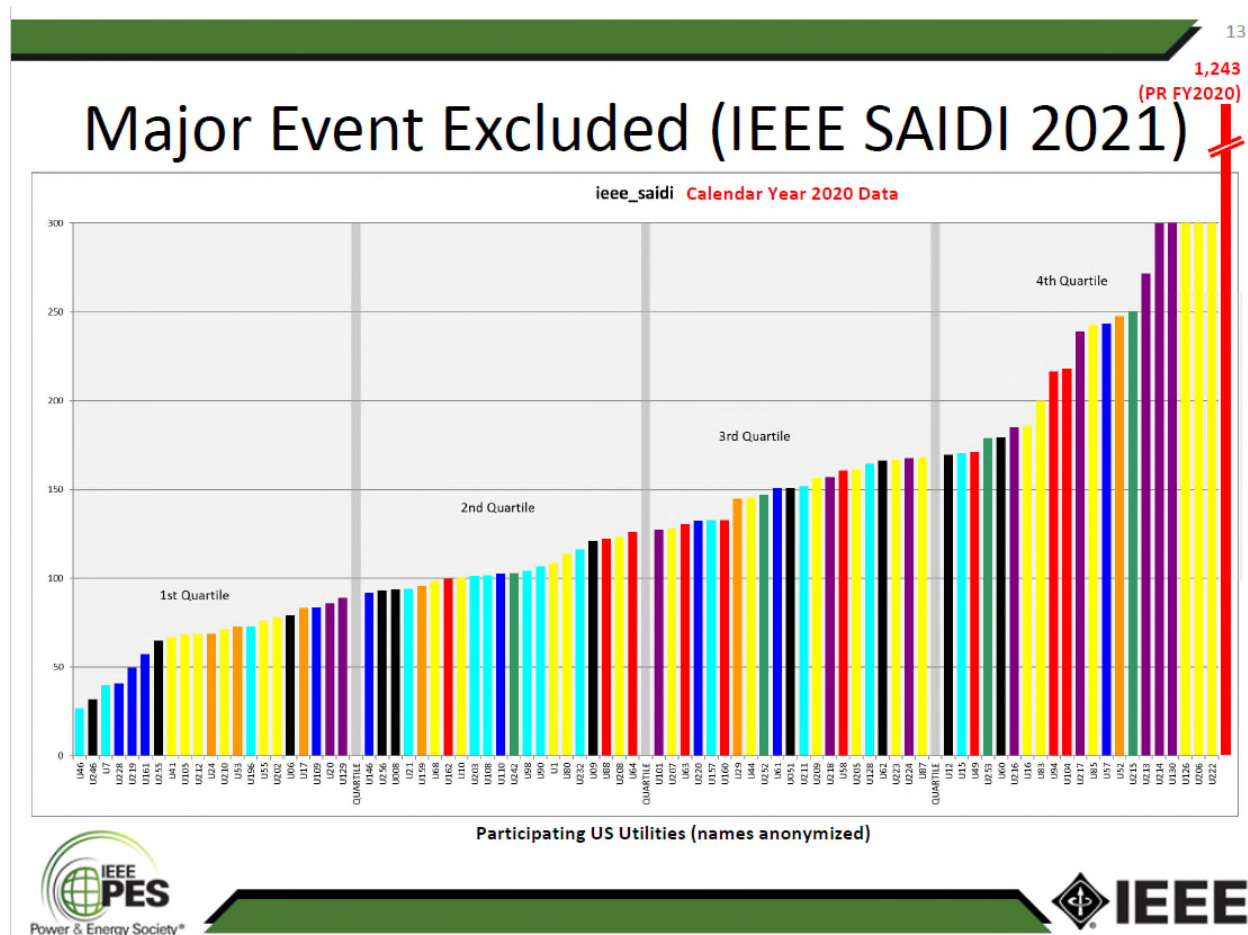
LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is based on the unsupported premise that the benchmark is directly relevant to the baseline. The request is also based on the incorrect premise that LUMA's Revised Performance Metrics Targets filing of September 24, 2021, addresses or comments on the proposed benchmarks included in Attachment A to the PREB's Resolution and Order of May 21, 2021, in case NEPR-MI-2019-0007. Without waiving the foregoing objections, PREB's proposed benchmark for SAIFI is not an annual target. As stated in Exhibit 3, page 1, of LUMA's Partial Request for Reconsideration, Submitting Information on Results of JD Power Survey and Requests for Clarification: "PREPA's current performance is well below industry benchmarks in almost all metrics measured ..." See LUMA's Motion of April 28, 2021, entitled *Motion for Partial Reconsideration of Resolution and Order of April 8, 2021, Motion Submitting Information in Support Thereof, and Request for Clarifications*, Case No. NEPR-MI-2019-0007.

Also, in the Resolution and Order of May 21, 2021, in Case No. NEPR-MI-2019-0007, PREB explained at page 6, that benchmarks may need to evolve over time for two reasons: "First, if performance needs to be improved, it may not be possible for the utility to immediately achieve the desired level of performance, and second some problems may take years to fully remedy, despite the utility undertaking immediate actions to remediate the situation. In such cases, the performance measurement time interval can be lengthened, or benchmarks can be set to become more stringent over time, providing the utility with a glide path for achieving the ultimately desired level of performance." Additionally, the condition of the T&D system in Puerto Rico is so poor that it will require many years and a significant investment to perform in the vicinity of

PREB's proposed benchmark. The value set for the proposed benchmark (1) is a realistic benchmark for a mature utility that has functioned well for many years and maintained its infrastructure; this is not the scenario that LUMA faces in Puerto Rico.

Benchmarks are a point of comparison with a defined group of other utilities that are accepted as peers. The benchmarks issued by the PREB are based on a group of utilities selected by the PREB. Other appropriate peer groups could be defined to examine other points of comparison. The Distribution Reliability Working Group of the IEEE Power & Energy Society conducts an annual benchmarking exercise and publicly publishes the results. The following two graphs show the results of the 2021 exercise based on the calendar year 2020 data for SAIFI and SAIDI. PREPA's 2020 results for the same have been added for comparison. The graphs show that PREPA's performance is far worse than any other utility in the study.





In conclusion, the benchmark proposed by the PREB is not immediately relevant to the performance targets for the PREPA T&D system, given the level of degradation and neglect as well as the most recent, complete set of data for these metrics.

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

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-004

REQUEST:

PREB's Attachment A and LUMA's proposed Annex IX both include a metric for System Average Interruption Duration Index ("SAIDI"). PREB set a benchmark of 102 minutes, while LUMA's proposed benchmarks would allow for significantly longer interruptions: 1,119; 932, and 749 minutes for Years 1, 2, and 3, respectively. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.

RESPONDER:

Don Cortez

RESPONSE:

Please refer to the response to RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-003.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-005**REQUEST:**

PREB's Attachment A and LUMA's proposed Annex IX both include a metric for Average Speed of Answer.

- a. PREB set a baseline of 8.3 minutes, while LUMA proposes a higher baseline of 10.0 minutes. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.
- b. PREB proposed a benchmark of 0.4 minutes; LUMA's proposed benchmarks are significantly higher. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.

RESPONDER:

Jessica Laird

RESPONSE:

LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is based on the unsupported premises of a PREB-assigned benchmark and a PREB-assigned baseline and that LUMA has proposed benchmarks. The request is also based on the incorrect premise that LUMA's Revised Performance Metrics Targets filing of September 24, 2021, addresses or comments on the proposed benchmarks included in Attachment A to the PREB's Resolution and Order of May 21, 2021, in case NEPR-MI-2019-0007. LUMA has proposed performance targets as part of its Revised Performance Metrics Targets filing and in accordance with the T&D OMA. Without waiving the foregoing objections:

- a. LUMA's justification for the proposed baseline can be found in lines 128-136 of my direct testimony and in Exhibit D submitted to the Energy Bureau on August 18, 2021. PREPA previously did not have one platform to consolidate their use of three contact centers. Consequently, customer wait times were not accurately reported causing a discrepancy in data as three different technologies were used and the Average Speed of Answer calculations that were provided could not be confirmed. Calculating a single Average Speed of Answer (ASA) based on PREPA's three different platforms is not possible because all calls came through the PREPA IVR where they sat for 10 minutes before rolling over to one of the 2

third party contact center platforms. The 3rd party contact centers calculated their ASA without including the 10 minutes spent in the PREPA IVR (i.e. their clock started when the call entered their call center platform). Therefore, a call having spent 2 minutes in a third-party contact center queue actually spent 12 minutes in a queue in total. The time spent in the PREPA queue also changed at some point during the Front End Transition Period from 10 minutes to 5 minutes after LUMA questioned the 10-minute wait, so calculating the ASA across the board is not even as simple as adding 10 minutes to the 3rd parties ASA.

- b. It is impossible to benchmark a metric against a functioning utility. As described in Case No. NEPR-MI-2019-0007, benchmarks may evolve over time for two reasons: “First, if performance needs to be improved, it may not be possible for the utility to immediately achieve the desired level of performance, and second some problems may take years to fully remedy, despite the utility undertaking immediate actions to remediate the situation.” Furthermore, the North Carolina utilities on which PREB based their benchmarks have less outages, fully functioning meters that are capable of monthly reading, which in turn enable accurate monthly reading, and they do not have work orders outstanding for three or more years or a backlog of billing issues that go back three or more years. The issues identified by LUMA are major service quality problems that have impacted PREPA’s customer service performance since these problems result in an increase in the number of calls made to the contact center and, consequently, a longer wait time associated with these calls. These issues, in particular, are more complex in nature and require a greater length of time to resolve customer concerns. Once LUMA has improved on the deficient areas of utility operations, LUMA can be benchmarked against the utilities chosen by the PREB as comparable.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-006
REQUEST:

PREB's Attachment A and LUMA's proposed Annex IX both include a metric for Customer Complaint Rate.

- a. PREB set a baseline of 841 complaints per 100,000 customers. LUMA's proposed baseline is 11.10. How does that relate to PREB's baseline? Is LUMA's baseline a percentage? Does it equate to 1,110 complaints per 100,000 customers?
- b. PREB set a benchmark of 7 complaints per 100,000 customers. LUMA's proposed benchmarks appear to be significantly higher. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.
- c. LUMA specifies that only "justified" complaints would be counted. Who would decide whether complaints are "justified"? What criteria would be used to determine whether complaints are "justified"?

RESPONDER: Melanie Jeppesen**RESPONSE:**

It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. LUMA also objects to this request because it is based on the incorrect premise that LUMA's Revised Performance Metrics Targets filing of September 24, 2021, addresses or comments on the proposed benchmarks included in Attachment A to the PREB's Resolution and Order of May 21, 2021, in case NEPR-MI-2019-0007. Without waiving the foregoing objections nor acquiescing to the relevance of this request:

- a. PREB's baseline of 841 is calculated identically to the method employed by LUMA, with the exception of the number of complaints being considered. Historically, it appears that PREPA used all Act 57 claims to calculate complaints, and thus the PREB baseline appears to consider all Act 57 claims. LUMA proposes a baseline of 10.5 using the number of formal complaints. Please refer to Melanie Jeppesen's revised testimony and revised filing submitted in this case on September 24, 2021. As detailed in Exhibit B of Ms. Jeppesen's direct testimony, this 10.5 baseline was calculated as follows:

First, count the total formal complaints made against PREPA for May 2019-February 2020, then annualizing those complaints to consider 12-months of data. Second, that amount is divided by the total utility customer population. Lastly, that amount is multiplied by 100,000.

Please refer to rows 7-10 in Revised Exhibit B. LUMA's proposed baseline is not a percentage. This equates to 10.5 complaints per 100,000 customers.

- b. LUMA is actively working toward improving the customer experience and, therefore, the improvement in the customer complaint rate. The annual targets LUMA set forth are not equivalent to the benchmarks PREB has stated in Case No. NEPR-MI-2019-007. The benchmark is an industry standard which as described in Case No. NEPR-MI-2019-0007 will evolve over time as the utility improves. PREPA is not immediately comparable to the utilities selected in PREB's benchmarking exercise as described in Part B of RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-005. LUMA will be working to achieve an industry standard but set its baseline and targets based on what is reasonably attainable given the current state of the utility. LUMA's calculated baseline is based on what LUMA proposes should be considered a formal complaint. The PREB benchmark appears to consider all Act 57 claims.
- c. Please refer to my revised testimony submitted on September 24th, 2021, lines 129-133, which explains that Act 57 claims that become formal complaints with PREB are what are being considered for this complaint calculation.

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

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-007

REQUEST:

PREB's Attachment A and LUMA's proposed Annex IX both include a metric for OSHA Recordable Incident Rate.

- a. PREB sets a baseline of 6.9, while LUMA proposes a higher baseline of 8.75. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.
- b. PREB sets a benchmark of 1.8, and 2.3 specifically for Transmission & Distribution only. Which of these benchmarks should apply to LUMA?

RESPONDER:

Jorge Melendez

RESPONSE:

- a. It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is based on the unsupported premise that PREB "set" a benchmark whereas LUMA is proposing targets in accordance with the T&D OMA. The request is also based on the incorrect premise that LUMA's Revised Performance Metrics Targets filing addresses or comments on the proposed benchmarks included in Attachment A to the PREB's Resolution and Order of May 21, 2021 in case NEPR-MI-2019-0007.

Without waiving the foregoing objections, please refer to Section 2.5.2, pages 21-22 of LUMA's Revised Performance Metrics Targets filing and Exhibit A – KPI Metrics – Safety to the Pre-Filed Testimonies and lines 89-150 of my pre-filed testimony for explanations of the different baselines and targets proposed for safety metrics.

- b. It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel.

Without waving the foregoing objection, neither benchmark should apply to LUMA. PREPA's historical safety performance is significantly higher than industry averages and as indicated in Section 2.5.2, pages 21-22 of LUMA's Revised Performance Metrics Targets filing, the historic data is unreliable. Significant investment and worker training is required to consistently improve safety performance.

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

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-008

REQUEST:

LUMA proposes higher benchmarks of 6.56, 5.25, and 4.2 for Years 1, 2, 3. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.

RESPONDER:

Jorge Melendez

RESPONSE:

It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is based on the unsupported premise that PREB "set" a benchmark whereas LUMA is proposing targets in accordance with the T&D OMA. The request is also based on the incorrect premise that LUMA's Revised Performance Metrics Targets filing addresses or comments on the proposed benchmarks included in Attachment A to the PREB's Resolution and Order of May 21, 2021, in case NEPR-MI-2019-0007.

Without waiving the foregoing objections, please refer to Section 2.5.2, pages 21-22 of LUMA's Revised Performance Metrics Targets filing and Exhibit A – KPI Metrics – Safety to the Pre-Filed Testimonies and lines 89-150 of my pre-filed testimony for explanations of the different baselines and targets proposed for safety metrics.

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

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-009

REQUEST:

PREB's Attachment A and LUMA's proposed Annex IX both include a metric for OSHA Severity Rate. PREB sets a baseline of 31.00, while LUMA proposes a higher baseline of 58.03. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.

RESPONDER:

Jorge Melendez

RESPONSE:

It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel.

Without waiving the foregoing objection, please refer to Section 2.5.2, pages 21-23 of LUMA's Revised Performance Metrics Targets filing and Exhibit A – KPI Metrics – Safety to the Pre-Filed Testimonies and lines 89-150 of my pre-filed testimony for explanations of the different baselines and targets proposed for safety metrics.

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

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-010

REQUEST:

PREB's Attachment A and LUMA's proposed Annex IX both include a metric for OSHA DART Rate.

- a. PREB proposes a baseline of 4.8, while LUMA proposes a higher baseline of 6.85. Provide a detailed description of LUMA's justification for not using PREB's assigned baseline.
- b. PREB sets a benchmark of 0.9, and 1.1 specifically for Transmission & Distribution only. Which of these benchmarks should apply to LUMA?

RESPONDER:

Jorge Melendez

RESPONSE:

- a. It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel.

Without waiving the foregoing objection, please refer to Section to Section 2.5.2, pages 21-24 of LUMA's Revised Performance Metrics Targets filing and Exhibit A – KPI Metrics – Safety to the Pre-Filed Testimonies and lines 89-150 of my pre-filed testimony for explanations of the different baselines proposed for safety metrics.

- b. It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is also based on the incorrect premise that LUMA's Revised Performance Metrics Targets filing addresses or comments on the proposed benchmarks included in Attachment A to the PREB's Resolution and Order of May 21, 2021, in case NEPR-MI-2019-0007.

Without waiving the foregoing objections, neither benchmark should apply to LUMA. PREPA's historical safety performance is significantly higher than

industry averages and as indicated in Section 2.5.2, pages 21-22 of LUMA's Revised Performance Metrics Targets filing, the historic data is unreliable. Significant investment and worker training are required to consistently improve safety performance.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-011**REQUEST:**

LUMA proposes higher benchmarks of 5.14, 4.11, 3.29 for Years 1, 2, 3. Provide a detailed description of LUMA's justification for not using PREB's assigned benchmark.

RESPONDER:

Jorge Melendez

RESPONSE:

It is clarified that the proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA. LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is also based on the incorrect premise that LUMA's Revised Performance Metrics Targets filing addresses or comments on the proposed benchmarks included in Attachment A to the PREB's Resolution and Order of May 21, 2021, in case NEPR-MI-2019-0007.

Without waiving the foregoing objections, please refer to Section 2.5.2, pages 21-24 of LUMA's Revised Performance Metrics Targets filing and Exhibit A – KPI Metrics – Safety to the Pre-Filed Testimonies and lines 89-150 of my pre-filed testimony for explanations of the different baselines and targets proposed for safety metrics.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-012**REQUEST:**

The original Annex IX of Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement of June 22, 2020 includes metrics for Customers Experiencing Multiple Interruptions (CEMI), Momentary Average Interruption Frequency Index (MAIFI), First Call Resolution, and Reduction in Network Line Losses. These metrics are absent from LUMA's proposed Annex IX. For each metric, provide a detailed description of LUMA's reasoning for removing that metric from proposed Annex IX.

RESPONDER:

Don Cortez

RESPONSE:

Please see Table 1-1 Performance Metrics Summary in LUMA's Revised Performance Metrics Targets filing on page 7 for a description of LUMA's reasoning for removing the Customers Experiencing Multiple Interruptions (CEMI), Momentary Average Interruption Frequency Index (MAIFI), First Call Resolution (FCR) and Reduction in Network Line Losses metrics from proposed Annex IX.

Please refer to lines 156 to 232 of Witness Cortez's testimony for an additional description of LUMA's reasoning for removing the Customers Experiencing Multiple Interruptions (CEMI), Momentary Average Interruption Frequency Index (MAIFI), and Reduction in Network Line Losses metrics from proposed Annex IX.

Please see the response to RFI-LUMA-AP-2020-0025-PREB-R1-10SEPT21-034 for additional discussion of LUMA's reasoning for removing the Customers Experiencing Multiple Interruptions (CEMI_m) metric from proposed Annex IX.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-013**REQUEST:**

PREB's May Order rejected LUMA's proposed J.D. Power Customer Satisfaction Survey metrics and stated that LUMA would have to provide "a more thorough analysis" to justify those metrics. Has LUMA provided that more thorough analysis in this proceeding? If so, please provide specific citations in LUMA's testimony and filings.

RESPONDER:

Jessica Laird

RESPONSE:

Please refer to my direct testimony filed on August 18, 2021. This information was provided in Lines 65-118 of my direct testimony, which provides answers to the following questions:

- Please describe the methodology for Residential and Commercial Customer Satisfaction
- How was the data used to calculate the baseline for JD Power Residential and Commercial Customer Satisfaction metrics?
- What considerations were made upon analyzing the baseline data to determine the target for the JD Power Customer Satisfaction metrics?
- What are your recommendations on the JD Power Residential and Commercial Customer Satisfaction metric?

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-014

REQUEST:

PREB's Attachment A includes Generation from RPS-eligible PPOAs as a metric, with a baseline of 3% and benchmark of 40% by 2025 (including distributed resources). Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

RESPONDER:

Mario Hurtado

RESPONSE:

LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets. The proposed Performance Metrics Targets submitted by LUMA for consideration by the PREB were adopted within the competitive negotiated processes conducted by the P3 Authority that led to the execution of the T&D OMA.

LUMA also objects to this request as it calls for speculation or a hypothetical scenario and because it does not consider 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 T&D OMA. LUMA further objects to this request because it is argumentative and includes a legal interpretation by counsel.

Without waiving the foregoing objections, it is clarified that Section 5.1 and Annex 1 to the T&D OMA (Scope of Services) outline LUMA's duty to provide O&M Services. The O&M Services do not include generation-related procurement activities which are managed by the P3 Authority with oversight by the PREB. As stated in Section 5.13 (d) of the T&D OMA, LUMA's role regarding the procurement of generation projects and generation supply contracts includes:

- (i) preparation of risk assessments and analysis in support of Resource Adequacy and Generation Project or Generation Supply Contract procurement prioritization and planning, which shall take into account the Integrated Resource Plan and Applicable Law (and which assessments and analyses PREB may request from time to time);

- (ii) prepare long and short-range transmission and distribution planning analyses and forecasts to determine the need for Generation Project or Generation Supply Contract procurement, which shall take into account the Integrated Resource Plan to the extent applicable (and which analyses and forecasts PREB may request from time to time);
- (iii) meet with PREB on an annual basis to review and assess the prepared analyses, demand projections (prepared in accordance with the Integrated Resource Plan), existing System Power Supply, Legacy Generation Assets and generation assets owned by IPPs related to the supply of Power and Electricity, and determine whether additional power supply sources are needed; and
- (iv) (iv) coordinate any start-up-related services required from the Owner in connection with any such Generation Project or Generation Supply Contract.

To be clear, while the OMA goes into extensive detail to describe the O&M Services, including those related to Generation, LUMA is not tasked with managing any procurement process for new generation.

Accordingly, LUMA's Revised Performance Metrics Targets filing does not cover performance categories on generation from RPS PPOAs that are not part of LUMA's O&M Services and, thus, are not under LUMA's control.

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-015

REQUEST:

PREB's Attachment A includes several other metrics not included in LUMA's proposed Annex IX:

- a. Customer Average Interruption Duration Index (CAIDI) as a metric, with a baseline of 145 minutes and a benchmark of 101 minutes.
- b. Absenteeism, with a Baseline of 13.1% and a Benchmark of 2.4%.
- c. wait time in commercial offices
- d. % of customer calls answered
- e. average time to resolve billing disputes
- f. percent of customers billed
- g. percent of bills estimated vs. read
- h. average time to respond to service and outage complaints

For each metric: Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

RESPONDER:

Mario Hurtado

RESPONSE:

LUMA objects to this request as the information sought is irrelevant to the controversy at issue on LUMA's Revised Performance Metrics Targets.

LUMA also objects to this request as it calls for speculation or a hypothetical scenario and because it does not consider 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 P3 Authority that led to the execution of the T&D OMA. LUMA further objects to this request because it is argumentative and includes a legal interpretation by counsel.

Without waiving the foregoing objections, the metrics selected for the revised Annex IX of the T&D OMA represent a broad list of activities across the utility that fairly represent a utility's performance. Furthermore, the metrics listed above are reported on a quarterly basis as part of Case No. NEPR-MI-2019-0007. As ordered by PREB, LUMA will continue to file reports on each quarter. Lastly, LUMA would like to clarify that while Annex IX contains only Performance Metrics as defined in the OMA, the list of items that will be reported on quarterly is not exclusive of the other key indicators that may be tracked, utilized throughout the utility's operations, and provided to the PREB.

As relates specifically to CAIDI, it was eliminated by LUMA as explained in table 1-1 of LUMA's Revised Performance Metrics Targets filing on page 7 and in the pre-filed testimony of Don Cortez at lines 212 -232, filed in this proceeding Case No. NEPR-AP-2020-0025.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-016**REQUEST:**

When developing performance-based incentives and penalties, Law 17-2019 requires PREB to take into account "options to manage electric power costs available to customers;" Do any of LUMA's metrics address that criteria? If LUMA has not included any metrics that address this required criteria, please explain why not.

RESPONDER:

Mario Hurtado

RESPONSE:

LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is based on the incorrect premise that Law 17-2019 "requires" the PREB to consider set criteria in developing performance-based incentives and penalties. Act 17-2019 declares that is the public policy of the Government of Puerto Rico is to: (1) promote the necessary changes in order to transform the Electric Power System into one that satisfies the energy needs of the 21st century Puerto Rico; (2) to oversee the implementation of strategies geared toward achieving efficiency in the generation, transmission, and distribution of electric power; (3) to ensure the security and reliability of the electric power infrastructure by using modern technologies that promote inexpensive and efficient operations; (4) to maintain the electric power infrastructure in optimal conditions to ensure the reliability, resilience, and safety of the electric power service; (5) to ensure continuous improvements for the electric power grid, in order to promote its resilience and diversification; (6) to guarantee every consumer's right to receive a reliable, stable, and excellent electric power service at a cost that is accessible, just, and reasonable; among other principles.

To accomplish the public policies enacted in Act 17-2019, the statute authorizes the Energy Bureau to establish performance-based incentives for electric power service companies.

The Performance Metrics Targets proposed by LUMA incentivize system reliability and system safety and incentivize performance to ensure the provision of services at just and accessible costs, among others. The establishment of performance metrics that observe the public policy of maintaining the electric power infrastructure to ensure the

reliability, resilience, and safety of the electric power service and to provide services at just and accessible costs, such as the ones proposed by LUMA, is one of the mechanisms available this Energy Bureau has under its powers to observe compliance with Puerto Rico's public policies as enacted in Act 17-2019.

The JD Power Customer Survey has price as an indicator of customer satisfaction. LUMA is not directly in full control of total price to customers. Generation costs are not under LUMA's control. While a formal cost-related metric does not exist, the customer satisfaction metrics have a price component that addresses Law 17-2019 considerations.

There are metrics proposed which relate to budget management, which relate to the part of customer costs that LUMA can control. By effectively managing our budget, LUMA can help maintain reasonable costs. Over time, effective cost management can allow for better use of resources so that the utility's costs are more directly connected to the level of service.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-017**REQUEST:**

Law 17-2019 requires that PREB consider metrics on the following:

- a. revenue per kilowatt-hour (kWh),
- b. operating and maintenance expenses per kilowatt-hour,
- c. operating and maintenance expenses of the distribution system per customer,
- d. customer service expenses per customer,
- e. general and administrative expenses per customer
- f. total energy cost per capita
- g. total energy cost per capita in urban areas
- h. total energy cost per capita in non-urban areas

For each metric: Did LUMA consider including this metric in its proposed Annex IX? If so, why did LUMA choose not to include it? If not, why not?

RESPONDER:

Mario Hurtado

RESPONSE:

LUMA objects to this request because it is argumentative and includes a legal interpretation by counsel. The request is based on the incorrect premise that Act 17-2019 “requires” the PREB to consider certain performance metrics in developing performance-based incentives and penalties. None of the criteria listed in the request were included in Act 17-2019 as metrics that the PREB should consider. Further, LUMA objects to this request as unintelligible.

Without waiving the foregoing objections, Act 17-2019 does not require any specific performance metric. However, it does declare that is the public policy of the Government of Puerto Rico is to: (1) promote the necessary changes in order to transform the Electric Power System into one that satisfies the energy needs of the 21st

century Puerto Rico; (2) to oversee the implementation of strategies geared toward achieving efficiency in the generation, transmission, and distribution of electric power; (3) to ensure the security and reliability of the electric power infrastructure by using modern technologies that promote inexpensive and efficient operations; (4) to maintain the electric power infrastructure in optimal conditions to ensure the reliability, resilience, and safety of the electric power service; (5) to ensure continuous improvements for the electric power grid, in order to promote its resilience and diversification; (6) to guarantee every consumer's right to receive a reliable, stable, and excellent electric power service at a cost that is accessible, just, and reasonable; among other principles.

To accomplish the public policies enacted in Act 17-2019, the statute authorizes the Energy Bureau to establish performance-based incentives for electric power service companies. Section 6.25B of Act 17-2019, on Performance-Based Incentive and Penalty Mechanisms, does not require the PREB to consider specified metrics, nor has PREB set fixed metrics to be considered in this proceeding.

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-018

REQUEST:

Do the SAIDI and SAIFI calculations that LUMA presented for the months of June through August reflect the same methodology used to calculate the SAIDI and SAIFI values that LUMA presented for months prior to June 2021? If not, please specify all changes to methodology.

RESPONDER:

Don Cortez

RESPONSE:

LUMA objects to that portion of the request that seeks information related to calculations since LUMA took over the transmission and distribution system, in June 2021. This proceeding does not involve performance or data after the Energy Bureau issued the Resolutions and Orders of May 21, 2021, and July 2, 2021, in Case No. NEPR-MI-2019-0007. Thus, the requested information on data after June 1st, 2021, is not relevant to this proceeding.

Without waiving the foregoing objections nor acquiescing to the relevance of the information requested, LUMA's commencement of T&D Operations began on June 1, 2021. LUMA did not present any SAIFI or SAIDI values for the months prior to the month of June 2021. PREPA presented the monthly metrics prior to June 1, 2021. In the Resolution and Order in Case No. NEPR-MI-2019-0007 dated May 21, 2021, the PREB ordered PREPA to resubmit recalculated values for the reliability metrics consistent with the IEEE Guide for Electric Power Distribution Reliability Indices IEEE Std 1366™-2012. For a discussion of LUMA's pre-commencement analysis and findings of PREPA's historical methodology, please refer to Exhibit 2 - LUMA's Comments on Performance Metrics Baselines dated February 5, 2021, in LUMA's filing in Case No. NEPR-MI-2019-0007 and based on data published by the Energy Bureau and presented during the technical conference held on January 19, 2021: Technical discussion beginning on page 12. PREPA recalculated reliability metrics for March 2021 going forward based on the Energy Bureau's order. While the current quarterly report to the PREB breaks the T&D SAIFI and SAIDI into T SAIFI and SAIDI and D SAIFI and SAIDI, LUMA's proposed SAIFI and SAIDI metrics are for the combined T&D system as is considered a common industry practice for T&D utilities. Requiring the inclusion of performance for generation operations—which are explicitly excluded from LUMA's O&M Services—in the reliability metrics would mean evaluating an item that LUMA does not control.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-019**REQUEST:**

Please provide the raw outage data from May 1, 2018 through December 31, 2020 used by PREPA to calculate Tmed (according to p. 7 of <https://energia.pr.gov/wp-content/uploads/sites/7/2021/05/Motion-to-Substitute-Exhibit-A-of-Motion-filed-on-April-29-2021-NEPR-MI-2019-0007.pdf>). Is this the same data used by LUMA to calculate Tmed? If not, please specify the timeframe used by LUMA to calculate Tmed.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-020**REQUEST:**

Please provide the raw outage data from January 1, 2021 through August 31, 2021. Data from the system after LUMA's June 1st takeover is relevant because PREB's orders in Docket # NEPR-MI-2019-0007 have made it clear that baselines and benchmarks must be informed by ongoing collection of data on LUMA's performance.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-021**REQUEST:**

Do LUMA's SAIDI and SAIFI calculations include both transmission and distribution system outages, or only distribution?

RESPONDER:

Don Cortez

RESPONSE:

LUMA's SAIDI and SAIFI calculations include both transmission and distribution system outages. Prior to the PREB's Resolution & Order dated May 21, 2021, in Case No. NEPR-MI-2019-0007, in which PREPA and LUMA were ordered to submit recalculated values for the reliability metrics consistent with IEEE 1366 methodology, PREPA only included distribution system outages.

Performance Metrics**Docket ID: NEPR-AP-2020-0025****Information Response Round 4: LECO Request 4**

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-022**REQUEST:**

Provide monthly SAIDI and SAIFI values by region for June 2020 through August 2021 without excluding Major Event Days.

RESPONDER:

Don Cortez

RESPONSE:

LUMA objects to that portion of the request that seeks information related to data since LUMA took over the T& D System in June 2021. This proceeding does not involve performance or data after the Energy Bureau issued the Resolutions and Orders of May 21, 2021, and July 2, 2021, in Case No. NEPR-MI-2019-0007. Thus, the requested information on data after June 1st, 2021, is not relevant to this proceeding. LUMA is not required to perform these calculations for this proceeding.

CERTIFICATION

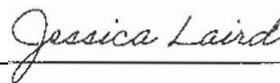
It is hereby certified that the answers provided to this Fourth Discovery Request, by each responder are true to the best of his/her knowledge, information and belief.



Kalen Kostek



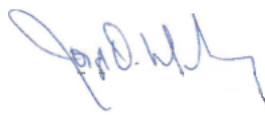
Don Cortez



Jessica Laird



Melanie Jeppesen



Jorge Melendez



Mario Hurtado

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 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 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, rstgo2@gmail.com, notificaciones@bufete-emmanuelli.com, pedrosaade5@gmail.com, jessica@bufete-emmanuelli.com; rolando@bufete-emmanuelli.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 7th day of October 2021.



DLA Piper (Puerto Rico) LLC

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/s/ Margarita Mercado Echegaray

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/s/ Yahaira De la Rosa Algarín

Yahaira De la Rosa Algarín

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ATTACHMENT 3

**LUMA's Supplemental Responses and Objections
to Fourth Discovery Request by LECO**

**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: Supplemental Response to
Fourth Discovery Request by the
Puerto Rico Local Environmental and
Civil Organizations ("LECO")**

**LUMA'S SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
FOURTH DISCOVERY REQUEST 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") Fourth Discovery Request 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.

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-019

REQUEST:

Please provide the raw outage data from May 1, 2018 through December 31, 2020 used by PREPA to calculate T_{med} (according to p. 7 of <https://energia.pr.gov/wp-content/uploads/sites/7/2021/05/Motion-to-Substitute-Exhibit-A-of-Motion-filed-on-April-29-2021-NEPR-MI-2019-0007.pdf>). Is this the same data used by LUMA to calculate T_{med} ? If not, please specify the timeframe used by LUMA to calculate T_{med} .

RESPONDER:

Don Cortez

RESPONSE:

The raw outage data from May 1, 2018 through August 31, 2021 is attached and labeled as RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-019, Attachment 1. The May 1, 2018 through December 31, 2020 data is the same data used to calculate T_{med} .

Performance Metrics

Docket ID: NEPR-AP-2020-0025

Information Response Round 4: LECO Request 4

REFERENCE: RFI-LUMA-AP-2020-0025-LECO-R4-07OCT21-020

REQUEST:

Please provide the raw outage data from January 1, 2021 through August 31, 2021. Data from the system after LUMA's June 1st takeover is relevant because PREB's orders in Docket # NEPR-MI-2019-0007 have made it clear that baselines and benchmarks must be informed by ongoing collection of data on LUMA's performance.

RESPONDER:

N/A

RESPONSE:

LUMA objects to this request because 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. LUMA objects to the request because it seeks information related to performance 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. The requested information on outage data after June 1st, 2021, is not relevant to this proceeding. LUMA also objects to this request because it is argumentative and includes legal interpretations by counsel.

CERTIFICATION

It is hereby certified that the answers provided to this Fourth Discovery Request, by the responder are true to the best of his knowledge, information and belief.



Don Cortez

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, rstgo2@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 8th day of October 2021.



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