

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

<b>NEPR</b>  <b>Received:</b>  Oct 13, 2021  6:45 PM
--

**IN RE:**

IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY PERMANENT RATE

**CASE NO. NEPR-MI-2020-0001**

**SUBJECT: Urgent Request for Extension of Time to Comply with portions of October 5<sup>th</sup> Resolution and Order, and Request for Clarification and Continuance of Public Hearing.**

**URGENT REQUEST FOR EXTENSION OF TIME TO COMPLY WITH PORTIONS  
OCTOBER 5<sup>th</sup> RESOLUTION AND ORDER AND REQUEST FOR CLARIFICATION  
AND CONTINUANCE OF PUBLIC HEARING**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

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

**I. Background**

Per a Resolution and Order issued by this Puerto Rico Energy Bureau (“Energy Bureau”) on September 17, 2021, a technical conference was held in this proceeding on September 22, 2021, to discuss LUMA’s *Motion Submitting of FCA and PPCA Quarterly Reconciliations and Proposed Factors and Request for Confidential Treatment* filed on September 16, 2021, involving proposed Fuel Charge Adjustment (“FCA”) and Purchased Power Charge Adjustment (“PPCA”) reconciliations for the months of June, July, and August, 2021, and the proposed factors for the FCA, PPCA and FOS riders to be applied from October 1, 2021 until December 31, 2021 (“September 16<sup>th</sup> Submission”). During the technical conference, the Energy Bureau issued

several bench orders directing LUMA to file by September 27, 2021 at noon.: (1) an explanation of LUMA's plan to accurately bill those customers who were not billed during the quarter of June through August 2021 and how LUMA will avoid double counting and ensure that customers are billed under the rates applicable for the June through August quarter, as well as measures to ensure that billing issues are corrected in the future; (2) whether LUMA's insurance program may include coverage for use of the peaker units due to outages during the June through August 2021 quarter; (3) correct the *incremental cost analysis Jun, Jul and Aug 2021\_v2\_Formulas* spreadsheet filed on September 17, 2021, July tab, to align the consumption columns and provide the formulas for the calculations; and (4) revise the *comportamiento de generación* spreadsheet, *eficiencia tab*, to incorporate the prior methodology which is a rolling average of four months for the years 2020 and 2021.

On September 27, 2021, in compliance with the bench orders issued by the Energy Bureau during the technical conference of September 22, 2021, LUMA submitted its responses to the Energy Bureau's order on non-billed sales; corrected the *incremental cost analysis Jun, Jul and Aug 2021\_v2\_Formulas* spreadsheet; and revised the *comportamiento de generación* spreadsheet. LUMA also requested a brief extension of time to file its response to the order on potential insurance coverage due to load shed events and outages. In a Resolution and Order dated September 27, 2021, this honorable Energy Bureau granted LUMA until September 28, 2021 at 3:00 pm to file its response to the question on potential insurance coverage.

On September 28, 2021, LUMA filed a *Motion in Compliance with Bench Order Issued During Technical Conference of September 22, 2021 and Request for Confidential Treatment*, whereby LUMA submitted the information and analysis then available on whether insurance could

cover some of the costs of use of the peaker units in connection with recent load shed events and outages.

On September 30, 2021, this Energy Bureau issued a Resolution and Order, setting the factors for the FCA, PPCA and the Fuel Oil Subsidy (“FOS”) rider factors that will apply from October 1<sup>st</sup>, 2021 until December 31, 2021 (“September 30<sup>th</sup> Resolution and Order”). At page 6 of the September 30<sup>th</sup> Resolution and Order, this Energy Bureau indicated that the analysis on the viability of filing insurance claims to cover the incremental costs of fuel was preliminary. The Energy Bureau directed that LUMA should keep it continually informed of developments in its analysis on insurance coverage and of any claims filed with insurers. At page 24 of the September 30<sup>th</sup> Resolution and Order, the Energy Bureau also directed that on or before December 15, 2021 at noon, LUMA shall file with the Energy Bureau, an updated report on its analysis and potential claims to insurers for insurance coverage due to load shed events and outages between June and August 2021, and for any future events.

On October 5, 2021, this Energy Bureau issued a Resolution and Order, setting a public hearing for the 18<sup>th</sup> and 19<sup>th</sup> of October 2021, to discuss the following topics:

- (i) The causes of the critical situation of generation availability that caused the significant deviation from the previously projected economic dispatch;
- (ii) The measures taken, if any, to try to avoid the load shifts experienced in the past few days; and
- (iii) The course of action or specific corrective measures taken, or to be taken, to try to prevent or avoid the situation of insufficient available generation from happening again.

*See* October 5<sup>th</sup> Resolution and Order at page 1.

The Energy Bureau also directed that on or before October 14, 2021, LUMA shall provide a “final answer on the possibility of covering the incremental costs caused by the deviation in the previously projected dispatch under the insurance policy of the Authority and/or the Federal Emergency Management Agency (FEMA).” *Id.* at page 2. Finally, the Energy Bureau ordered the Puerto Rico Electric Power Authority (“PREPA”) to produce on or before October 14, 2021 the following information:

- (i) A detailed report of the approved budget and expenses incurred in maintenance work (specific work and repairs) for the past five (5) years, by generating unit, including rapid response units;
- (ii) A report detailing the status of the Authority’s generating units and independent power producers for the past five (5) years, including, but not limited to the periods during which the units were out of service, the reason for the unit’s removal from service (e.g., scheduled, unscheduled, nature of failure, etc.), estimated date the unit was removed from service, the actual date the unit was returned to service; and
- (iii) A report including an actual and final response on the solutions that the Authority has identified and will implement to prevent the unscheduled use of diesel instead of natural gas (i.e., lack of natural gas supply) in San Juan Units 5 and 6, and the actions that the Authority has taken, or plans to take, with respect to the aforementioned situation, taking into consideration the provisions of the Contract between the Authority and New Fortress, particularly Clause 9.1 of the contract. The Authority shall accompany such report with a detail of the occasions on which such situation has occurred, as well as any technical information relating to the cause thereof, including, but not limited to, reports issued by New Fortress in connection with such events.

*Id.* at page 3.

On October 8, 2021, PREPA filed a Motion requesting that the public hearing of August 18<sup>th</sup> be rescheduled for October 25, 2021. With LUMA’s consent, PREPA informed that LUMA was available to appear at the public hearing on October 25, 2021. In a Resolution and Order issued on October 12, 2021, the Energy Bureau amended the October 5<sup>th</sup> Resolution and Order to provide that PREPA shall appear for a public hearing set for October 25, 2021 and directed that

LUMA shall appear for the public hearing on October 18, 2021. The Energy Bureau maintained the remaining directives of the October 5<sup>th</sup> Resolution and Order, including the deadline applicable to LUMA to file by October 14<sup>th</sup> its analysis on potential insurance claims due to load shed events and outages.

## **II. Request for Extension of Time to File Information on Potential Insurance Coverage and Continuance of Public Hearing**

It is respectfully submitted that the process to complete LUMA's analysis on potential insurance coverage for the incremental costs of fuel due to recent load shed events and outages, requires careful gathering of relevant data and information on each load shed event, including the root causes and effects of each outage event, the generation assets affected, and whether damages to property occurred, among others. To that end, LUMA submitted a request to PREPA for information that is necessary to enable LUMA's analysis of potential insurance claims. LUMA requested that PREPA produce the information on or before October 8, 2021. On October 8, 2021, counsel for PREPA informed that PREPA needed until at least October 14, 2021 at noon, to provide its responses to the request for information.

Given that LUMA is set to receive relevant information from PREPA on October 14, 2021, LUMA will need additional to comply with that portion of the October 5<sup>th</sup> Resolution and Order on LUMA's analysis of potential insurance claims or potential availability of insurance coverage for incremental fuel costs related to load shed events and outages. It is important to note that after LUMA receives from PREPA information on the recent load shed events and outages, LUMA will need several business days to review the information, issue follow up requests, as needed, and complete its analysis to submit a report to the Energy Bureau. This is a time-intensive endeavor that cannot be completed responsibly by October 14<sup>th</sup>. LUMA respectfully submits that it will need

additional time, until October 21, 2021, to comply with that portion of the October 5<sup>th</sup> Order that requires LUMA's answer on the possible availability of insurance coverage due to incremental fuel costs due to recent load shed events and outages.

LUMA respectfully submits that it is available on an alternate date after October 21, 2021, to participate in a confidential or executive session to discuss the subject matter of LUMA's analysis on potential claims that may be filed with insurers to cover incremental fuel costs related to recent load shed events and outages.

This request for extension is based on the nature of the subject matter of the October 5<sup>th</sup> Resolution and Order, that requires a fact-intensive analysis and receipt by LUMA of information that is currently under PREPA's control. Although LUMA and PREPA have worked collaboratively to enable LUMA's compliance with the October 5<sup>th</sup> Resolution and Order, circumstances beyond LUMA's sole control, impede LUMA from meeting the October 14<sup>th</sup> deadline set in the October 5<sup>th</sup> Resolution and Order.

Additionally, LUMA respectfully requests this Energy Bureau to continue the public hearing scheduled for October 18, 2021, in which it instructed LUMA to appear. As previously discussed, this Energy Bureau originally set the public hearing for October 18<sup>th</sup> and 19<sup>th</sup>, commanding the appearance of both LUMA and PREPA. At PREPA's request, this Energy Bureau transferred the hearing set for the 19<sup>th</sup> to October 25, 2021, instructing PREPA to appear on October 25<sup>th</sup> and LUMA on October 18<sup>th</sup>. However, LUMA asserts that the topics set forth by the Bureau to be discussed at the public hearing need to be addressed jointly by LUMA and PREPA. As demonstrated from previous experiences before this Energy Bureau, questions may arise that will require the input of both PREPA and LUMA. Therefore, it would be more efficient and

effective to have both LUMA and PREPA at the same time at the public hearing instead of waiting one week for PREPA to offer their responses or comments.

Furthermore, LUMA is requesting an extension of time to submit the information ordered by this Energy Bureau, which is required for the discussions that are going to take place at the public hearing. The extension requested by LUMA sets the deadline to submit the requested information beyond October 18<sup>th</sup>. LUMA understands that this Energy Bureau will benefit significantly from obtaining the information requested before the public hearing. Moreover, two of LUMA's witnesses have previously scheduled professional commitments outside of the San Juan area that impedes their appearance. In view of the foregoing, LUMA understands it is in the best interest of all parties involved to continue the public hearing scheduled for October 18<sup>th</sup> for October 25, or 26<sup>th</sup> 2021, the date already set for PREPA's appearance. This will allow LUMA and PREPA to provide quality and fulsome answers to both PREB and the public in one comprehensive forum.

### **III. Request for Clarification and Extension of Time on Operating Information of Independent Power Producers ("IPPs")**

As stated in Section I of this Motion, in the October 5<sup>th</sup> Resolution and Order, this Energy Bureau granted PREPA until October 14, 2021, to file certain information, including a report detailing the status of PREPA's generating units and independent power producers for the past five (5) years. Upon assuming the role of Operator of the Transmission and Distribution System on June 1, 2021, LUMA has under its control, the historical data of the IPPs. Thus, LUMA respectfully requests clarification that it is the party that shall produce the historical data on IPPs that the Energy Bureau requested in the October 5<sup>th</sup> Resolution and Order. .

Considering there are different levels of detail for the renewable and thermal IPPs, this data does not currently exist in a single location but can be compiled from multiple spreadsheets. The existing data also need to be screened for accuracy and completeness. At present, LUMA is in possession of raw production data (MWH) in a spreadsheet format that often has several thousand rows and/or columns. An extension of time is required to present this data in a useable format such as summary tables, charts, and graphs, or calculation of relevant measures such as capacity factor or \$/Kwh. Otherwise, LUMA would only be able to provide the raw monthly production numbers for the past five years for all IPPS and hourly generation for the thermal IPPs since 2019 only, if this Energy Bureau requires a response by October 14th. Therefore, LUMA respectfully requests additional time until October 21, 2021, to produce this information. This additional time is necessary for LUMA to collect, review and analyze the historical data currently under its control but generated before June 1, 2021.

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned, **grant** LUMA until October 21, 2021 to comply with those portions of the October 5<sup>th</sup> Resolution and Order that require LUMA to submit its analysis on potential insurance coverage and historical data on the status of the generating operated by independent power producers for the past five (5) years, and **continue** the public hearing scheduled for October 18, 2021, to October 25, 2021.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 13<sup>th</sup> day of October 2021.

I hereby certify that I filed this Motion using the electronic filing system of this Energy Bureau.





**DLA Piper (Puerto Rico) LLC**  
500 Calle de la Tanca, Suite 401  
San Juan, PR 00901-1969  
Tel. 787-945-9107  
Fax 939-697-6147

/s/ Margarita Mercado Echegaray  
Margarita Mercado Echegaray  
RUA NÚM. 16,266  
[margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com)