

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

NEPR Received: Dec 23, 2021 9:08 PM
--

IN RE: REVIEW OF LUMA’S SYSTEM
OPERATION PRINCIPLES

CASE NO. NEPR-MI-2021-0001

**SUBJECT: Motion Submitting Operating
Procedures and Request for Confidential
Treatment.**

**MOTION SUBMITTING OPERATING PROCEDURES AND REQUEST FOR
CONFIDENTIAL TREATMENT**

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. Introduction and Background

On May 31, 2021, this honorable Puerto Rico Energy Bureau (“Energy Bureau”) issued and published a Resolution and Order approving LUMA’s proposed System Operation Principles (“SOP”) with conditions (“May 31st SOP Resolution and Order”). In the May 31st SOP Resolution and Order, paragraph 1, the Energy Bureau required that LUMA provide “a detailed updated timeline for the completion of any other procedure, protocol, manual or document necessary for the operation of the system in accordance with prudent industry practices, standards and local laws and regulations, including but not limited to the draft procedures filed on May 19, 2021.” See May 31st SOP Resolution and Order at pages 13-14. The Energy Bureau directed that the total timeline shall not exceed five (5) months and that, starting July 5, 2021, LUMA shall provide monthly updates of the timeline. *Id.*, paragraph 4, at page 14. Finally, in what is relevant to this filing, the

Energy Bureau directed that within ninety (90) days, LUMA should file “final versions of its Load Forecasting Procedures to include a description of power meter load data, load management, load forecast and DER adoption models and weather normalization and peak allocation” (“Condition No. 3”).

On June 22, 2021, LUMA filed a “Request for Clarifications and/or Reconsideration of May 31st Resolution and Order Approving LUMA’s System Operation Principles” (“June 22nd Request for Clarifications”). With the June 22nd Request for Clarifications, LUMA submitted to this Energy Bureau, as Exhibit 1, an updated timeline for completion of Phase II procedures (“Timeline”) which included fourteen (14) procedures identified as Phase I and fifteen (15) procedures identified as Phase II (*see* June 22 Request at page 14).

On August 25, 2021, this Energy Bureau issued a Resolution and Order (the “August 25th Resolution and Order”) ordering LUMA to attend a Compliance Hearing scheduled for September 17, 2021 at 9:00 a.m. (the “September 17th Compliance Hearing”) and addressed LUMA’s June 22nd Request for Clarifications.

The Energy Bureau then ordered LUMA to file on or before September 13, 2021, “final versions of its Load Forecasting Procedures that include the methodologies used to incorporate power meter load data, load management, load forecast, DER adoption models, weather normalization and peak allocation.” *Id.* at page 6.

In the August 25th Resolution and Order, this Energy Bureau adjudicated LUMA’s June 22nd Request for Clarifications and determined that LUMA shall continue to submit monthly updates of the Phase II operating procedures in Gantt Chart format. *See* August 25th Resolution and Order at page 6.

On September 13, 2021, LUMA filed *Motion in Attention to Resolution and Order of August 25, 2021 and Request for Agenda for the Virtual Technical Conference Scheduled for September 17, 2021* (“September 13th Motion”). With the September 13th Motion, LUMA submitted Exhibit 1, which in its Section 3.0, included an explanation of the efforts towards completion of Phase II Procedure number 1 pertaining to Load Forecasting. LUMA also submitted a confidential Exhibit 2, with the draft of the load forecasting procedure as applied to short-term load forecasting. Furthermore, LUMA explained that it had started the process to improve load forecasting and research functions, based on recommendations from its consultant Guidehouse, to implement a phased improvement process that will enable LUMA to develop robust and sustainable load forecasting and load research capabilities. *See* Exhibit 1 to the September 13th Motion at page 5. At pages 5 through 6 of Exhibit 1 to the September 13th Motion, LUMA submitted a timeline for this improvement process.

On September 15, 2021, LUMA submitted the presentation for the compliance hearing scheduled for September 17, 2021.

On September 17, 2021, this honorable Energy Bureau held a compliance hearing in this proceeding. Among others, during the September 17th compliance hearing, LUMA discussed its approach towards load forecasting.

On July 6, 2021, August 6, 2021, September 3, 2021, October 5, 2021, November 5, 2021, and December 3, 2021, LUMA filed with this Energy Bureau, monthly updates to the Gantt Chart with the status of the Phase II operating procedures. Per said timelines, the Phase II operating procedures would be completed by December 31, 2021 and LUMA would provide updated versions of the Phase I procedures, for a total of twenty-nine (29) operating procedures.

In compliance with the May 31st SOP Resolution and Order, LUMA submits the final versions of the twenty-nine (29) operating procedures, including fifteen (15) Phase II operating procedures that were due on December 31, 2021, and the fourteen (14) Phase I operating procedures that were submitted in draft form to the Energy Bureau on May 19, 2021. Thus, LUMA has submitted the Phase II operating procedures ahead of schedule. The following operating procedures are being submitted in Exhibit 1 to this Motion:

1. SOP Procedure 1- Short Term Load Forecasting
2. SOP Procedure 2- New Facility Interconnection, *portions submitted under seal of confidentiality*
3. SOP Procedure 3-Resource Adequacy Planning
4. SOP Procedure 4- Interconnected Facility Retirements
5. SOP Procedure 5- Legacy T&D Demarcation
6. SOP Procedure 6-Interconnected Facilities Capabilities
7. SOP Procedure 7-Black Start, *portions submitted under seal of confidentiality*
8. SOP Procedure 8-Telemetry
9. SOP Procedure 9-Cybersecurity
10. SOP Procedure 10- Root Cause Analysis and Corrective Actions
11. SOP Procedure 11-Public Reporting
12. SOP Procedure 12-Performance Reporting
13. SOP Procedure 13-Stakeholder Management
14. SOP Procedure 14-Policy on Reserves
15. SOP Procedure 15-Reducing Risk Exposure to Contingencies
16. SOP Procedure 16-Critical Loads, *portions submitted under seal of confidentiality*

17. SOP Procedure 17-Load Shedding, *portions submitted under seal of confidentiality*
18. SOP Procedure 18-Contingency and System Operating Limits Response
19. SOP Procedure 19-Energy Dispatch, Scheduling and Merit Order
20. SOP Procedure 20-Transmission Operations
21. SOP Procedure 21-Plant Level Communication
22. SOP Procedure 22-Balancing Frequency and Voltage
23. SOP Procedure 23-Demand-Side Resources (Non-Wire Alternatives)
24. SOP Procedure 24-System Operator Training
25. SOP Procedure 25-Scheduling Planned T&G Outages
26. SOP Procedure 26-Forced Outage
27. SOP Procedure 27-Outage Execution and Closeout
28. SOP Procedure 28-Emergency Response Execution
29. SOP Procedure 29-Emergency Response Drills

As explained in Sections IV and V of this Motion *infra*, portions of the operating procedures are filed under seal of confidentiality.

II. Clarifications on Operating Procedures

During the early phases of the Front-End Transition Period, LUMA identified that development of an entire set of operating procedures should first require approval of the SOP and was not feasible before Service Commencement. Thereafter, LUMA developed a revised plan to draft and complete procedures implementing the SOP complete critical procedures before Service Commencement and develop a timeline for completion of all the operating procedures by June 2022; a total schedule period of eighteen months. This process included discussions with the Puerto Rico Public Private Partnerships Authority and PREPA.

On May 19, 2021, LUMA submitted to this Energy Bureau, drafts of fourteen operating procedures and “As-Is Documentation” on operating practices utilized by PREPA (“LUMA’s May 19th Submission”). LUMA expended considerable effort involving approximately twelve LUMA team members and ten to twelve PREPA operators and managers in developing the fourteen operating procedures by Service Commencement, June 1, 2021. LUMA achieved its target with the fourteen Phase I procedures being drafted and ready for implementation by June 1, 2021. The team assessed that based on results from the structured approach that was implemented for Phase I, the timeline for completion of all Phase I and Phase II procedures could be reduced from twelve more months post-commencement to seven months post-commencement.

After June 1, 2021, the work to complete the pending operating procedures was done by approximately eighteen to twenty LUMA operators and managers who simultaneously performed their daily jobs of managing the Bulk Power System and implementing the critical Phase I procedures. Multiple LUMA teams with subject matter expertise as well as key stakeholders provided input, collaborated or otherwise contributed to these operating procedures. In particular, specific procedures concerning generation facilities were created and reviewed in consultation with generation facility operators. PREPA generation subject matter experts and management reviewed how these procedures would be applied at PREPA-owned facilities.

While ensuring the Energy Bureau was informed each month of the status and progress of efforts to develop the operating procedures, LUMA was able to develop, revise and begin to train personnel on twenty-nine (29) operating procedures ahead of the December 31st deadline, by December 23, 2021. With this Motion, LUMA is submitting the Phase II operating procedures, as well as revised versions of the Phase I operating procedures.

It is important to clarify that as new systems and capabilities are added to the Bulk Power System in the next year and over the next decade, operating procedures will evolve and be adapted to changing demands of the system, changing technologies, and lessons learned from operational experience. LUMA expects that the operating procedures will be continuously updated and maintained as “evergreen” documents in perpetuity. This is as a positive benefit of a robust, dynamic approach to maintaining procedures.

III. Availability for Technical Conference

With this filing, LUMA is submitting hundreds of pages of documentation on technical operating procedures. LUMA respectfully offers to participate in a technical conference or meeting during the month of February, at the discretion of this Energy Bureau, to engage in collaborative discussions on the operating procedures and LUMA’s experience implementing the Phase I operating procedures.

IV. Request for Confidential Treatment.

Pursuant to the Energy Bureau’s Policy on Management of Confidential Information, CEPR-MI-2016-0009, issued on August 31, 2016, and partially amended on September 16, 2016 (“Bureau’s Policy on Confidential Information”), LUMA hereby requests that the Energy Bureau receive and maintain several portions of the SOP operating procedures under seal of confidentiality.

A. Applicable Laws and Regulation to Submit Information Confidentially Before this Energy Bureau.

The bedrock provision on management of confidential information that is filed before this Bureau, is Section 6.15 of Act 57-2014, known as the “Puerto Rico Energy Transformation and Relief Act.” It provides, in pertinent part, that: “[i]f any person who is required to submit information to the Energy Commission believes that the information to be submitted has any

confidentiality privilege, such person may request the Commission to treat such information as such” 22 LPRA §1054n. If the Bureau determines, after appropriate evaluation, that the information should be protected, “it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.” *Id.*, Section 6.15 (a).

Relatedly, in connection with the duties of electric power service companies, Section 1.10 (i) of Act 17-2019 provides that an electric power service company shall provide information requested by customers, except for confidential information in accordance with the Rules of Evidence of Puerto Rico.”

Per Act 57-2014, access to the confidential information shall be provided “only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.” *Id.* Section 6.15(b). Finally, Act 57-2014 provides that this Energy Bureau “shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the [Bureau] who needs to know such information under nondisclosure agreements. However, the [Bureau] shall direct that a non-confidential copy be furnished for public review”. *Id.* Section 6.15 (c).

The Bureau’s Policy on Confidential Information details the procedures that a party should follow to request that a document or portion thereof, be afforded confidential treatment. In essence, the referenced Policy requires identification of the confidential information and the . . . filing of a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 16, 2016, CEPR-MI-2016-0009. The memorandum should also include a table that

identifies the confidential information, a summary of the legal basis for the confidential designation and a summary of the reasons why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* paragraph 3. The party who seeks confidential treatment of information filed with the Bureau must also file both “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* paragraph 6.

The aforementioned Bureau policy on management of confidential information in procedures states the following with regards to access to validated Trade Secret Information and CEII:

1. Trade Secret Information

Any document designated by the [Energy Bureau] as Validated Confidential Information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

2. Critical Energy Infrastructure Information ("CEII")

The information designated by the [Energy Bureau] as Validated Confidential Information on the grounds of being CEII may be accessed by the parties' authorized representatives only after they have executed and delivered the Nondisclosure Agreement.

Those authorized representatives who have signed the Non-Disclosure Agreement may only review the documents validated as CEII at the [Energy Bureau] or the Producing Party's offices. During the review, the authorized representatives may not copy or disseminate the reviewed information and may bring no recording device to the viewing room.

Id. Section D (on Access to Validated Confidential Information).

Relatedly, Bureau Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing confidential information in adjudicatory proceedings before this honorable Bureau. To wit, Section 1.15 provides that, “a person has the duty to disclose information to the [Bureau]

considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged information, request the [Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed accordingly to . . . Article 6.15 of Act No. 57-2015, as amended.” *See also* Bureau Regulation No. 9137 on *Performance Incentive Mechanisms*, Section 1.13 (addressing disclosure before the Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

B. Request for Confidentiality

1. Critical Energy/Electric Infrastructure Information

Portions of three (3) of the operating procedures reference CEII that, under relevant federal law and regulations, are protected from public disclosure and require confidential treatment to protect critical infrastructure from threats that could undermine the system and have negative repercussions in electric power services to the detriment of the interests of the public, customers, and citizens of Puerto Rico.

In several proceedings, including prior filings in this docket on LUMA’s SOPs, this Energy Bureau has considered and/or granted requests to submit CEII under seal of confidentiality.¹ In at

¹ *See e.g., In re Review of LUMA’s System Operation Principles*, NEPR-MI-2021-0001 (Resolution and Orders of May 3, 2021, May 27, 2021 and August 6, 2021); *In re Review of the Puerto Rico Power Authority’s System Remediation Plan*, NEPR-MI-2020-0019 (order of April 23, 2021); *In re Review of LUMA’s Initial Budgets*, NEPR-MI-2021-0004 (order of April 21, 2021); *In re Implementation of Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, NEPR MI 2020-0012 (Resolution of January 7, 2021, granting partial confidential designation of information submitted by PREPA as CEII); *In re Optimization Proceeding of Minigrad Transmission and Distribution Investments*, NEPR MI 2020-0016 (where PREPA filed documents under seal of confidentiality invoking, among others, that a filing included confidential information and CEII); *In re Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, CEPR-AP-2018-0001 (Resolution and Order of July 3, 2019 granting confidential designated and request made by PREPA that included trade secrets and CEII) *but see* Resolution and Order of February 12, 2021 reversing in part, grant of confidential designation).

least two proceedings on Data Security,² and Physical Security,³ this Bureau, *motu proprio*, has conducted proceedings confidentially, thereby recognizing the need to protect CEII from public disclosure. In this proceeding, this honorable Energy Bureau has granted requests by LUMA to protect CEII. *See* Resolution and Order of May 3, 2021, table 2 at page 4, Case No. NEPR-MI-2021-0001, granting protection to CEII included in LUMA's Responses to Requests for Information; Resolution and Order of May 27, 2021 table 1 at pages 2-3, granting protection to CEII included in LUMA's Submission of Additional Information requested in Technical Conference; and Resolution and Order of August 6, 2021, table 1 at page 3, granting protection to CEII submitted by LUMA on May 19, 2021, including As Is Documentation and draft operating procedures. Relatedly, in Case NEPR-MI-2019-0006, *In Re Planes de la Autoridad de Energía Eléctrica de Puerto Rico para Atender Emergencias*, this Energy Bureau protected as Confidential CEII, portions of LUMA's Emergency Response Plan, found in the Major Outage Restoration Annex, that identify critical infrastructures and facilities in Puerto Rico, as well as critical infrastructures and assets of the T&D System. *See* Resolution and Order of August 31, 2021.

As mentioned above, the Bureau's Policy on Confidential Information provides for management of CEII and directs that information validated as CEII shall be accessed by the parties' authorized representatives only after they have executed and delivered a Nondisclosure Agreement. Generally, CEII or critical infrastructure information is exempted from public disclosure because it involves assets and information the disclosure of which poses public security, economic, health and safety risks. Federal Regulations on CEII, particularly, 18 C.F.R. § 388.113, states that:

² *In re Review of the Puerto Rico Electric Power Authority Data Security Plan*, NEPR-MI-2020-0017.

³ *In re Review of the Puerto Rico Electric Power Authority Physical Security Plan*, NEPR-MI-2020-0018.

Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

Id.

Additionally, “[c]ritical electric infrastructure means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters.

Id. Finally, “[c]ritical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.” *Id.*

The Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 671-674 (2020), a part of the Homeland Security Act of 2002 provides protection from disclosure of critical infrastructure

information (“CII”).⁴ CII is defined as “information not customarily in the public domain and related to the security of critical infrastructure or protected systems...” 6 U.S.C. § 671 (3)⁵.

⁴ Regarding protection of voluntary disclosures of critical infrastructure information, 6 U.S.C. § 673, provides in pertinent part, that CII:

- (A) shall be exempt from disclosure under the Freedom of Information Act;
- (B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;
- (C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;
- (D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this part, except—
 - (i) in furtherance of an investigation or the prosecution of a criminal act; or
 - (ii) when disclosure of the information would be--
 - (I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or
 - (II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the Government Accountability Office
- (E) shall not, be provided to a State or local government or government agency; of information or records;
 - (i) be made available pursuant to any State or local law requiring disclosure of information or records;
 - (ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or
 - (iii) be used other than for the purpose of protecting critical Infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.
- (F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

⁵ CII includes the following types of information:

- (A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;
- (B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or

As identified in the Table at Section V *infra*, portions of three (3) of the operating procedures that are being submitted today, reference confidential CEII such as details on black-start capabilities, critical loads, load shedding procedures, and the functioning of the SCADA system, including images of the SCADA system. The relevant portions of the procedures warrant protection as they relate details about the transportation and transmission of electric power and provide assessments of critical infrastructures and critical electric infrastructures whose disclosure would imperil the safe and reliable operations of the T&D System.

First, Section 3.0 of the Black Start Procedure details the series of events following a blackout that requires implementation of the Black Start Procedure. It includes details on how teams will be dispatched, the technical procedures to be followed to reach a safe condition of the T&D System, and the order to call plants into service and to restore loads. Furthermore, Sections 3.1.2 through 3.1.6 of this Procedure provide details on black start resource testing procedures and requirements that are essential to ensure that these resources function properly. It is respectfully submitted that, on balance, the public interest in protecting CEII and critical electrical infrastructures, weigh in favor of protecting Section 3.0 of the Black Start Procedure from disclosure given the nature and scope of the details included in said Section that pertain to the proper functioning of resources that are critical to safely operate and maintain black start resources. It bears noting that the remaining sections and appendices to the Black Start Procedure are being filed publicly. Thus, this request for confidential treatment is narrowly tailored in furtherance of Act 57-2014's policy of transparency.

a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or
(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, construction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

Second, portions of Appendix C to the Critical Loads Procedure have been redacted and protected from public view. Appendix C is a load shedding graphic for critical loads. It includes three columns (of a total of fifteen columns) that relate the location of critical loads, include observation on several of the critical loads, and provide a brief description of the critical load. *See* Columns entitled, “lugar”, “observación” and “carga crítica”. Those three columns should be protected from public view because they identify critical infrastructures and facilities in Puerto Rico, as well as critical infrastructures and assets of the T&D System that are protected as CEII. In addition to identifying critical loads, the referenced columns provide their locations in Puerto Rico, as well as comments that contain details on their capabilities and the facilities served. Critical loads are, by definition, essential to the resilience of Puerto Rico and to the proper functioning of the T&D System. Release to the public of this information would provide tools to those who may wish to cause damage to Puerto Rico’s infrastructure and in particular the vulnerable assets in the system and those facilities whose restoration would be prioritized in the case of an emergency. This information should be protected and LUMA submits respectfully that it would be in the public interest to do so.

Furthermore, Appendix C, Manual Load Shedding at pages 11-18, to the Load Shedding Procedure, details the procedure for load shedding and includes images and depiction of the step-by-step process to be followed for load shedding. The Appendix includes images of the SCADA System and is a roadmap for its use. The SCADA computer system is a “system of computer-aided tools used by operators of electric utility grids to monitor, control, and optimize the performance of the generation or transmission system.” *See* Glossary, Critical Loads Procedure at page 11. Thus, the SCADA System qualifies as critical electric infrastructure being a system the incapacity or destruction of which would negatively affect national security, economic security,

public health or safety. The information and images included in Appendix C to the Load Shedding Procedure constitute CEII. It includes detailed information about existing critical infrastructure and relates details about the production, generation, transportation, transmission, or distribution of energy, that could be useful to a person in planning an attack on critical infrastructure and does not simply give the general location of the critical infrastructure.

Finally, Appendix D to the Automatic Underfrequency Blocks, at page 19, to the Load Shedding Procedure, is an image of PREPA's Automatic Load Shed and Generation System that depicts several generation plants and locations of critical assets that could be subject to load sheds and at which stage. The Appendix relates information of critical infrastructures of the T&D System (substations) and of generation assets (plants) that are critical to providing electric power services. LUMA respectfully requests that this Energy Bureau protect as CEII this discrete portion of the Load Shedding Procedure that reveals details on critical electric infrastructures that could be used to harm the system or interfere with load shedding practices.

The aforementioned portions of three of the operating procedures involve critical elements of systems that are essential for LUMA's operations as key components of system operations and performance. If the information falls in the hands of people who may want to harm the system, it will provide sufficient details to expose the system to risks and harms and would interfere with the orderly and safe functioning of several critical components of systems operations.

2. Sensitive Commercial Information

Under the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, 10 P.R. Laws Annot. §§ 4131-4144, industrial or trade secrets are deemed to be any information:

- (a) That has a present or a potential independent financial value or that provides a business advantage, insofar as such information is not common knowledge or readily accessible through proper means

by persons who could make a monetary profit from the use or disclosure of such information, and
(b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.

Id. §4131, Section 3 Act. 80-2011.⁶ They include, but are not limited to, processes, methods and mechanisms, manufacturing processes, formulas, projects or patterns to develop machinery and lists of specialized clients that may afford an advantage to a competitor. *See* Statement of Motives, Act 80-2011. *See also* Article 4 of Puerto Rico's Open Data Law, Act 122-2019, exempts the following from public disclosure: (1) commercial or financial information whose disclosure will cause competitive harm; (2) trade secrets protected by a contract, statute or judicial decision. *See* Act 122-2019, Articles 4 (ix) and (x).

The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to commercial information that is confidential in nature. *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891, 901-02 (2017) (citation omitted).

As identified in the table at Section V *infra*, Appendix C to the New Facility Interconnection Procedure, is a **draft** *Standard Large Generator Interconnection Agreement* (LGIA) which is a work-in-progress that has not been shared with third parties nor published for public access. As part of its processes and commercial practices, LUMA does not disclose draft documents. Disclosure of the draft would run counter to public interests, as the public may mistakenly construe that it is the final version of the agreement to be used by LUMA and PREPA. The public interests are best served if this Energy Bureau keeps and maintains the draft LGIA confidentially as sensitive commercial information under Act 80-2011 and pursuant to the Energy Bureau's Policy on

⁶ Relatedly, Rule 513 of the Rules of Evidence of Puerto Rico provides that the owner of a trade secret may invoke the privilege to refuse to disclose, and to prevent another person, from disclosing trade secrets, provided that these actions do not tend to conceal fraudulent actions or lead to an injustice. 32 P.R. Laws Annot. Ap. VI, R. 513. If a court of law mandates disclosure of a trade secret, precautionary measures should be adopted to protect the interests of the owner of the trade secret. *Id.*

Confidential Information. *See* CEPR-MI-2016-0009, as amended by the Resolution of September 16, 2016, CEPR-MI-2016-0009.

It bears noting that in the August 25th Resolution and Order, this Energy Bureau granted LUMA’s request to designate as confidential, fourteen draft operational procedures, deeming that the drafts were protected as sensitive commercial information. LUMA respectfully requests that the Energy Bureau apply the same reasoning in assessing the confidentiality of the draft LGIA and follow the August 25th precedent to designate as confidential, the draft LGIA.⁷

V. Identification of Confidential Information.

In compliance with the Bureau’s Policy on Management of Confidential Information, CEPR-MI-2016-0009, a table summarizing the hallmarks of this request to submit several Attachments to the Responses to Requests for Information, confidentially.

#	Procedure	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
2	New Facility Interconnection	Appendix C, pdf pages 14-88, <i>Standard Large Generator Interconnection Agreement</i>	Sensitive Commercial Information and Trade Secrets under Act 80-2011. This document is confidential because it is a draft document that LUMA has not disclosed to the public.	December 23, 2021

⁷ Also, on September 13, 2021, LUMA filed with the Energy Bureau a confidential draft of the near-term load forecasting procedure (“September 13th filing of the draft load forecasting procedure”). Thereafter, on September 23, 2021, LUMA filed a supporting memorandum of law requesting that the draft load forecasting procedure be kept confidential. Said request for confidential treatment is pending adjudication by this Energy Bureau.

#	Procedure	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidentiality Protection, if applicable	Date Filed
7	Black Start	Pages 6 through 11	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.	December 23, 2021
16	Critical Loads	Appendix C, Columns on <i>Lugar, Observación and Carga Crítica</i>	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.	December 23, 2021
17	Load Shedding	Appendix C, Manual Load Shedding at pages 11-18 Appendix D, Automatic Underfrequency Blocks, at page 19.	Critical Energy Infrastructure Information 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674.	December 23, 2021

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the submission of twenty-nine (29) operating procedures; **deem** that LUMA complied with that

portion of the May 31st Order that required LUMA to file the Phase II operating procedures by December 31, 2021; and **grant** the aforementioned request to keep portions of four (4) operating procedures confidentially.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 23rd day of December 2021.

I hereby certify that I filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to the attorneys for PREPA, Joannely Marrero-Cruz, jmarrero@diazvaz.law; and Katuska Bolaños-Lugo, kbolanos@diazvaz.law.



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

Exhibit 1

Operating Procedures