

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

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

**CASE NO.:** NEPR-AP-2020-0025

**SUBJECT:** Amended Procedural calendar and  
summary in Spanish of LUMA's revised  
Annex IX.

**RESOLUTION AND ORDER**

**I. Introduction**

On December 16, 2021, 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") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau"), a document titled *Urgent Motion Requesting Extensions of Time for LECO to Answer Requirements of Information* ("December 16 Request"), where LECO seeks an extension of time of the December 20, 2021 deadline to answer certain requests for information.

On December 17, 2021, LECO submitted a document titled *Moción Solicitando la Traducción, Adaptación y Resumen de la Propuesta sobre las Métricas de Desempeño presentadas por LUMA Energy* ("December 17 Motion"). Through the December 17 Motion, LECO requests that the Energy Bureau issue an order requiring LUMA<sup>1</sup> to translate to Spanish, using simplified and easy to understand language, the Performance Metrics included in Exhibit 1 of the LUMA's August 23, 2021, Motion, as well as the written witnesses' testimonies submitted by LUMA. Additionally, LECO requests that LUMA summarize in Spanish each of the documents in a simplified, easy to understand language, on or before January 10, 2022.

On December 20, 2021, LECO filed a document titled *Informative Motion and Urgent Request for Extension of Time to the Puerto Rico Energy Bureau* ("December 20 Request").

On December 22, 2021, the Energy Bureau issued a Resolution and Order ("December 22 Resolution") through which, among other things, amended the Procedural Calendar previously established through the October 20, 2021, Resolution<sup>2</sup> ("October 20 Resolution"). In the December 22 Resolution, the Energy Bureau ordered LUMA to, no later than January 18, 2022, file a revised Annex IX to the OMA including targets and supporting metrics for the following: (i) Interconnection, (ii) Energy Efficiency/Demand Response, and (iii) Vegetation Management. The Energy Bureau also instructed LUMA to provide supplemental or revised direct pre-filed testimony for targets and supporting metrics for the new performance metric targets, on or before January 18, 2022. In addition, the Energy Bureau granted LECO's December 16 Request and ordered LECO to file Dr. José Alameda's responses to the Energy Bureau's 1<sup>st</sup> ROI, no later than January 14, 2022. The Energy Bureau also granted LECO's request of an extension of ten (10) days after January 3, 2022, to file any further responses to ROI's submitted to LECO in December 2021.

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<sup>1</sup> LUMA Energy, LLC and LUMA Energy ServCo, LLC (collectively, "LUMA").

<sup>2</sup> See Resolution, In re: Performance Targets for LUMA Energy ServCo, LLC, Case No. NEPR-AP-2020-0025, October 20, 2021.



On December 22, 2021, LUMA submitted a document titled *Motion in Response to LECO's Request for an extension of Time to Submit Responses to Discovery Requests and LUMA's Request to Modify the Procedural Calendar* ("December 22 Response").<sup>3</sup>

On December 30, 2021, LUMA submitted a document titled *LUMA's Response in Opposition to Intervenor's Motion Requesting a Translation, Adaptation and Summary of LUMA's Proposed Performance Metrics Targets filing and Pre-filed Testimonies* (December 30 Response"). Through the December 30 Response, LUMA argues that LECO's request is unduly late and runs counter to the course of proceedings in this docket. LUMA also argued that Section 1.10 of Regulation 8543<sup>4</sup> provides that "pleadings, motions, and documents shall be completed in Spanish or English, according to the appearing party's preference." Thus, there is no requirement to translate submissions to Spanish.

Moreover, LUMA states in its December 30 Resolution that LECO lacks standing to pursue remedies on behalf of third parties and citizens in general. In addition, LUMA indicates that LECO has not shown that they may proceed with requests lodged on behalf of third parties. The legal norms cited by LECO in the December 17 Motion do not support its request that only LUMA translate its filings using simplified language, while not extending that requirement to LECO and other parties. LUMA points out that all parties have filed almost all of its documents in the English language due to the technical nature of this proceeding. Requesting LUMA to translate the identified documents represent an undue burden to only one of the many participants.

Furthermore, in the December 30 Response LUMA alleges that translating the documents to Spanish has negative implications such as the delay of the instant proceeding, further costs to customers, especially when considering LECO is requesting such translations in a short amount of time. Another implication is that LUMA witnesses provided their pre-filed testimonies in their vernacular, English, and will testify in English in the evidentiary hearings scheduled in this proceeding. Having them translate their testimonies in Spanish may have the unintended consequence of confusing the general public in the event some of the meaning gets lost in translation.

Notwithstanding the above, LUMA states that it is willing to present a Summary of LUMA's Second Revised Performance Metrics Target in Spanish ("Spanish Summary") by February 4, 2022. LUMA argues that the Spanish Summary is a reasonable measure that will benefit the general public, without imposing a burden on the parties in this proceeding, delaying the procedural calendar or imposing additional costs to customers.

On January 10, 2022, LUMA submitted a document titled *LUMA's Request for this Energy Bureau to Modify the Procedural Calendar set forth in the Resolution and Order of December 22, 2021*. ("January 10 Motion"). In the January 10 Motion, LUMA alleges that the January 18, 2022, deadline for submitting the new performance metrics hinders LUMA's fundamental procedural rights and guarantees and places LUMA at a material and significant disadvantage. According to LUMA, the timeframes established by the Energy Bureau at the end of discovery and months after LUMA submitted its original request, curtail LUMA's opportunity to be heard on the additional metrics and to reasonably prepare its rebuttal on intervenor's evidence.

LUMA also argues that, apart from the requirement to file the new metrics and pre-filed written testimonies by the aforementioned date, it must also submit rebuttal testimonies to the four testimonies filed by intervenors. LUMA states that the order requiring the additional filing was issued on December 22, 2021, less than a month from the due date and in the middle of a holiday season. According to LUMA, this makes it impossible to have a real

<sup>3</sup> At this point, said request is moot.

<sup>4</sup> Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Procedures, December 18, 2015 ("Regulation No. 8543").



opportunity to be able to properly analyze the Energy Bureau’s determinations that additional metrics will be considered in this proceeding.

To that effect, LUMA stated that it must involve subject-matter experts in several areas of its operations. Furthermore, LUMA expressed it needs time to evaluate the possibility to notify the Public Private Partnership Authority, pursuant to the provisions of the Operation and Maintenance Agreement. For all these reasons, LUMA argued that the modification of the Procedural calendar is warranted, especially since one of its main witnesses has a conflict with the procedural calendar established in the December 22 Resolution.

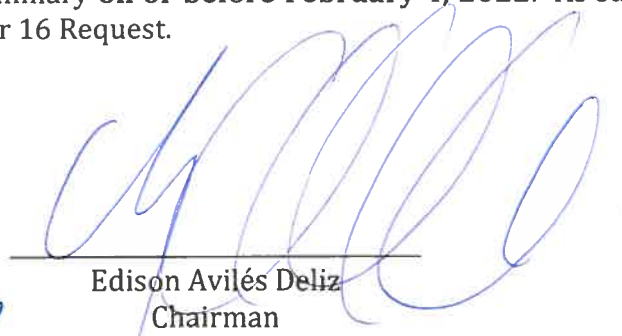
**II. Conclusion**

After evaluating LUMA’s arguments, the Energy Bureau **AMENDS** the procedural calendar for the instant case as follows:

| Date                      | Phase  |
|---------------------------|--|
| February 1, 2022          | Rebuttal on Intervenors’ Written Testimony Due   |
| February 17, 2022         | LUMA’s submission on new metrics   |
| February 17, 2022         | Filing Supplemental Written Testimony by LUMA<br>(Limited to Additional Performance Targets)           |
| February 17-March 7, 2022 | Discovery on LUMA’s Supplemental Written Testimony<br>(Limited to Additional Performance Targets)      |
| March 22, 2022            | Filing of Supplemental Written Testimony by Intervenors<br>(Limited to Additional Performance Targets) |
| March 22 – April 12, 2022 | Discovery on Intervenors Supplemental Written Testimony<br>(Limited to Additional Performance Targets) |
| April 27, 2022            | Rebuttal on Intervenor’s Supplemental written testimony due  |
| April 29, 2022            | Pre-Hearing Conference   |
| May 16-20, 2022           | Virtual Evidentiary Hearing  |
| May 24-25, 2022           | Virtual Public Hearings  |
| June 10, 2022             | Filing of Final Substantive and Legal Briefs by the Parties  |
| June 20, 2022             | Filing of Replies to Final Briefs by the Parties   |
| June 26, 2022             | Filing of Comments by General Public Due,<br>Filing of Final Brief <i>by Amicus Curiae</i>             |

Upon review of LECO’s December 16 Request and LUMA’s December 22 Response, the Energy Bureau **DETERMINES** that a Summary in Spanish of LUMA’s Second Revised Performance Metrics Target is a reasonable measure. Therefore, the Energy Bureau **ORDERS** LUMA to file said Spanish Summary **on or before February 4, 2022**. As such, the Energy Bureau **DENIES** the December 16 Request.

Be it notified and published.

  
Edison Avilés Deliz  
Chairman

  
Ángel R. Rivera de la Cruz  
Associate Commissioner

  
Lillian Mateo Santos  
Associate Commissioner

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
Sylvia B. Ugarte Araujo  
Associate Commissioner



## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 14, 2022. I also certify that on January 14, 2022 a copy of this Resolution and Order was notified by electronic mail to the following: [margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com), [yahaira.delarosa@dlapiper.com](mailto:yahaira.delarosa@dlapiper.com), [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law), [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law), [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov), [contratistas@jrsp.pr.gov](mailto:contratistas@jrsp.pr.gov), [agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com), [rstgo2@gmail.com](mailto:rstgo2@gmail.com), [pedrosaade5@gmail.com](mailto:pedrosaade5@gmail.com), [larroyo@earthjustice.org](mailto:larroyo@earthjustice.org), [flcaseupdates@earthjustice.org](mailto:flcaseupdates@earthjustice.org), [rolando@bufete-emmanuelli.com](mailto:rolando@bufete-emmanuelli.com), [notificaciones@bufete-emmanuelli.com](mailto:notificaciones@bufete-emmanuelli.com), [jessica@bufete-emmanuelli.com](mailto:jessica@bufete-emmanuelli.com), [rhoncat@netscape.net](mailto:rhoncat@netscape.net). I also certify that today, January 14, 2022, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today January 14, 2022.

  
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Sonia Seda Gaztambide  
Clerk

