

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

NEPR Received: Jan 28, 2022 10:25 AM

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

CASE NO. NEPR-AP-2020-0025

**SUBJECT: LUMA's Request for
Extension of Time to File Rebuttal
Testimonies**

**LUMA'S REQUEST FOR AN EXTENSION OF TIME TO FILE REBUTTAL
TESTIMONIES**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME now **LUMA Energy, LLC** ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo") (jointly "LUMA"), and respectfully states and request the following:

1. On April 8, 2021, this Honorable Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order ("April 8 Resolution") establishing the procedural calendar in the instant case to evaluate the *Request for Approval of Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA)*. In its April 8th Resolution, this Energy Bureau also established the period of ten (10) days to respond to any discovery requests issued in this proceeding.¹

2. On August 9, 2021, this Energy Bureau issued a Resolution amending the procedural calendar. In response to a request filed by LUMA, this Energy Bureau also determined that it was prudent to include as part of the procedural calendar the opportunity for LUMA to (i) conduct discovery on written testimony filed by intervenors and (ii) file rebuttal testimony to any

¹ This Energy Bureau issued subsequent orders amending the procedural calendar on May 14, June 4, and July 2, 2021.

intervenor pre-filed testimony. Thus, this Energy Bureau set the period from October 12 to November 1, 2021, to conduct discovery on the intervenors' written testimonies, and November 8, 2021, as the deadline to file any rebuttal on the intervenors' written testimonies. This Energy Bureau amended the procedural calendar, further extending the set deadlines in a Resolution and Order issued on September 27, 2021.

4. On October 12, 2021, the Independent Consumer Protection Office ("ICPO") filed a *Moción en Solicitud de Modificación de Calendario Procesal*, whereas it expressed that multiple discovery issues difficult filing the intervenors' written testimonies by the applicable deadline. For instance, many responses to already issued discovery requests were pending because their due date was beyond the discovery cut-off date. Thus, ICPO requested this Energy Bureau to extend the deadline for intervenors' to submit their written testimonies.

5. On October 15, 2021, the Puerto Rico Local Environmental and Civil Organizations ("LECO") filed a *Reply in Support for OIPC's Motion in Request for Modification of the Procedural Calendar*. LECO claimed that maintaining the procedural calendar would position intervenors at a grave disadvantage. For that reason, LECO requested that the intervenors' testimony be deferred by at least four (4) weeks. Also, LECO requested the evidentiary hearing be rescheduled to January 13-14, 2022, due to some of their attorneys being unavailable on the original dates.

6. Upon the Parties' request, on October 20, 2021, the Energy Bureau issued a Resolution amending the procedural calendar in this case. It granted the intervenors until November 17, 2021, to file their witnesses' pre-filed testimonies. Also, it granted LUMA until December 28, 2021, to conduct discovery on the intervenors' witnesses' direct testimonies.

7. On November 17, 2021, LECO and ICPO submitted their witnesses' written testimonies. LECO provided the written testimonies of two (2) expert witnesses, Economist José Alameda and Engineer Agustín Irizarry. In turn, ICPO provided the testimonies of two witnesses, Attorney Beatriz P. González Álvarez and Engineer Gerardo Cosme Núñez.

8. On December 3, 2021, LUMA started the discovery phase on the intervenors' written testimonies by providing Attorney González from ICPO a *First Set of Interrogatories and Request for Production of Documents*.

9. On December 9, 2021, this Energy Bureau provided LECO's witnesses with discovery requests. Then, on December 16, 2021, this Energy Bureau issued a discovery request to the ICPO.

10. On December 16, 2021, LECO filed an *Urgent Motion Requesting Extensions of Time for LECO to Answer Requirements for Information* ("LECO's December 16th Request"). In its request, LECO petitioned this Energy Bureau to grant an extension until December 23, 2021, for Dr. Alameda to submit responses to the discovery request provided by this Energy Bureau. Further, LECO requested an extension up to January 13, 2022, to answer those discovery requests that may be issued during the timeframe allotted to conduct discovery on the intervenors' written testimonies, given the upcoming holiday season.

11. On December 20, 2021, LUMA issued the *First Set of Interrogatories and Request for Production of Documents* to Engineer Cosme from ICPO.

12. On December 22, 2021, the Energy Bureau issued a Resolution and Order determining that it will evaluate the establishment of additional performance metrics targets. As a result, it ordered LUMA to submit a revised Annex IX to the OMA on or before January 18, 2022, which includes performance targets and associated metrics for the areas described above and pre-

filed written testimonies on those metrics. Additionally, this Energy Bureau amended the procedural calendar to incorporate a timeframe to allow discovery on these newly written testimonies and for the intervenors to submit testimonies on those new metrics. Consequently, this Energy Bureau set a new calendar to hold the evidentiary hearings and subsequent procedural events in this proceeding.

13. Additionally, on December 22, 2021, the Energy Bureau granted LECO's December 16 Request and ordered LECO to file Dr. José Alameda's responses to the Energy Bureau's discovery requests no later than January 14, 2022. The Energy Bureau also granted LECO's request for an extension of ten (10) days after January 3, 2022, to file any further responses to discovery requests submitted to LECO in December 2021.

14. On December 22, 2021, LUMA provided Economist Alameda from LECO a *First Set of Interrogatories and Request for Production of Documents*.

15. On December 27, 2021, LUMA provided Engineer Cosme from the ICPO with the *Second Set of Interrogatories and Request for Production of Documents*. LUMA also notified Engineer Irizarry of LECO with a *First and Second Set of Interrogatories and Request for Production of Documents*.

16. On December 28, 2021, LUMA issued to Attorney González from ICPO the *Second Set of Interrogatories and Request for Production of Documents*.

17. On January 5, 2021, ICPO notified Engineer Cosme's responses to the *First Set of Interrogatories and Request for Production of Documents*.

18. On January 10, 2022, LUMA submitted *LUMA's Request for this Energy Bureau to Modify the Procedural Calendar set forth in the Resolution and Order of December 22, 2021*, wherein LUMA requested the modification of the procedural calendar in this instant proceeding.

19. On January 13, 2022, LECO notified the responses of Economist Alameda and Engineer Irizarry to all discovery requests issued by LUMA. Also, ICPO notified Engineer Cosme’s responses to the *Second Set of Interrogatories and Request for Production of Documents*.

20. On January 14, 2022, the Energy Bureau issued a Resolution and Order in which it amended the procedural calendar 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 of Supplemental Written Testimony by LUMA (Limited to Additional Performance Targets)
February 17-March 7, 2022	Discovery on LUMA’s Supplemental Written Testimony (Limited to Additional Performance Targets)
March 22, 2022	Filing of Supplemental Written Testimony by Intervenors (Limited to Additional Performance Targets)
March 22-April 12, 2022	Discovery on Intervenors’ Supplemental Written Testimony (Limited to Additional Performance Targets)
April 27, 2022	Rebuttal on Intervenors’ 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; Filing of Final Brief by <i>Amicus Curiae</i>

21. On January 18, 2021, ICPO notified Attorney González’s responses to the *Second Set of Interrogatories and Request for Production of Documents*.

22. LUMA has issued several letters to ICPO and LECO objecting to the responses provided by their witnesses to the discovery requests issued by LUMA. Some of the responses to the interrogatories and requests for the production of documents were non-responsive, incomplete,

and deficient. LUMA has requested the ICPO and LECO to supplement their responses accordingly, as the discovery pursued is needed for LUMA to prepare its case.

23. Counsel for ICPO has requested LUMA until Monday, January 31, 2022, to supplement the responses provided by Engineer Cosme to LUMA's *First Set of Interrogatories and Request for Production of Documents*. Furthermore, LECO requested LUMA until February 4, 2022, to supplement Engineer Irizarry's responses and until February 7, 2022, to supplement Economist Alameda's answers to the discovery requests issued by LUMA. LUMA has agreed to the extensions requested.

24. LUMA is currently focused on the rebuttal testimonies for this proceeding. It has identified ten witnesses who will offer testimonies for all intervenors' direct testimonies. However, the discovery responses that have to be supplemented by the intervenors' witnesses significantly impact the rebuttal testimonies of several of LUMA's witnesses. As stated above, the supplemental responses to be issued by intervenors' witnesses will be provided after the February 1st deadline set by this Energy Bureau to file LUMA's rebuttal testimonies. Thus, LUMA would be at a disadvantage if it is compelled to submit rebuttal testimonies without the benefit of completing discovery on crucial topics to be addressed by several LUMA witnesses in their rebuttal testimonies.

25. Further, LUMA is actively working on several complex and time-intensive filings, particularly the second comprehensive Quarterly Report for the 2022 fiscal year for the quarter ending December 2021, to be filed with this Energy Bureau on February 14, 2022 in three proceedings (Case No. NEPR-MI-2021-0004 (Initial Budgets); NEPR-MI-2021-0002 (Ten Year Plan); and NEPR-MI-2002-0019 (System Remediation Plan); and Case No. NEPR-MI-2019-0016 (preparation of quarterly interconnections report and participation in upcoming technical

conference). These pending filings involve important components of LUMA's operations and demand attention and consideration by LUMA and several officers called upon to address and submit rebuttal testimonies in this proceeding after LECO submits the pending supplemental responses to LUMA's discovery requests.

26. LUMA expects to file several of the rebuttal testimonies by the current deadline of February 1, 2022. However, LUMA understands that at least four rebuttal testimonies cannot be finalized until LUMA receives LECO's supplemental responses to several discovery requests. Thus, LUMA respectfully moves this Energy Bureau to extend the timeframe to file the rebuttal testimonies to February 17, 2022. LUMA's request for extension of time is made in good faith and has no impact on the current procedural calendar. Moreover, counsel for LECO and ICPO do not oppose this request for extension.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take** notice of the above and **extend** the deadline for LUMA to submit rebuttal testimonies until February 17, 2022.

RESPECTFULLY SUBMITTED.

We hereby certify that we filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to the attorneys for PREPA, Joannely Marrero-Cruz, jmarrero@diazvaz.law; and 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 Agrimensores de Puerto Rico ("CIAPR"), Rhonda Castillo, rhoncat@netscape.net, and counsels for Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace Latino de Acción Climática, Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club and its Puerto Rico Chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (jointly, Puerto Rico Local and Environmental Organizations), larroyo@earthjustice.org, rstgo2@gmail.com, notificaciones@bufete-emmanuelli.com, pedrosaade5@gmail.com, jessica@bufete-emmanuelli.com; rolando@bufete-emmanuelli.com.

In San Juan, Puerto Rico, this 28th day of January 2022.



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