

**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: REQUEST TO AMEND
PROCEDURAL CALENDAR TO
AUTHORIZE DISCOVERY ON
LUMA REBUTTAL TESTIMONIES**

**REQUEST TO AMEND PROCEDURAL CALENDAR TO AUTHORIZE
DISCOVERY ON LUMA REBUTTAL TESTIMONIES**

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 state and request the following:

1. On April 8, 2021, the Puerto Rico Energy Bureau (“Energy Bureau” or “PREB”) issued a Resolution and Order authorizing LUMA to perform discovery on the testimonies filed by intervenors (“see April 8 Resolution”). The Energy Bureau set forth a discovery deadline that was amended along the amendment of the procedural calendar on May 14, June 4, July 2, and October 20, December 22, 2021, and January 14, 2022.
2. On July 22, 2021, LUMA filed a motion requesting to amend the procedural calendar to allow for discovery on intervenors’ written testimonies, as well

as the authorization to submit pre-filed rebuttal testimonies prior to the evidentiary hearing. In that motion, LUMA noted the importance of "the opportunity to conduct relevant discovery" on all testimonies filed before the evidentiary hearing. LUMA noted that without opportunity to conduct discovery on the subject-matter of all pre-filed testimonies, LUMA would be at a "procedural disadvantage" and its ability to present and defend its position "would be materially limited."

3. On August 9, 2021, the Energy Bureau partially granted LUMA's urgent request and amended the procedural calendar. The amended procedural calendar would allow LUMA to submit rebuttal on intervenors' written testimony until November 8, 2021.
4. On December 22, 2021, the Energy Bureau issued a Resolution and Order naming three areas that "must be evaluated in further detail for further inclusion as performance incentive metric targets for LUMA": Interconnection, Energy Efficiency/Demand Response, and Vegetation Management.¹ The Energy Bureau further stated that implementation of performance targets in these three areas would "encourage LUMA to undertake the important work needed for the implementation of important goals of the Puerto Rico public policy."² Furthermore, the Energy Bureau amended the procedural calendar for the immediate case to allow for

¹ PREB December 22, 2021 Resolution and Order, p. 2.

² PREB December 22, 2021 Resolution and Order, p. 5.

- testimony and discovery on these additional performance targets.³ The amended procedural calendar allows LUMA to file supplemental testimony regarding the three additional areas, as well as two rounds of rebuttal testimony: one to intervenors' original testimony, and rebuttal to intervenors' supplemental testimony.⁴
5. On January 14, 2022, the Energy Bureau issued a Resolution and Order amending the procedural calendar.
 6. The current procedural calendar allows LUMA to conduct discovery on every piece of testimony filed by intervenors, but does not allow intervenors to conduct discovery on either of LUMA's rebuttal testimonies.
 7. For the reasons detailed below, LECO respectfully requests that the Energy Bureau amend the procedural calendar to allow LECO a *period of two to three weeks* to conduct discovery on LUMA's Rebuttal on Intervenors' Written Testimony and LUMA's Rebuttal on Intervenors' Supplemental Testimony. LECO believes that these discovery periods would not necessitate any other changes to the procedural calendar. All existing calendar dates can remain unchanged.
 8. LUMA itself noted in its July 22, 2021, Motion: "Without opportunity to conduct discovery on the subject-matter of the pre-filed testimonies, LUMA's ability to present and defend its position in support of the proposed Revised Request for Approval of a Revised Annex IX to the OMA would be

³ *Id.* p. 5.

⁴ *Id.*

materially limited.”⁵ The same reasoning applies to the intervenors. If LECO is deprived of the opportunity to conduct discovery on LUMA’s rebuttal testimonies, LECO’s ability to obtain pertinent information for subsequent hearings, briefings, and proceedings would substantially constrain LECO’s capacity to effectively intervene. LECO’s capacity to collect information via discovery on LUMA’s rebuttal testimonies coincides with obtaining valuable information for the Energy Bureau’s own investigations. Therefore, our request would also apply to PREB, as it would allow them to conduct discovery on LUMA’s rebuttal testimony.

9. LUMA’s rebuttal testimonies are certain to include information germane to the proceedings in this instant case due to the relevant issues presented by intervenors’ testimonies.
10. The amending of the procedural calendar to allot LECO valuable time to conduct the requested discovery would not unduly burden parties involved. This is due to the fact that the requested discovery can be conducted simultaneously to the rest of the events therein contemplated.

Wherefore, LECO respectfully request the Energy Bureau to modify the procedural calendar to allow LECO a *period of two to three weeks* to conduct discovery on LUMA’s Rebuttal on Intervenors’ Written Testimony and LUMA’s Rebuttal on Intervenors’ Supplemental Testimony.

⁵ *Request to Amend Procedural Calendar to Authorize Discovery on Intervenor Testimonies and Filing of Rebuttal Testimonies*, p. 3, July 22, 2021, NEPR-AP-2020-0025, <https://energia.pr.gov/wp-content/uploads/sites/7/2021/07/Request-to-Amend-Procedural-Calendar-to-Allow-Discovery-on-Intervenor-Testimonies-and-Rebuttal-Written-Testimonies-NEPR-AP-2020-0025.pdf>.

Respectfully submitted in San Juan, Puerto Rico, January 27, 2022.

/s/ Laura Arroyo

Laura Arroyo
RUA No. 16653
Earthjustice
4500 Biscayne Blvd.
Suite 201
Miami, FL 33137
T: 305-440-5436
E: larroyo@earthjustice.org

/s/ Raghu Murthy

Raghu Murthy
Earthjustice
48 Wall Street, 19th Floor
New York, NY 10005
T: 212-823-4991
E: rmurthy@earthjustice.org

/s/ Pedro Saadé

Pedro J. Saadé Lloréns
Colegiado Núm. 5452
RUA No. 4182
Calle Condado 605, Office 611
San Juan, Puerto Rico 00907
Tel. & Fax (787) 948-4142
E: pedrosaade5@gmail.com

/s/ Ruth Santiago

Ruth Santiago
RUA No. 8589
Apartado 518
Salinas, Puerto Rico 00751
T: (787) 312-2223
E: rstgo2@gmail.com

/s/ Rolando Emmanuelli Jiménez

Rolando Emmanuelli-Jiménez
RUA No. 8509
E: rolando@bufete-
emmanuelli.com;
notificaciones@bufete-
emmanuelli.com

/s/ Jessica Méndez-Colberg

Jessica Méndez-Colberg
RUA No. 19853
E: jessica@bufete-
emmanuelli.com

472 Tito Castro Ave.
Marvesa Building, Suite 106
Ponce, Puerto Rico 00716
Tel: (787) 848-0666
Fax: (787) 841-1435

CERTIFICATION OF SERVICE

I hereby certify that on January 27, 2022, I served this Request to Amend Procedural Calendar to Authorize Discovery on LUMA Rebuttal Testimonies to the following parties:

- Puerto Rico Energy Bureau: secretaria@energia.pr.gov; secretaria@jrsp.pr.gov; legal@jrsp.pr.gov and atorres@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; hrivera@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/ Laura B. Arroyo

Laura B. Arroyo
RUA No. 16653
Earthjustice
4500 Biscayne Blvd.
Suite 201
Miami, FL 33137
T: 305-440-5436
E: larroyo@earthjustice.org;