

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

**IN RE:** PUERTO RICO TEST FOR DEMAND  
RESPONSE AND ENERGY EFFICIENCY

**CASE NO:** NEPR-MI-2021-0009

**SUBJECT:** LUMA's December 13, 2021 and  
January 5, 2022 Motions Regarding the  
Avoided Cost Study

**RESOLUTION AND ORDER**

**I. Introduction**

On August 13, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued Resolution and Order ("August 13 Order") making data requests to LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly "LUMA") and the Puerto Rico Electric Power Authority ("PREPA") in this proceeding ("PR Test Proceeding").<sup>1</sup> The purpose of these data requests was to solicit information necessary for the development of avoided costs, through an Avoided Cost Study to be conducted by consultants to the Energy Bureau, for use in the implementation of the Puerto Rico Test.

On August 17, 2021, LUMA filed a document titled *Motion Requesting Energy Bureau to Stay Resolution and Order of August 13, 2021 and Schedule Technical Workshop* ("August 17 Request")<sup>2</sup> in which LUMA requested the Energy Bureau to stay the August 13 Order and schedule a technical conference to resolve issues and questions related to the development of avoided cost estimates for use in benefit-cost analysis of energy efficiency programs.

On November 18, 2021, the Energy Bureau held a Technical Conference ("November 18 Technical Conference") with LUMA to discuss the August 13 Order and the data request.<sup>3</sup>

On December 13, 2021, LUMA filed a document titled *Motion Submitting LUMA's Comments and Suggestions* ("December 13 Comments")<sup>4</sup> that included recommendations and requests regarding the PR Test, the development of avoided costs, and coordination of various proceedings.

On December 14, 2021, the Energy Bureau issued a Resolution and Order ("December 14 Resolution")<sup>5</sup> that clarified the process for stakeholder review and participation in the development of avoided costs for use in the Puerto Rico Test and issued a data request to LUMA and PREPA in support of development of avoided costs. The December 14 Resolution scheduled a Technical Conference for February 8, 2022, at 10:00 a.m. as part of the review process for the Avoided Cost Study.

On January 5, 2022, LUMA filed a document titled *Motion Submitting LUMA's Responses to Data Requests of Attachment A to December 14<sup>th</sup> Resolution and Order and Requesting*

<sup>1</sup> Available at: <https://energia.pr.gov/wp-content/uploads/sites/7/2021/08/20210813-MI20210009-Resolution-and-Order.pdf>. Last visited January 20, 2022.

<sup>2</sup> Available at: <https://energia.pr.gov/wp-content/uploads/sites/7/2021/08/Motion-Requesting-to-Stay-Resolution-and-Order-of-August-13-2021-and-Schedule-Technical-Workshop-NEPR-MI-2021-0009.pdf>. Last visited January 20, 2022.

<sup>3</sup> Available at: <https://www.youtube.com/watch?v=1BlUs93akQ>. Last visited January 20, 2022.

<sup>4</sup> Available at: <https://energia.pr.gov/wp-content/uploads/sites/7/2021/12/Motion-Submitting-Lumas-Comments-and-Suggestions-NEPR-MI-2021-0009.pdf>. Last visited January 20, 2022.

<sup>5</sup> Available at: <https://energia.pr.gov/wp-content/uploads/sites/7/2021/12/20211214-MI20210009-Resolution-and-Order.pdf>. Last visited January 20, 2022.





*Clarifications and Requests for Confidential Treatment* ("January 5 Motion"), accompanying a response to the Energy Bureau's December 14 Order and data request, in which LUMA requested clarification regarding whether the December 14 Order incorporated a response to LUMA's December 13 Comments.

On January 21, 2022, the Energy Bureau published the final version of the Regulation for Energy Efficiency, upon submission of that Regulation to the Department of State.<sup>6</sup>

The December 14 Resolution was issued a day after the December 13 Comments. The December 14 Resolution was not prepared with any awareness of the December 13 Comments and therefore does not fully respond to it. The purpose of this Resolution and Order is to address those aspects of LUMA's December 13 Comments and January 5 Motion that relate to the Avoided Cost Study and were not addressed in previous resolutions or regulations. Also, all responses provided are coordinated and consistent with the final Regulation for Energy Efficiency which was published after the two motions. The Energy Bureau is simultaneously issuing an order in Case No. NEPR-MI-2021-0005 that addresses other aspects of LUMA's December 13 Motion and January 5 Motion that do not relate to the Avoided Cost Study.

## II. Summary of LUMA's Motions

In the December 13 Comments, LUMA expresses concern with the relationship between the legal treatment and formality of treatment of multiple studies regarding benefit-cost analysis and avoided costs.<sup>7</sup> In particular, LUMA highlights the Cost-of-Service Study ("COSS") which was subject to an adjudicative proceeding for Unbundling of Rates in Case No. NEPR-AP-2018-0004 ("Unbundling Proceeding"), in which discovery and a formal administrative evidentiary hearing were held. LUMA states that the Avoided Cost Study has not been subject to the same process, including discovery and formal presentation of evidence for the record. LUMA states that it is uncertain whether and how stakeholders will have an opportunity to review the methodology, assumptions, and results of the Avoided Cost Study and provide feedback in this proceeding, as this proceeding is a "miscellaneous" proceeding.<sup>8</sup> More specifically, LUMA states that "it has not been able to identify a principled reason for the Energy Bureau to adopt an avoided costs (*sic*) study for Energy Efficiency in an "MI" regulatory proceeding."<sup>9</sup> LUMA recommends that if the Energy Bureau determines that it will adopt an Avoided Cost Study in this docket, a more formal procedural treatment be adopted and followed pursuant to Regulation 8543<sup>10</sup> and an adjudicative proceeding be convened.<sup>11</sup>

In Exhibit A to the December 13 Comments, LUMA makes several further points.

- LUMA refers to the COSS as an avoided cost study and points out that if there are multiple sets of avoided costs developed for different purposes, this may prevent an "apples to apples" comparison of different types of resources. This is particularly relevant in the context of an Integrated Resource Plan ("IRP"), which, by its nature,

<sup>6</sup> *Regulation for Energy Efficiency*. Available at: <https://energia.pr.gov/wp-content/uploads/sites/7/2022/01/20220105-MI20210005-Resolution-and-Regulation.pdf>. Last verified January 26, 2022.

<sup>7</sup> December 13 Comments, p. 3, ¶ 7.

<sup>8</sup> December 13 Comments, Exhibit A, page 7.

<sup>9</sup> December 13 Comments, p. 3, ¶ 7.

<sup>10</sup> Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings, December 18, 2014 ("Regulation 8543").

<sup>11</sup> *Id.*





requires a comparison of different types of resources. LUMA therefore recommends that the Avoided Cost Study developed for the purpose of the PR Test does not apply to the next IRP.<sup>12</sup>

- LUMA points out that the administrative record in the Unbundling Proceeding has closed and LUMA's proposal is submitted for adjudication. Therefore, LUMA is concerned that the Avoided Cost Study results will affect the evidence in that proceeding. LUMA recommends that the Energy Bureau confirm if and how the Avoided Cost Study results developed in this proceeding will affect the Unbundling Proceeding.<sup>13</sup>
- LUMA expresses concern about using what it refers to as "the New England avoided cost model." LUMA identifies features of the New England electricity markets that are not applicable in Puerto Rico.<sup>14</sup>
- LUMA discusses several potential differences between the methods of a hypothetical marginal cost of service study and an avoided cost study and argues that they need not be fundamentally different from each other.<sup>15</sup>

### III. Analysis and Conclusion

The Energy Bureau appreciates LUMA's careful and thoughtful comments and recommendations. We must point out that the Energy Bureau shares LUMA's desire for clarity. In this section, the Energy Bureau addresses each comment and recommendation and issues its determination to each.

1. *Use of a miscellaneous proceeding versus an adjudicative proceeding for developing avoided costs:*

LUMA correctly points out (in its December 13 Comments, Exhibit A, page 7) that the cost of service developed in the Unbundling Proceeding directly affect customer rates, and therefore that proceeding must be an adjudicative proceeding. However, avoided costs developed in PR Test proceeding do not directly affect customer rates. Instead, they are to be input into the PR Test and used to determine whether a portfolio of energy efficiency and demand response programs is cost-effective. As discussed in the workshops conducted as part of the PR Test proceeding, there is uncertainty around how the values of many avoided costs will be developed and applied in a benefit-cost analysis. The development of avoided costs, therefore, is best done in a context of collaboration, free-flowing discussion, and open dialogue. The formality of an adjudicative proceeding is not conducive to these ends, because it places barriers of cost and process between stakeholders and open participation. The Energy Bureau therefore **DECLINES** to require an adjudicative process regarding the Avoided Cost Study in this proceeding.

Further, in the December 14 Resolution, the Energy Bureau committed to vetting all methods and values used in the development of avoided costs through technical conferences like the one to be held on February 8, 2022 in which a broad set of stakeholders can participate, ask questions, raise concerns, and make suggestions. The Energy Bureau will take into consideration oral and written feedback from participating stakeholders. In the event that LUMA or any stakeholder requires information from the Energy Bureau or its supporting consultants regarding the methods or assumptions used in

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<sup>12</sup> December 13 Comments, Exhibit A, p. 7.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*, Exhibit A, pp. 8-9.

<sup>15</sup> *Id.*, Exhibit A, p. 10.





the development of avoided costs, the Energy Bureau welcomes stakeholders to raise those requests during the workshop process or submit written requests.

2. *Relationship between the avoided costs developed in this proceeding and the next IRP*

The Energy Bureau agrees with LUMA that one purpose of an IRP is to compare many different kinds of resources, and that comparing those resources within a common set of assumptions is essential for the IRP analysis. The Energy Bureau **DETERMINES** that the use of particular methods and approaches for the next IRP will be a matter to be addressed in the appropriate case.

3. *Regarding the relationship to the evidentiary record in the Unbundling Proceeding*

LUMA is correct that the record in the Unbundling Proceeding is closed. The avoided costs developed in this proceeding cannot, and will not, affect the record of that proceeding. The Energy Bureau **DETERMINES**, in an order in the Unbundling Proceeding or any other proceeding, it is entitled to observe the status and explain the relevance of other proceedings on closely related topics as a function of overall regulatory authority and the duty to ensure reasonable results across multiple interrelated decisions.

4. *The "New England model"*

During the November 18 Technical Conference, the Energy Bureau indicated that it intended to use the EnCompass power system model in developing some avoided costs in Puerto Rico. The Energy Bureau also mentioned previous use of this model in developing avoided costs in New England. EnCompass models least-cost economic dispatch, which the underlying principle for the New England electric markets and should be the underlying principle for LUMA's dispatch of Puerto Rico's electric system. The Energy Bureau **DETERMINES** that the New England market details that LUMA discusses in the December 13 Comments are irrelevant to the development of avoided costs in both New England and Puerto Rico.

5. *Regarding the relationship between marginal cost of service studies and avoided cost studies*

At the November 18 Technical Conference, the Energy Bureau compared the filed marginal Cost of Service Study in the Unbundling Proceeding (the COSS) with the planned Avoided Cost Study in this proceeding and noted many differences between the two types of studies. In its December 13 Comments, LUMA points out that its Marginal Cost of Service Study could be modified to become more like the Avoided Cost Study in terms of time span, scenarios, and granularity of results. While a hypothetical marginal cost of service study could in theory be designed to produce some utility system avoided costs, the actual marginal cost of service study in its current form does not provide appropriate avoided cost values for modeling energy efficiency cost-effectiveness. The Energy Bureau **DETERMINES** that the Avoided Cost Study is specifically designed to meet Puerto Rico's energy efficiency cost-effectiveness testing needs, as required by the Regulation for Energy Efficiency.

Be it notified and published.



  
Edison Avilés Deliz  
Chairman

  
Angel R. Rivera de la Cruz  
Associate Commissioner

  
Lillian Mateo Santos  
Associate Commissioner

  
Ferdinand A. Ramos Soegaard  
Associate Commissioner

  
Sylvia 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 31, 2022. I also certify that on January 31, 2022 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com and laura.rozas@us.dlapiper.com. I also certify that today, January 31, 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 31, 2022.

  
Sonia Seda Gaztambide  
Clerk

