

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

NEPR

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

CASE NO. NEPR-AP-2020-0025

**SUBJECT: LUMA’s Opposition to LECO’s Request for Extension of the Discovery Deadline which was Incorrectly Titled “Notice of Intent to File a Response to LUMA’s Motion to Strike Portions of the Expert Testimony of José Alameda-Lozada”**

**LUMA’S OPPOSITION TO LECO’S REQUEST FOR EXTENSION OF THE  
DISCOVERY DEADLINE, WHICH WAS INCORRECTLY TITLED “NOTICE OF  
INTENT TO FILE A RESPONSE TO LUMA’S MOTION TO STRIKE PORTIONS OF  
THE EXPERT TESTIMONY OF JOSÉ ALAMEDA-LOZADA”**

**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 January 27, 2022, the Local Environmental and Civil Organizations (“LECO”) filed a *Request to Amend the Procedural Calendar to Authorize Discovery on LUMA Rebuttal Testimonies*, where it sought two or three weeks to conduct discovery on LUMA’s pre-filed rebuttal testimonies.

2. On February 1, 2022, LUMA filed a *Motion Submitting Rebuttal Testimonies* with this Puerto Rico Energy Bureau (“Energy Bureau”). LUMA submitted the rebuttal testimonies of five of its witnesses and reiterated that the remaining testimonies would be filed by the set date of February 17, 2022.

3. On February 7, 2022, LUMA filed a *Response in Opposition to LECO's Request to Amend the Procedural Calendar to Authorize Discovery on LUMA Rebuttal Testimonies*. LUMA argued that LECO's request was unduly belated and did not include a concrete or principled justification on the need to conduct discovery, among other arguments.

4. On February 15, 2022, the Energy Bureau issued a Resolution and Order granting the parties ten days from LUMA's filing of the remaining rebuttal testimonies, that is, February 17, 2022, to conduct discovery on those testimonies. LUMA should respond to the discovery requests within ten days of receiving them.

5. On February 16, 2022, LUMA filed an *Urgent Request for Extension of Time to File Rebuttal Testimony of Witness Mario Hurtado* (the "Urgent Request"). Therein, LUMA informed that Mr. Mario Hurtado, Chief Regulatory Officer for LUMA, had an unexpected family emergency outside the jurisdiction of Puerto Rico that made it unattainable for him to finalize his testimony by the due date. Consequently, LUMA requested an extension up to February 25, 2022, to file Mr. Hurtado's rebuttal testimony.

6. On February 17, 2022, LUMA filed *LUMA's Motion Submitting Additional Rebuttal Testimonies*, whereby it submitted the rebuttal testimonies of six witnesses on the intervenors' pre-filed direct testimonies. The testimonies included four LUMA employees and two rendered by LUMA's expert witnesses. *See*, Exhibits 1 and 2 of *LUMA's Motion Submitting Additional Rebuttal Testimonies*.

7. On February 23, 2022, this Energy Bureau entered a Resolution and Order whereby it granted LUMA's Urgent Request and, therefore, extended the deadline to file Mr. Hurtado's rebuttal testimony until February 25, 2022. This Energy Bureau granted the parties and intervenors

in this proceeding ten (10) days from LUMA's filing of that testimony to submit any additional discovery related solely to such rebuttal written testimony of witness Mario Hurtado.

8. On the same day, February 23, 2022, LUMA filed an *Urgent Request for an Additional Extension of Time to File Rebuttal Testimony of Witness Mario Hurtado*. LUMA informed that Mr. Hurtado continues to attend to the family emergency informed through the Urgent Request, which requires his presence outside of the jurisdiction of Puerto Rico. Therefore, LUMA requested an additional brief extension of time until March 3, 2022, to file Mr. Hurtado's rebuttal testimony. On March 1, 2022, this Energy Bureau granted LUMA until March 3, 2022, to file Mr. Hurtado's rebuttal testimony. The parties will then have ten days to conduct discovery solely related to Mr. Hurtado's rebuttal written testimony.

9. On February 25, 2022, LECO filed an incorrectly titled *Notice of Intent to File a Response to LUMA's Motion to Strike Portions of the Expert Testimony of José Alameda-Lozada* in which it requested an extension until March 4, 2022, to submit discovery related to the eleven rebuttal testimonies submitted by LUMA. LECO argued that the request was needed because LUMA had filed eleven rebuttal testimonies.

10. Late in the afternoon and night of February 28, 2022, LECO notified its Fifth and Sixth Discovery Requests to LUMA regarding the rebuttal testimonies filed on February 1 and 17, 2022. The discovery requests issued by LECO include eighty-seven interrogatories addressed to LUMA's eleven rebuttal witnesses.

11. A controversy becomes moot when its status as a live and current controversy yields to the passage of time. *El Vocero v. Junta de Planificación*, 121 DPR 115 (1988). For example, adjudicative forums lose jurisdiction over a case or proceeding for mootness when changes occur during the process that render ineffectual any remedy that the forum may grant regarding a

controversy. *C.E.E. v. Depto. de Estado*, 134 DPR 927, 935–36 (1993). This limitation of the power of adjudicative forums seeks to avoid unnecessary use of resources and authoritative pronouncements of the forums that might be superfluous. *Id.*

12. LUMA respectfully requests that the Energy Bureau deny LECO’s incorrectly titled *Notice of Intent to File a Response to LUMA’s Motion to Strike Portions of the Expert Testimony of José Alameda-Lozada* and its request for extension of time to conduct discovery on the eleven rebuttal testimonies that LUMA submitted on February 1<sup>st</sup> and 17<sup>th</sup>, 2022. LECO’s issuance of discovery requests to all of LUMA’s rebuttal witnesses has rendered moot the prior request for an extension to issue discovery requests. Any determination by this Energy Bureau regarding the claimed need for an extension of time to issue discovery requests to LUMA regarding the eleven pre-filed testimonies submitted for the record on February 1<sup>st</sup> and 17<sup>th</sup>, 2022, would be superfluous. Additionally, upon issuing two discovery requests to LUMA that include questions to LUMA’s eleven rebuttal witnesses, LECO waived its prior request to extend the discovery period for those rebuttal testimonies.

**WHEREFORE**, LUMA respectfully requests that this Energy Bureau **take** notice of the above and **deny** LECO’s incorrectly titled *Notice of Intent to File a Response to LUMA’s Motion to Strike Portions of the Expert Testimony of José Alameda-Lozada* and its request for extension of time to conduct discovery on LUMA’s rebuttal testimonies.

**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](mailto:jmarrero@diazvaz.law); and Katuska Bolaños-Lugo, [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law), the Office of the Independent Consumer Protection Office, Hannia Rivera Diaz, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov), and counsel for the Puerto Rico Institute for Competitiveness and Sustainable Economy (“ICSE”), Fernando Agrait, [agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com), counsel for the Colegio de Ingenieros y Agrimensores de Puerto Rico (“CIAPR”), Rhonda Castillo, [rhoncat@netscape.net](mailto:rhoncat@netscape.net), and counsels for Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace Latino de Acción

Climatica, Alianza Comunitaria Ambientalista del Sureste, Inc., Coalicion 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](mailto:larroyo@earthjustice.org), [rstgo2@gmail.com](mailto:rstgo2@gmail.com), [notificaciones@bufete-emmanuelli.com](mailto:notificaciones@bufete-emmanuelli.com), [pedrosaade5@gmail.com](mailto:pedrosaade5@gmail.com), [jessica@bufete-emmanuelli.com](mailto:jessica@bufete-emmanuelli.com); [rolando@bufete-emmanuelli.com](mailto:rolando@bufete-emmanuelli.com).

In San Juan, Puerto Rico, this 1st day of March 2022.



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