

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

NEPR Received: Mar 21, 2022 9:11 PM
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IN RE:

THE PERFORMANCE OF THE PUERTO
RICO ELECTRIC POWER
AUTHORITY

CASE NO.: NEPR-MI-2019-0007

**SUBJECT: Response to Motion filed by the Puerto Rico
Electric Power Authority (“PREPA”) on March 3, 2022.**

RESPONSE TO MOTION BY PREPA OF MARCH 3, 2022

TO THE PUERTO RICO ENERGY BUREAU:

COMES NOW, LUMA ENERGY SERVCO, LLC (“LUMA”), through the undersigned legal counsel and respectfully states and requests the following:

1. On December 14, 2021, the Energy Bureau issued a Resolution and Order on the Subject Matter of *Analysis of Performance Metrics for the Quarter of June through August 2021* (“December 14th Order”). In the December 14th Order, this Energy Bureau issued several rulings applicable to future filings of Quarterly Performance Metrics. In what is relevant to this Motion and regarding fleet metrics, this Energy Bureau ordered that PREPA timely provide LUMA its fleet vehicle data and that the numbers for PREPA on vehicles should be included in future metrics filings.

2. On December 22, 2021, LUMA submitted a *Motion Submitting Quarterly Performance Metrics, Requests for Amendments to Reporting Schedule on Certain Financial Metrics, Requests for Clarifications, and Requests to Substitute a Metric, Exclude Certain Metrics, and Rename Several Metrics* (“December 22nd Submission”). In the December 22nd Submission,

LUMA submitted the Transmission and Distribution (T&D), and PREPA's Generation Metrics, separately from LUMA's T&D performance metrics.

3. On January 31, 2022, the Energy Bureau issued a Resolution and Order, whereas it scheduled a Technical Conference for February 24, 2022, at 10:00 a.m. ("January 31st Order"). In the January 31st Order, the Energy Bureau expressed that it had identified a list of comments from the December 22nd Submission as to which it sought clarification. The comments were included as Attachment A to the January 31st Order. The Energy Bureau stated that in the Technical Conference, LUMA and PREPA would have the opportunity to discuss their comments and answer questions from the Energy Bureau.

4. The Technical Conference was held as scheduled on February 24, 2022 ("February 24th Technical Conference"). LUMA and PREPA representatives appeared and answered questions by Commissioners and also by Energy Bureau consultants. Consultants for this Energy Bureau requested additional information from both LUMA and PREPA.

5. On March 3, 2022, PREPA submitted a Motion entitled *Motion in Compliance with Bench Order and to Submit New and Revised Metrics Data* ("PREPA March 3rd Motion"), whereby PREPA included several comments and requests regarding future quarterly performance metrics filings, including a request for an order to LUMA to give PREPA access to the *Fleet Focus* software to track PREPA's fleet, *see* PREPA March 3rd Motion at pages 3-4; statements that LUMA is the party that shall submit to the Energy Bureau the data on the cost of generation metrics, *id.* at page 6; and a request for leave to file and report separately, on its generation metrics, save those related to costs and expenses, *id.* at pages 6-7. LUMA respectfully responds to these statements and requests by PREPA.

6. First, regarding PREPA's request for LUMA to transfer the *Fleet Focus* software, it is respectfully informed that it was not until March 16, 2022, that LUMA received a written formal request for access to the software. LUMA has been working on this request and will provide a formal response to PREPA shortly. LUMA understands that the Energy Bureau need not intervene in this matter as it can be addressed by LUMA and PREPA.

7. Second, regarding PREPA's cost of generation metrics, LUMA also takes issue with PREPA's determination to involve this Energy Bureau in this matter which is covered by the Shared Services Agreement and is and can be addressed between LUMA and PREPA. As Mr. José Gandía explained during the February 24th Technical Conference, LUMA had recently been made aware that PREPA does not record its own data to calculate the cost of generation. The Shared Services Agreement can cover providing PREPA the calculation for the cost of generation metrics and LUMA will work with PREPA to provide the data that PREPA Generation requires to complete this portion of the quarterly performance metrics filing. To wit, for the Quarterly Performance Metrics Report due March 21, 2022, on March 16, 2022, Mr. Gandía sent to Mrs. Socorro de Lourdes Lugo of PREPA, both the data on cost of generation metrics in addition to the other Generation-finance metrics covered by the Shared Services Agreement, and the supporting work papers for PREPA to review. In his communication, Mr. Gandía explained that the data was collected using official monthly data for generation and revenue, as well as monthly financial information and made himself available to address any questions from PREPA regarding this data prior to the submission of the Quarterly Performance Metrics Report. LUMA respectfully submits that the proper process to ensure accuracy in reporting on these financial metrics, is for LUMA to provide the information to PREPA through the Shared Service Agreement, and for PREPA to

review and confirm that the information is accurate prior to filing with the Energy Bureau. As LUMA does not track the activities of PREPA Generation, LUMA is not able to review the numbers in the context of the activities taken place. Once PREPA has reviewed and accepted the calculations, LUMA will submit the data in the quarterly performance metrics submission. However, LUMA is unable to submit metrics without PREPA's prior review and written confirmation given that the calculations are based on PREPA's costs.

8. Finally, LUMA understands that per Section 5.6 of the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA"), it is the party called upon to submit the quarterly performance metrics submission on behalf of PREPA. To that end, on February 9, 2022, LUMA met with PREPA and its counsel to agree on a methodology to work together and exchange data to meet the applicable deadlines to file the quarterly performance metrics submissions. Through the PREPA March 3rd Motion, LUMA learned that PREPA unilaterally decided to cancel the work-plan that was agreed upon during the February 9th LUMA-PREPA meeting and decided to request leave from this Energy Bureau to submit the generation metrics separately. LUMA does not agree with this course of action and construes PREPA's request as one outside the agreed to scope of the T&D OMA.

WHEREFORE, LUMA respectfully requests this Honorable Bureau **take notice of the** aforementioned.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 21st day of March, 2022.

I hereby certify that I 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 and to the Independent Consumer Protection Office, through its Director, Mrs. Hannia Rivera, hrivera@jrsp.pr.gov.



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