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

IN RE:

THE UNBUNDLING OF THE ASSETS OF THE PUERTO RICO ELECTRIC POWER AUTHORITY

CASE NO.: NEPR-AP-2018-0004

SUBJECT: Informative Motion Regarding Notice of Motion for Reconsideration of Final Resolution and Order Issued on March 24, 2022.

INFORMATIVE MOTION REGARDING NOTICE OF MOTION FOR RECONSIDERATION OF FINAL RESOLUTION AND ORDER ISSUED ON MARCH 24, 2022

TO THE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC ("ManagementCo") and LUMA Energy ServCo, LLC ("ServCo"), (jointly "LUMA") and respectfully state and request the following:

1. On March 13, 2022, LUMA filed with the Puerto Rico Energy Bureau a *Motion for Reconsideration of Final Resolution and Order of March 24, 2022* ("Motion for Reconsideration"), pursuant to Section 11.01 of Regulation 8543, Regulation on Adjudicative, Notice of Compliance, Rate Review and Investigation Proceeding, and Section 3.15 of the Uniform Administrative Procedure Act of Puerto Rico, Act of 38-2017. **Exhibit 1**. As instructed in the Final Resolution and Order of March 24, 2022 ("Final Resolution and Order"), LUMA filed the motion in-person with the clerk of this Energy Bureau.

2. LUMA hereby informs that on April 13, 2022, it served notice to the intervenors, in this case, namely, Cooperativa Hidroeléctrica de la Montaña, Independent Consumer Protection Office, Puerto Rico Manufacturer's Association, Ecoeléctrica, and the Puerto Electric Power Authority, of a stamped copy of the Motion for Reconsideration through certified mail. **Exhibit 2**.

LUMA also served notice to the intervenors in this case of a stamped copy of the Motion for Reconsideration *via* electronic mail. **Exhibit 3.**

3. Furthermore, as instructed by this Energy Bureau in the Final Resolution and Order, LUMA also served notice of the stamped Motion for Reconsideration to all individuals and/or entities that this Energy Bureau included in its notice of the Final Resolution and Order. **Exhibit 4**. Not all of those individuals and entities are parties to this proceeding nor requested leave to intervene.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take** notice of the above.

In San Juan, Puerto Rico, this 19th day of April 2022.

I hereby certify that I filed this Motion using the electronic filing system of this Puerto Rico Energy Bureau. I hereby certify that I will send notice of this filing to intervenors: Cooperativa Hidroeléctrica de la Montaña, via Ramón Luis Nieves Esq, ramonluisnieves@rlnlegal.com; Office of the Independent Consumer Protection Office, hrivera@jrsp.pr.gov and contratistas@jrsp.pr.gov; Puerto Rico Manufacturer's Association via Manuel Fernández Mejías Esq.,, manuelgabrielfernandez@gmail.com; and Ecoeléctrica via Carlos Colón, Esq., ccf@tcm.law. It is also certified that I will serve notice of this motion to counsel for the Puerto Electric Power Authority, Katiuska Bolaños, kbolanos@diazvaz.law and Joannely Marrero, jmarrero@diazvaz.law.

It is also certified that I will serve a stamped copy of this Informative Motion by electronic mail to the following:

astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, margarita.mercado@us.dlapiper.com, Elias.sostre@aes.com; jesus.bolinaga@aes.com; cfl@mcvpr.com; ivc@mcvpr.com; notices@sonnedix.com; leslie@sonnedix.com; victorluisgonzalez@yahoo.com; tax@sunnova.com; jcmendez@reichardescalera.com; r.martinez@fonroche.fr; gonzalo.rodriguez@gestampren.com; kevin.devlin@patternenergy.com; fortiz@reichardescalera.com; jeff.lewis@terraform.com; mperez@prrenewables.com; cotero@landfillpr.com; geoff.biddick@radiangen.com; hjcruz@urielrenewables.com; carlos.reyes@ecoelectrica.com; meghan.semiao@longroadenergy.com; tracy.deguise@everstreamcapital.com; agraitfe@agraitlawpr.com; h.bobea@fonrochepr.com; ramonluisnieves@rlnlegal.com; hrivera@jrsp.pr.gov; info@sesapr.org;

yan.oquendo@ddec.pr.gov; acarbo@edf.org; pjcleanenergy@gmail.com; nicolas@dexgrid.io; javrua@gmail.com; JavRua@sesapr.org; lmartinez@nrdc.org; thomas.quasius@aptim.com; rtorbert@rmi.org; lionel.orama@upr.edu; noloseus@gmail.com; aconer.pr@gmail.com; dortiz@elpuente.us;wilma.lopez@ddec.pr.gov; gary.holtzer@weil.com; ingridmvila@gmail.com; rstgo2@gmail.com; agc@agcpr.com; presidente@ciapr.org; cpsmith@unidosporutuado.org; jmenen6666@gmail.com; CESA@cleanegroup.org; acasepr@gmail.com; secretario@ddec.pr.gov; julia.mignuccisanchez@gmail.com; professoraviles@gmail.com; gmch24@gmail.com; ausubopr88@gmail.com;carlos.rodriguez@valairlines.com; amaneser2020@gmail.com; acasellas@amgprlaw.com;presidente@camarapr.net; jmarvel@marvelarchitects.com; amassol@gmail.com;jmartin@arcainc.com; eduardo.rivera@afi.pr.gov; leonardo.torres@afi.pr.gov;carsantini@gmail.com; directoralcaldes@gmail.com; imolina@fedalcaldes.com; LCSchwartz@lbl.gov; thomas@fundacionborincana.org; cathykunkel@gmail.com; joseph.paladino@hq.doe.gov; adam.hasz@ee.doe.gov; Sergio.Gonsales@patternenergy.com; Eric.Britton@hq.doe.gov; energiaverdepr@gmail.com; Arnaldo.serrano@aes.com; gustavo.giraldo@aes.com; accounting@everstreamcapital.com; mgrpcorp@gmail.com; jczayas@landfillpr.com; Jeanna.steele@sunrun.com; mildred@liga.coop; rodrigomasses@gmail.com; presidencia-secretarias@segurosmultiples.com; cpsmith@cooperativahidroelectrica.coop; maribel@cooperativahidroelectrica.coop; apoyo@cooperativahidroelectrica.coop; larroyo@earthjustice.org; flcaseupdates@earthjustice.org; gguevara@prsciencetrust.org; hrivera@jrsp.pr.gov, contratistas@jrsp.pr.gov; agraitfe@agraitlawpr.com; rstgo2@gmail.com, pedrosaade5@gmail.com,rolando@bufete-emmanuelli.com; notificaciones@bufete-emmanuelli.com; rhoncat@netscape.net; Marisol.Bonnet@hq.doe.gov; ernesto.rivera-umpierre@hq.doe.gov; elizabeth.arnold@hq.doe.gov; info@icsepr.org; john.jordan@nationalpfg.com; info@marinsacaribbean.com; aconer.pr@gmail.com; pathart@ge.com; contratistas@jrsp.pr.gov; Laura.rozas@us.dlapiper.com;renewableenergy@me.com; rcorrea@prfaa.pr.gov; JGOB@prepa.com; israel.martinezsantiago@fema.dhs.gov; jcintron@cor3.pr.gov; gsalgado@cor3.pr.gov; mario.hurtado@lumamc.com; wayne.stensby@lumamc.com; Ashley.engbloom@lumamc.com; Legal@lumamc.com; jorge.flores@lumapr.com; breanna.wise@lumapr.com;energia@ddec.pr.gov; Francisco.Berrios@ddec.pr.gov; Laura.Diaz@ddec.pr.gov; isabel.medina@ddec.pr.gov; ialicea@sanjuanciudadpatria.com; alescudero@sanjuanciudadpatria.com; oabayamon@yahoo.com**;** quinonesporrata@qaclaw.com; equinones@qaclaw.com; vcandelario@qaclaw.com .

RESPECTFULLY SUBMITTED.

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/s/ Margarita Mercado Echegaray
Margarita Mercado Echegaray
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Exhibit 1

Motion for Reconsideration of Final Resolution and Order of March 24, 2022

EXHIBIT 1

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

2022 APR 13 PM 3:48

IN RE:	CASE NO. NEPR-AP-2018-0004
IN RE: THE UNBUNDLING OF THE ASSETS OF THE PUERTO RICO ELECTRIC POWER AUTHORITY	**SUBJECT: Motion for Reconsideration**

MOTION FOR RECONSIDERATION OF FINAL RESOLUTION AND ORDER OF MARCH 24, 2022

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME now **LUMA Energy, LLC** ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo"), (jointly referred to as "LUMA"), and respectfully state and request the following:

I. Introduction

Pursuant to Section 11.01 of Regulation 8543, Regulation on Adjudicative, Notice of Noncompliance, Rate Review and Investigation Proceedings ("Regulation 8543") and Section 3.15 of the Uniform Administrative Procedure Act for the Government of Puerto Rico, Act 38-2017 ("LPAU" for its Spanish acronym) and within twenty (20) days after this Puerto Rico Energy Bureau ("Energy Bureau") issued a Final Resolution and Order in this proceeding dated March 24, 2022 ("Final Resolution and Order"), LUMA, as a party adversely affected by the Final Resolution and Order, requests reconsideration of several findings and determinations that, as will be explained, are erroneous, amount to an abuse of discretion or are not supported by substantial evidence in the administrative record.

II. Background

On September 4, 2020, this Energy Bureau issued a report on Cost Allocation Methods ("Unbundling Report) and requested comments from stakeholders. Then, on October 14, 2020, this Energy Bureau issued a Resolution and Order on the Procedures for the Development of an Interim Unbundling Rate and Full Unbundling ("October 14th Order"). On December 23, 2020, the Energy Bureau issued a Resolution and Order ("December 23rd Resolution and Order"), whereby it change course with regards to the proceedings set forth in the October 14th Order and determined that it was not necessary to distinguish between an "interim" unbundled rate and a "full" unbundled rate.

On page 2 of the December 23rd Resolution and Order, this Energy Bureau stated the following regarding average and marginal costs:

> Fourth, it is important to recognize that current rate structures, including the fuel cost adjustment ("FCA") and purchased-power cost adjustment ("PPCA") are based on average costs. However, the fair and efficient compensation to a wheeling customer using non-PREPA generation, as well as the impacts on non-participating customers, are determined by the marginal costs imposed or avoided. The cost avoided by a customer replacing PREPA supply with third-party generation would normally be higher than the FCA, since the FCA represents the cost of serving only a fraction of the load (with the rest served by purchased power), and since a reduction in PREPA's load should allow it to turn down the most expensive plants operating in each hour, not just the average mix of plants.

The Energy Bureau then established the procedure that it intended to follow in the proceeding for unbundling of the rates charged by the Puerto Rico Electric Power Authority ("PREPA"). Specifically, the Energy Bureau directed that:

> it is in the public interest to proceed to the unbundling of PREPA's rates as expeditiously as possible so that eligible wheeling customers can purchase their power from a certified EPSC or other eligible independent power producers. Therefore, the Energy Bureau is ordering PREPA to file, no later

than February 1, 2021, one or more proposals for an unbundled rate for wheeling, along with a uniform wheeling service agreement between PREPA and the independent power producer and any other pertinent policy details. Each proposal must include the rate that wheeling customers should continue to pay PREPA for transmission, distribution, billing, and any other relevant costs, such as stranded costs. The rate should also include the credit that the PREPA customer who engages in wheeling will have deducted from their otherwise applicable rate.

Id. at page 3.

In the December 23rd Resolution and Order, this Energy Bureau directed that it would hold an evidentiary proceeding and requested that PREPA file the following:

A. A fully unbundled cost of service study based upon the general techniques of the Unbundling Report, with updated data as feasible and an explanation of any different methodologies used. This study shall allocate revenues among classes, and within each class, allocate revenues among at least the following three categories:

    1. All non-generation costs, not subject to competition from wheeling;
    2. Generation costs avoidable by wheeling-related reduction in PREPA generation requirements;
    3. All other generation costs that will be stranded by reduction in sales;

B. A proposed unbundled tariff and structure consistent with the default unbundling tariff and structure, as originally set forth in Appendix A of the Energy Bureau's October 14 Resolution and further modified below; and

C. Any other proposed unbundling tariffs and structures, containing unbundled rates based on the cost of service study.

Id. at pages 4-5.

With respect to the proposed unbundling tariffs and structures, the Energy Bureau directed that PREPA may file one or more additional proposals. *Id.* at page 4. The Energy Bureau informed that "it is likely that the unbundled credit for customers engaged in wheeling will be no less than the sum of the FCA and the PPCA," with some modifications and clarifications outlined in the December 23rd Resolution and Order. *Id.* at pages 5-8.

On January 5, 2021, the Energy Bureau issued a Resolution and Order that set a procedural calendar for this adjudicative proceeding.

On January 20, 2021, the Energy Bureau granted a request for intervention filed by the Independent Consumer Protection Office ("ICPO"). Then, on February 25, 2021, the Energy Bureau issued a Resolution and Order that granted petitions for intervention that had been filed separately by EcoEléctrica and the Puerto Rico Manufacturer's Association ("PRMA"). In a Resolution and Order of February 26, 2021, the Energy Bureau granted a request by Cooperativa Hidroeléctrica de la Montaña ("Cooperativa"), to intervene in this proceeding.

An amended procedural calendar was issued by the Energy Bureau in a Resolution and Order of February 5, 2021 ("February 5th Procedural Calendar"). In the February 5th Procedural Calendar, this Energy Bureau reiterated that prior to the adjudicative proceeding, PREPA should file the cost of service study, the proposed unbundled tariff consistent with the Energy Bureau's proposal of the default unbundled tariff, and any other proposed unbundled tariff as had been requested in the December 23rd Resolution and Order.

Technical conferences were held on March 15 and April 15, 2021. For both technical conferences, PREPA filed copies of the presentations offered by Guidehouse, Inc. ("Guidehouse"). *See* Motions of March 12, 2021 and April 13, 2021. The presentations informed this Energy Bureau of the status of the proposals to be submitted, including the Marginal Cost of Service Study ("MCoSS").

On May 10, 2021, PREPA filed the following: (1) 2021 Cost of Service Study dated May 10, 2021; (2) Proposal for Unbundled Tariffs Report dated May 10, 2021; (3) Proposal for Uniform Services Agreement Report dated May 10, 2021; and (4) PREPA Unbundling Rate Filing Working

Papers. *See Motion in Compliance with Resolution and Ordered Entered on February 5, 2021*, filed by PREPA on May 10, 2021 ("May 10th Filing").

On May 17, 2021, PREPA filed the Direct Testimony of Mrs. Margot Everett ("Mrs. Everett"), Director for Guidehouse and a revised Table 2-4 to the Proposal for Unbundled Tariff Report. *See* May 17th Filing. Included in this testimony were six exhibits:

- Exhibit A: Resume for Witness Everett,
- Exhibit B: 2021 Cost of Service Study, dated May 10, 2021,
- Exhibit C: Proposals for Unbundled Tariffs Report dated May 10, 2021,
- Exhibit D: Proposal for Uniform Services Agreement Report dated May 10, 2021,
- Exhibit E: PREPA UnbundlinRate_Filing_Working_Papers.xlsx, and
- Exhibit F: Revised Default Unbundled Tariff Sheet.

An Initial Technical Hearing was held on May 18, 2021, where Guidehouse offered a presentation on the May 10th filing. *See Motion to Submit Presentation Projected During the May 18, 2021 Initial Technical Hearing.* On May 28, 2021, PREPA filed a *Motion in Compliance with Bench Order Entered During the May 18th Technical Hearing,* submitting clarifications on marginal energy costs, algorithm of charges to Imbalance Costs, and recommendations on matters to be discussed in workshops prior to implementation of the Uniform Services Agreement.

Per the February 5th Procedural Calendar, as amended by a Resolution and Order issued on June 22, 2021, discovery was conducted between May 10, 2021 and June 30, 2021 ("June 22nd Resolution and Order"). LUMA answered three sets of the Requirements for Information issued by the Energy Bureau (1st Requirement of Information of June 10, 2021, answered on June 21, 2021; 2nd Requirement of Information of June 11, 2021, answered on June 24, 2021; and 3rd

Requirement of Information, answered on June 28, 2021), and one Requirement of Information issued on June 10, 2021 by the ICPO, answered on June 21, 2021.

As set forth in the June 22nd Resolution and Order, intervenors ICPO and PRMA submitted pre-filed testimonies on July 9, 2021; after discovery closed. *See* June 22nd Resolution and Order at page 2.

On July 15, 2021, four days before the evidentiary hearing, the Energy Bureau issued Guidelines and an Agenda for the evidentiary hearing that was scheduled for July 19th and 20th, 2021. On July 17, 2021, two days before the evidentiary hearing, the Energy Bureau issued an amended agenda for the evidentiary hearing.

On July 19, 2021, the PRMA filed a Motion to Amend Direct Testimony of Ms. Yandia Pérez, Vice President. ("PRMA's July 19th Motion to Amend Pre-Filed Testimony"). In said request, the PRMA requested leave to strike a portion of the answer to the sixth question of the pre-filed testimony where electricity rates in the State of Illinois were referenced.

The first day of the evidentiary hearing, on July 19, 2021, Mrs. Mrs. Everett appeared for cross examination by Energy Bureau consultants, Mr. Mark, Lebel and Mr. Paul Chernick, as well as by counsels for intervenors ICPO and Cooperativa. Mr. Dennis Seilhamer conducted proceedings as the Hearing Examiner.

During the evidentiary hearing of July 19, 2021, upon a request by LUMA, the Energy Bureau admitted into evidence three exhibits.[1] **No other exhibits were submitted as evidence by**

[1] The three exhibits are:
Exhibit A- LUMA's Response to question 7 (AP-2018-0004-PREB-LUMA-ROI-SET03-2021-06-24-07) of the Energy Bureau's Second Requirement of information, at pages 9 through 12;

the Energy Bureau or intervenors during the evidentiary hearing. On July 21, 2021, LUMA respectfully submitted a copy of the Exhibits A, B, and C, that were admitted and marked as evidence in this proceeding on July 19, 2021.

During the evidentiary hearing of July 19, 2021, LUMA also requested and was granted leave to file amended versions of tables E-1, E-2, and E-3, of the Summary of the 2021 Cost of Service Study that was submitted on May 17, 2021 as Exhibit B of the Direct Testimony of Mrs. Everett. Tables E-1, E-2, and E-3 are found at pages iv and v of the 2021 Cost of Service Study. As authorized by the Energy Bureau, on July 21, 2021, LUMA submitted revised versions of Tables E-1, E-2, and E-3, of the Summary of the 2021 Cost of Service Study.

On July 20, 2021, LUMA filed an *Urgent Request on Admissibility of Testimony of Mrs. Yandia Pérez of the Puerto Rico Manufacturers Association* ("LUMA's Urgent Request"). LUMA raised concerns regarding the admissibility of the pre-filed testimony of the PRMA and requested that prior to admitting the testimony, the Energy Bureau issue an initial determination of admissibility. On July 20, 2021, the PRMA opposed LUMA's Urgent Request.

The second session of the evidentiary hearing was held on July 20, 2021 and scheduled for cross-examinations of intervenors ICPO and the PRMA. At the outset of the hearing, the Energy Bureau issued a bench ruling denying LUMA's Urgent Request and thus, allowed the testimony of Mrs. Y. Pérez. Mr. Gerardo Cosme for the OIPC and Mrs. Y. Pérez of the PRMA were cross-

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b. Exhibit B- Revised Figure 2-4 Supply Stack by Type, included at page 3 of LUMA's Response to question 1 (AP-2018-0004-ICPO-LUMA-ROI-SET02-2021-06-21-01) of the First Requirement of Information issued by the Independent Consumer Protection Office; and

c. Exhibit C- Amended workpapers filed with LUMA's Response to question 17 (AP-2018-0004-PREB-LUMA-ROI-SET03-2021-06-24-13) of the Third Requirement of Information issued by the Energy Bureau, (pdf text of Response 17 and excel table with revised workpapers).

examined and answered questions on their pre-filed testimonies. Intervenor Cooperativa was not able to cross-examine witnesses as its counsel was not present. *See* Transcript of July 20, 2021, page 64, lines 1-25 and page 65 lines 1-13. Upon conclusion of the testimonies, closing arguments were presented by LUMA and the PRMA. *Id.* page 115 lines 16-25, page 116, page 117 lines 1-22, page 118 lines 16-25, and pages 119-120 and page 121 lines 1-13.

On August 10, 2021 LUMA submitted its final brief ("Final Brief") with legal argumentation supported by a transcript of the evidentiary hearing. ICPO filed its final brief on the same date. Finally, on August 20, 2021, LUMA filed a reply brief to ICPO's final brief. As set forth in the June 22nd Resolution and Order, the last procedural event in this case was August 20, 2021, when public comments and reply briefs were due.

More than four (4) months after the record of the evidentiary hearing closed and final briefs were filed, the Energy Bureau issued a Resolution and Order on January 5, 2022 on Administrative Notice ("January 5th Order"). In said Resolution and Order, the Energy Bureau took judicial knowledge of the following:

1. The rider factors approved for the Fuel Charge Adjustment and Purchased Power Cost Adjustment in the twelve (12) orders issued by the Energy Bureau, as well as the associated reconciliation cost data in each order, as listed in Part III of this Resolution;
2. The contents of the Approved IRP;
3. The data contained within the two-page excerpt titled "Attachment 3 ¬Projected Fuel and Purchased Power Expenses" of the March 16 Motion; and

4. The historic wholesale fuel price data on residual fuel oil and No. 2 fuel oil published by the United States Energy Information Administration, as described in Part III of this Resolution.

On January 25, 2022, LUMA filed a motion entitled *LUMA's Response in Opposition to Resolution and Order of January 5, 2022 on Taking of Administrative Notice and Submission of Clarifications and Additional Information*, whereby LUMA raised procedural objections to the determination issued in to January 5th Order to, *sua sponte*, take administrative notice ("LUMA's January 25th Motion"). LUMA opposed the determination to take administrative notice of the twelve (12) Resolutions and Orders of this Energy Bureau in Case NEPR-MI-2020-0001 setting quarterly and yearly FCA, PPCA and Fuel Oil Subsidy Rider Factors and "Attachment 3 ¬Projected Fuel and Purchased Power Expenses," and submitted additional information and clarifications. Furthermore, LUMA opposed the decision to consider *via* taking of administrative knowledge, the full contents of the Resolution and Order approving the IRP and requests that the Energy Bureau restrict the scope of the determination to take administrative knowledge of the approved IRP. Finally, LUMA opposed the Energy Bureau's determination to take administrative notice of fuel prices.

On February 25, 2022, this Energy Bureau issued a Resolution and Order with the subject matter *Administrative Notice* ("February 25th Order"), whereby it construed LUMA's January 25th Motion as a request to be heard on the taking of administrative notice. This Energy Bureau determined to take notice of several documents related to Case NEPR-MI-2020-0001, clarified on page 5 of the February 25th Order, the information on FCA and PPCA reconciliation as to which it would take administrative notice its and included an Attachment A other data covered by its

determination to take administrative notice. Furthermore, this Energy Bureau granted LUMA's submission of explanations regarding the costs built into the FCA and PPCA. This Energy Bureau maintained its determination to take notice of historic fuel prices trajectories published by the United States Energy Information Administration (EIA) on the U.S. No. 2 Fuel Oil Wholesale Price and the U.S. Residual Fuel Oil Wholesale Price. Finally, this Energy Bureau determine that it was not necessary to take notice of adjudicative facts included in the Final IRP Order.

Per a Resolution and Order issued on February 25, 2022, the transcripts of the evidentiary hearing would be deemed stipulated if the parties did not file objections within seven days. Given that no comments or objections were filed regarding the transcripts, the Energy Bureau determined that they are a correct and faithful transcript of the evidentiary hearing. *See* Final Resolution and Order of March 24, 2022, page 7.

On Thursday, March 24, 2022, this Energy Bureau sent notice of the Final Resolution and Order Establishing Wheeling Tariffs and Further Process. The Final Resolution and Order spans twenty-seven pages and includes several factual findings and conclusions throughout those pages, including references to certain testimony offered during the evidentiary hearing as well as certain documentation.

First, this Energy Bureau declined to adopt both the Unbundling Framework and the Marginal Cost of Service Study presented by PREPA and LUMA and prepared by Guidehouse. *See* Final Resolution and Order at pages 8-10 and 21. Second, this Energy Bureau adopted a Wheeling Tariff, setting the formula for the wheeling credit as the full FCA (fuel cost adjustment rider) an the PPCA (purchased power cost adjustment rider), which requires removing those riders costs from the bill to be issued to wheeling customers. *See id.* at pages 10, 14, 16 and 22.

Second, this Energy Bureau adopted provisions for when wheeling customers return to the provider of last resort ("POLR"). *Id.* at pages 11, 17-18, finding that (i) the change of service date will be either the end of the customer's current billing period or the day of the default by the retail electricity supplier; and (ii) if the customer elects to return to the POLR, the customer may not elect a new retail electricity supplier for 12 months, *id.* at pages 11, 17 and 18.

Third, this Energy Bureau established metering requirements for wheeling customers, finding that they must have hourly interval metering unless specific approval is received from the Energy Bureau for application of an appropriate load shape. *Id.* at pages 11 and 17.

Fourth, the Energy Bureau established that only larger commercial and industrials customers will be eligible. *Id.* at page 11.

Fifth, this Energy Bureau denied PREPA's and LUMA's proposal for monthly balancing charges and annual true-up, and determined instead, that a key goal of the next phase of this proceeding will be to create a feasible method to determine hourly marginal energy costs for monthly balancing charges. *Id.* at page 19. This Energy Bureau found that it is LUMA's responsibility to identify the marginal generation unit(s) in each hour and record the marginal energy costs for periods of less than one hour if the information systems support those computations and that in the absence of actual marginal cost information, LUMA could approximate hourly marginal energy costs. *Id.* at page 19. Furthermore, this Energy Bureau determined that "whichever method is used to determine marginal costs, if the hourly metered load and line losses of a Retail Energy Supplier's ("RES") wheeling customers exceeds the output of its generation sources, LUMA shall charge the RES for excess load at the marginal hour generation cost. If the hourly output of an RES's generation sources exceeds the metered load and line losses

of its wheeling customers, LUMA shall credit the RES for excess generation at 95% of the marginal hourly generation cost." *Id.*

Sixth, this Energy Bureau rejected the annual imbalance charge proposed by PREPA and LUMA and instead adopted the structure of the default proposal --included in the Uniform Services Agreement-- for the annual imbalance charge that computes the imbalance as the sum of all over- and under-deliveries over the course of a year. *Id.* Regarding the annual imbalance charge, this Energy Bureau stated that the details such as the formulas for an imbalance dead zone, would be discussed in the next phase of this proceeding. *Id.* Relatedly, this Energy Bureau determined that there is no need for any additional annual true-up charges as these true-ups can be an unreasonable surprise bill for retail electricity suppliers and should be avoided. *Id.*

Finally, although this Energy Bureau did not explain if further proceedings will be conducted withing the framework of this adjudicative proceeding or otherwise, it determined that further processes were needed to adopt a standard Wheeling Services Agreement. For this, the Energy Bureau requested stakeholder comments by April 25, 2022 and scheduled a technical conference for May 17, 2022 where LUMA is to provide a briefing on methods used for dispatching generation and the availability of hourly data on actual generation dispatch. Per the Final Resolution and Order, this Energy Bureau is considering opening a new non adjudicative proceeding to develop a standard retail supply agreement.

On pages 21 and 22 of the Final Resolution and Order, this Energy Bureau issued findings of facts and conclusions of laws. There are only four findings of facts, which are limited to rejecting the MCoSS; deal with marginal energy generation costs; the lack of evidence to establish specific charges or credits related to generation capacity costs, transmission costs, distribution

costs or ancillary services; and that it is unnecessary to consider issues related to behind-the-meter generation. *Id.* at pages 21-22.

III. Applicable Standard to a Motion for Reconsideration

This Motion for Reconsideration is ruled by Section 11.01 of Regulation 8543, which provides that: "[a]ny party dissatisfied with the Commission's final decision may file a motion for reconsideration before the Commission, which shall state in detail the grounds supporting the petition and the remedy that, according to petitioner, the Commission should have granted." Section 11.01 of Regulation 8543 adds that this request shall be filed and served in accordance with the terms and provisions of the Puerto Rico Uniform Administrative Procedure Act, Act 170 of August 12, 1988, which was repealed and substituted by Act 38-2017, known as the LPAU. The LPAU states on Section 3.15, 3 LPRA § 9655 (2022), that a party adversely affected by a partial or final resolution or order to request reconsideration within 20 days of the notification of the resolution or order.

IV. Discussion

A. Several of the determinations and statements by this Energy Bureau are not supported by the record.

As a threshold procedural matter, LUMA requests that this Energy Bureau reconsider several of the findings and conclusions that are not based on the administrative record. This runs counter to the requirements of the LPAU that extends certain minimum due process guarantees to the adjudicative proceedings conducted by administrative agencies in Puerto Rico. *See*, *Gutiérrez Vázquez v. Hernández et al.*, 172 DPR 232, 245 (2007). The administrative process must be fair and equitable. *See*, *Torres v. Junta de Ingenieros,* 161 DPR 696, 713 (2004). Particularly, Section 3.1 of the LPAU establishes that when an agency must formally adjudicate a controversy, the

agency in question must guarantee the promoted party "(i) the right to timely notice of the charges or complaints or claims against one of the parties; (ii) the right to introduce evidence; (iii) the right to an impartial adjudication; and (iv) ***the right to have the decision based on the record of the case***." Section 3.1 of the LPAU, 3 LPRA § 9641(Emphasis added).

The following is a list of the statements, conclusions and findings of the Final Resolution and Order that are not accompanied by specific citations to the record of the evidentiary hearing or to any other document admitted for the record. LUMA respectfully posits that these statements, conclusions and findings are not properly supported by the administrative record nor by substantial evidence in the administrative record and thus, should be reconsidered:

1. On page 8, the following statements issued in connection with the proposed Unbundling Framework:

    i. "several refinements may be desirable and apparent on the current record;"

    ii. "the proposed unbundling framework does not explicitly address how to handle administrative and general costs (sometimes called overhead costs) such as management, finance, legal and regulatory expenses, and office buildings.

    iii. Second, marginal generation capacity costs could be refined to distinguish between different kinds of system needs - such as overall peaks and year-round reliability."

2. On page 9:

    1. In the presence of load growth, the savings from load reductions may be estimated in the manner that Guidehouse described. However, focusing only on load growth is incorrect.

    2. Capacity costs can be incurred to maintain the ability to serve existing load, so less capacity may be needed if load is shrinking.

    3. The magnitude and nature of the marginal costs may depend on whether load is growing or shrinking and may not always be easy to estimate.

4. There can be a difference between a decline in load and the addition of a new generation unit by an independent power producer.

5. There are uncertainties associated with both of those circumstances, but the uncertainties are different.

3. On page 12:

    1. The basic rate structure of the tariff rider for wheeling customers shall be a credit that reduces the otherwise applicable kWh charge for a given customer.

    2. In all other respects, a wheeling customer shall remain in the same customer class and continue paying their bills to PREPA and LUMA under the applicable rates.

    3. This means that a wheeling customer's contributions to the costs covered by the remainder of their bill will be exactly the same as current practices and will not financially disadvantage customers that do not participate in wheeling.

4. On pages 12-13- Discussion on relevant costs that are covered by rates and could be subject to change due to the introduction of wheeling:

    1. Retail service costs (e.g., metering, billing, customer service) will not be avoided by wheeling, particularly if PREPA/LUMA is still responsible for providing those services. Any increase in complexity of these activities could be recovered from the retail electricity supplier, and not necessarily the wheeling customers.

    2. Distribution costs are unlikely to be affected by wheeling if a generation source is connected to the transmission system. If the generation source is connected to the distribution system, there are potential system impacts. Such impacts would likely not be exclusively due to generation participating in wheeling but could also be caused by other distribution-connected generation, such as generation eligible for net metering. Some, but not necessarily all, of these issues could be addressed in interconnection processes.

    3. Transmission costs might be affected by wheeling, depending on a wide range of circumstances. On one hand, the injection of power at a load center may reduce losses and capital requirements. On the other hand, if generation facilities are far from load centers, that could increase transmission congestion and line losses. Once again, these issues need not be specific to generation participating in wheeling but could also be caused by other transmission-connected generation, such as generation under new PPOAs.

4. Generation capacity costs are more likely to be reduced by introducing wheeling, but that depends on the nature of the generation. Since the Puerto Rico peak load occurs after dark and additional solar capacity will further reduce risk of insufficient daytime capacity, wheeling served by photovoltaic resources may be unlikely to reduce generation capacity costs. However, other types of resources (e.g., thermal, storage) may be utilized so it does meaningfully contribute to resource adequacy requirements and thus lower overall capacity costs.

5. Generation energy costs (e.g., fuel and purchased power) will be avoided by wheeling, by reducing the dispatch of the most expensive power plants. Energy is supplied by operation of PREPA-owned generation facilities, whose fuel costs are recovered through the FCA, and purchased power, whose costs are recovered through the PPCA. In the near term, new generation for wheeling customers is likely to primarily allow PREPA to reduce its generation from existing fossil-fueled plants, and some purchased power costs may be reduced depending on the contract details.

6. Ancillary services include several system operation practices necessary for the reliability and stability of the electric system (e.g., frequency regulation, reactive power, and voltage control). Utilities have long provided ancillary services for all customers, so it was bundled into electricity rates, but in some jurisdictions ancillary services have been turned into competitive market products. The impact of new generation for wheeling may not directly affect the need for ancillary services, however overall changes (such as more significant levels of intermittent resources) can indirectly impact the overall need for different types of ancillary services.

7. The costs of complying with the renewable portfolio standard for the wheeling load will be transferred to the retail electricity supplier. The older version of the wheeling regulation did not specify how the renewable portfolio standard would apply. However, the new version of the wheeling regulation, specifies that, as required by statute, all retail electricity suppliers over the size threshold will be subject to the renewable portfolio standard, just like LUMA and PREPA.

5. On page 18:

    1. "The restrictions on switching back and forth, including the 12-month restriction for any customer going back to the provider of last resort, should prevent any gaming issues."

6. On page 18:

    1. "any generating facility that satisfies the requirements to interconnect to either the transmission or distribution system should be able to participate in wheeling as an

independent power producer, subject to the other conditions and requirements of the wheeling regulation and Energy Bureau orders."

7. On page 19:

    1. "if hourly metered load and line losses of RES's wheeling customers exceeds the output of its generation sources, LUMA shall charge the RES for excess load at the marginal hourly generation cost."

    2. "If the hourly output of the RES's generation sources exceeds the metered load and line losses of its wheeling customers, LUMA shall credit the RES for excess generation at 95% of the marginal hourly generation cost."

8. On page 20:

    1. "A RES that supplied energy in a pattern different from its customer usage would be penalized, even if the RES provided more energy to LUMA at high-value times and its customers took more energy at low-cost times."

9. Findings of Fact 1 and 2:

    1. The marginal cost of service study put forward by Guidehouse has significant flaws, including a failure to consider cost reductions due to reduced demand.

    2. Marginal energy generation costs tend to be higher than average fuel and purchased power costs, as demonstrated by the relationship between projected fuel and purchased power costs per MWh for individual units and the actual FCA and PPCA rates based on average costs.

10. On page 22, conclusions of law 1 through 3:

    1. Using existing rates as the basis for unbundling and wheeling tariffs is a simple and feasible method that can evolve in the future.

    2. Establishing a wheeling credit defined by the sum of the fuel cost adjustment and purchased power cost adjustment is just and reasonable and satisfies the requirements of Article 9 of Regulation 9351.

    3. This definition of a wheeling credit, in conjunction with hourly balancing charges and annual imbalance charges, will protect non-participating ratepayers from adverse financial consequences as required by Act 17-2019, § 5.26.

B. Requests for Reconsideration

The Final Resolution and Order unreasonably rejected PREPA's proposals, endorsed by LUMA, to adopt an Unbundling Framework, presented in *Proposals for Unbundled Tariffs Report*, Exhibit C to Witness Margot Everett's testimony, filed on May 17, 2021 ("Exhibit C to the May 14th Filing"), as well as the MCoSS, presented in Exhibit B to the May 17th Filing ("Exhibit B to May 17th testimony"), which methodology and soundness was not challenged by intervenors, nor any evidence presented by the Energy Bureau or admitted for the administrative record, and a framework for a Uniform Service Agreement. There is substantial uncontested evidence in the administrative record to support that said proposals, which were designed to be considered and approved in conjunction with each other, as opposed to piecemeal, are reasonable and necessary to then adopt a wheeling rate that will avoid cost shifting and enable wheeling services. Conversely, the administrative record does not support the course of action chosen by the Energy Bureau in the Final Resolution and Order that bypasses adoption of the unbundling framework, rejects the cost of service study, declines to adopt a framework for the uniform services agreement, and sets a wheeling credit that is not based on an analysis of cost reflective marginal energy costs. LUMA respectfully posits that the Energy Bureau should reconsider its determinations.

1. Rejection of the Proposed Unbundling Framework

Since at least the Resolution and Order issued on September 4, 2020 in this proceeding, this honorable Energy Bureau clearly stated that this proceeding sought to **unbundle rates** ("September 24th Order"). To wit, this Energy Bureau stated that "[t]his proceeding to implement electric energy wheeling will require PREPA to unbundle its rates and allocate costs by function (distribution, transmission, and generation) and by customer class (residential, commercial,

industrial, etc.) as well as to identify any non-by passable charges (such as the transition charge) and stranded costs, if any." *See* September 24th Order at page 2. Thereafter, in a Resolution and Order dated December 23, 2020, this Energy Bureau announced that it had "determined that it is in the public interest to proceed to the unbundling of PREPA's rates as expeditiously as possible so that eligible wheeling customers can purchase their power from a certified [Electric Power Service Company] EPSC or other eligible independent power producers". *See* December 23rd Resolution and Order at page 3. To that end, this Energy Bureau ordered PREPA to file one or more proposals for an unbundled rate and a uniform wheeling service agreement. *Id.* Per the December 23rd Resolution and Order, an evidentiary proceeding would be held to consider, among others, the unbundled rate proposals and their reasonableness for all customers and whether a capacity credit was appropriate and the level at which it should be set. *Id.* at page 4. In the February 5th Procedural Calendar, this Energy Bureau ordered PREPA to submit a fully unbundled cost of service study, a proposed unbundled tariff and structure consistent with the default unbundling tariff and structure, and any other proposed unbundling tariffs and structures, containing unbundled rates based on the cost of service study. *See* February 5th Procedural Calendar at page 2.

Despite the fact that this Energy Bureau initiated this proceeding to unbundle PREPA's rates and to that end issued several orders that required PREPA to incur in costs associated with preparing a cost of service study that would enable unbundling of rates, in the Final Resolution and Order this Energy Bureau both declined to adopt the unbundling framework proposed by PREPA and then LUMA and prepared by consultants Guidehouse, and rejected the cost of service study. LUMA requests reconsideration of both rulings. LUMA respectfully submits that the

weight of the administrative record in this proceeding, including the May 10th and May 17th filings and the testimonies presented during the evidentiary hearings, require adoption of the unbundling framework which is uncontested on the record. Neither intervenors nor the Energy Bureau presented evidence for the record to challenge the proposed unbundling framework nor support a finding that it should be rejected.

As will be shown, the Final Resolution and Order does not rely on or reference substantial admissible evidence that could render supported or reasonable, the determination to reject the unbundling framework and to, at the very end of this proceeding and after considerable resources were expended by PREPA and then LUMA on behalf of PREPA, subvert the prior orders that required PREPA to unbundle rates in order to adopt a rate or charge for wheeling customers. The record does not support a determination that it is proper or reasonable to forego unbundling and proceed to set a wheeling credit based on the FCA and PPCA rider costs.

On page 8 of the Final Resolution and Order, this Energy Bureau determined **but did not explain with reference to substantial evidence admitted for the record,** that "only certain portions of the unbundling framework are directly pertinent to the Energy Bureau's decision, primarily because of data limitations" and that it does not need to be further addressed because of its limited relevance. LUMA respectfully disagrees with said statement and with this Energy Bureau's determination to decline to adopt the unbundling framework proposed in Exhibit C of the May 17th filing. The purpose of requiring an unbundling framework was to set up the structure for unbundling while allowing for the refinement of data over time. As noted in LUMA's Final Brief on page 13, "the Unbundled Framework allows for improvements in underlying calculations needed to quantify the values, allowing for the flexibility to make improvements while creating

clarity and stability." Without the adoption of this framework, it is not clear how values such as a marginal capacity costs and customer costs will be incorporated into the wheeling rate if they are determined to have a non-zero value in the future. Absent this unbundling framework, all costs should be tracked and compared to the administratively set wheeling credit to ensure that the credit appropriately includes all the applicable costs associated with wheeling and does not create a cost shift for non-participants.

It bears noting that approval of the unbundling framework does not require that the Energy Bureau immediately adopt the same. However, it would provide LUMA the opportunity to collect updated data to further the interests of this Energy Bureau to enable wheeling based on unbundled rates.

Given that the purpose of establishing the unbundling framework was to set up the structure for unbundling while allowing for the refinement of data over time, any concerns that this Energy Bureau may have regarding data limitations and how to handle administrative and general costs, may be addressed without need to reject the framework. *See* Resolution and Order of February 8, 2019 ("Having the correct information to allocate costs properly across customer classes is essential to ensure that wheeling does not result in technical problems, rate increases or any other unfair cross-subsidization between or among customer classes."). Importantly, the Final Resolution and Order does not explain with reference to the record why or to what extent the **methodology of the Unbundling Framework** should be rejected. Relatedly, the Final Resolution and Order does not mention any evidence that supports its rationale that "several refinements may be desirable and apparent on the current record," and that the unbundling framework does not

expressly address how to handle administrative and general costs. *See* Final Resolution and Order at page 8.

The determination to reject the unbundling framework that was requested by the Energy Bureau and submitted **without opposition** is not based on substantial evidence and is unreasonable. *See e.g. Otero v. Toyota*, 163 DPR 716, 727-28 (2005) (stating that administrative adjudicative decisions should be reasonable, that applying a reasonableness standard, factual determinations must be supported by substantial evidence on the administrative record, and stating that substantial evidence is defined as relevant evidence that a reasonable mind could accept as adequate to support a conclusion); *see also ECP Incorporated v. OCS*, 205 D.P.R. 268, 281-282 (2020) (stating the general rule that decisions by administrative agencies should be reasonable and based on the administrative record). The May 10th and 17th filings, the pre-filed testimony of Mrs. Everett (Lines 112-140) and her testimony during the evidentiary hearing, *see* Transcript, July 19, 2021 ("July 19th Transcript"), page 127, lines 23-25; page 128, lines 1-4; page 151, lines 22-25; page 152, lines 1-7, support the adoption of the Unbundling Framework and weigh in favor of reconsideration.

2. Rejection of the Marginal Cost of Service Study

LUMA also requests reconsideration of the determination on pages 8 through 9 of the Final Resolution and Order and the Findings of Facts 1 and 2, whereby this Energy Bureau rejected the MCoSS. As stated above, this Energy Bureau required PREPA to prepare and file the MCoSS. Considerable resources were allocated to address the orders of this Energy Bureau per the understanding that the MCoSS was a necessary component to unbundling rates and for the adoption of a wheeling credit. *See* Resolution and Order of February 9, 2019 ("It is imperative

that studies be undertaken to inform the proceeding on unbundling for the establishment of wheeling.").

The determination to reject the MCoSS and proceed to establish the wheeling rate or credit, is an arbitrary change in the Energy Bureau's announced position on what was necessary to unbundle rates and adopt an energy wheeling credit set. *See e.g. Kisor v. Wilkie*, 139 S.Ct. 2400, 2417-18 (2019) (holding in the context of judicial deference to interpretations by administrative agencies that: "a court may not defer to a new interpretation, whether or not introduced in litigation, that creates "unfair surprise" to regulated parties .... That disruption of expectations may occur when an agency substitutes one view of a rule for another. We have therefore only rarely given ... deference to an agency construction 'conflict[ing] with a prior' one."). Without a developed explanation based on substantial evidence on the record, this Energy Bureau abandoned its prior ruling in the December 23rd Resolution and Order on the importance of establishing marginal costs: "the fair and efficient compensation to a wheeling customer using non-PREPA generation, as well as the impacts on non-participating customers, are determined by the marginal costs imposed or avoided." *See* December 23rd Resolution and Order at page 2.

The Final Resolution and Order is unreasonable in as much as it opts for the adoption of the wheeling credit, set on the basis of the FCA and PPCA riders, an option that was signaled by the Energy Bureau as preferable at the outset of the proceeding before evidence was filed. The Final Resolution and Order therefore renders ineffectual and superfluous the evidentiary hearing and related processes that required time, resources, and efforts to develop a comprehensive unbundling framework and a MCoSS that would serve as foundations to establish a wheeling credit that is fair and reasonable and avoids cost shifting.

The determination by this Energy Bureau to demand and then reject a MCoSS is unreasonable. As the record shows and explained above, the Energy Bureau required a regulated party –PREPA and LUMA--, both in the December 20th and February 5th orders referenced above, to conduct a cost of service study. Thereafter, on March 15, 2021 and April 15, 2021, PREPA's consultants, Guidehouse, appeared at technical conferences to present the status of the marginal cost of service study and answer questions. It is uncontested that Guidehouse **did not receive substantive feedback or further orders or requests for clarifications from the Energy Bureau after it was reported that preliminary reports showed zero marginal capacity costs over the next five years.** *See* Presentation for Technical Conference of March 15, 2022, at page 7; *see also* May 17th Filing, Testimony of Mrs. Everett, lines 107-111.

Moreover, during the process to submit pre-filed testimonies and throughout the evidentiary hearings, which was the time to submit evidence to counter the MCoSS, the Energy Bureau and intervenors **did not** present evidence to rebut the MCoSS, its methodology or conclusions. Importantly, the Energy Bureau and intervenors did not submit pre-filed testimonies or evidence to support the determination that the FCA and PPCA are reasonable replacements for the MCoSS proposal by Guidehouse. Thus, although the Final Resolution and Order identifies refinements that may be adopted over time when additional data is available, it does not support the conclusion that it is reasonable or proper to adopt the wheeling credit without consideration of the MCoSS. It is important to note that refinements to the MCoSS can also be made over time when additional data is available, as was established by LUMA in its Final Brief. *See* LUMA's Final Brief at page 21. Adopting the FCA and PPCA does not allow for the improvement over

time. Conversely, the MCoSS allows for improvements and the Final Resolution and Order failed to consider this scenario.

In rejecting the MCoSS this Energy Bureau relied on several statements on marginal capacity costs and load growth that are not supported by citations to the record and thus, are insufficient to sustain the determination to reject the MCoSS. These include the following statements found on page 9 of the Final Resolution and Order as well as conclusions of law 1 through 3.

- In the presence of load growth, the savings from load reductions may be estimated in the manner that Guidehouse described.
- However, focusing only on load growth is incorrect. Capacity costs can be incurred to maintain the ability to serve existing load, so less capacity may be needed if load is shrinking.
- The magnitude and nature of the marginal costs may depend on whether load is growing or shrinking and may not always be easy to estimate.
- There can be a difference between a decline in load and the addition of a new generation unit by an independent power producer.
- There are uncertainties associated with both of those circumstances, but the uncertainties are different.

It is respectfully submitted this Energy Bureau erred and abused its discretion in issuing the aforementioned statements that lack reference to the record or to evidence that was admitted for the record. It is arbitrary and unreasonable for an administrative agency to issue a determination in an adjudicative proceeding that lacks reference to evidence on the record as required by the LPAU. LUMA's right to procedural due process and to properly contest these findings are curtailed, given the lack of citations or references to the record that may lend support to the aforementioned findings, particularly because the May 10th and May 17th filings were not refuted by testimony or documentary evidence throughout the proceedings. LUMA requests that the

Energy Bureau reconsider the aforementioned findings and remove them from its final determination.

On pages 9 through 10 of the Final Resolution and Order, the Energy Bureau further stated that "focusing only on load growth" for determining marginal capacity costs is incorrect, that future work on marginal cost or avoided cost analysis should consider the possibility of marginal cost savings from declining load and "should not hold the IRP Order as an independent and fixed input." While there could be a scenario where there are cost savings from declining load, there could also be a scenario where costs increase due to generator unavailability. Given this uncertainty and the lack of data to support these scenarios at this time, actual marginal energy costs should be tracked and compared to the wheeling credit. Absent a methodology, there is no framework to identify marginal costs to compare them to the wheeling credit. Thus, the Energy Bureau's findings on potential costs savings do not support the overriding determination that the MCoSS should be rejected in its entirety.

In rejecting the MCoSS based on the cost-savings rationale, on page 9 of the Final Resolution and Order, this Energy Bureau quoted a portion of the testimony by Mrs. Everett of July 19, 2021 on cross-examination, to state that she admitted that retirement of units could save costs: "selling and some O&M costs would be saved." Reliance on a portion of the testimony amounts to an abuse of discretion in construing the testimony or Mrs. Everett who qualified and explained her statement and provided additional testimony regarding marginal costs and plant retirements. The full testimony was as follows:

> Certainly, selling land and some O&M costs would be saved, but they would potentially be offset by decommissioning costs. It really is a plant-by-plant assessment. And, again, as I mentioned, when you think about how these --the treatment of these costs flow into a cost

> of-service analysis, this is all being done upstream, and it's being done in the IRP, the Integrated Resources Planning process.
> And what you're doing in that process is you're making this assessment that says, "I have this load that I need to cover, and I have these resources that I can use to cover it, and here's the cost of doing so."· If there's an opportunity to retire a plant because it's not needed and the cost savings of that plant are relevant, that would flow into the cost-of- service study.· So, to the extent that those decisions have been made in the IRP, they would be included in the cost-of-service study that we've provided and would not be incremental to anything that we submitted in the cost-of- service.

See July 19th Transcript, page 17 lines 6-25 and page 18, lines 1-3.

Furthermore, this Energy Bureau did not properly consider in its Final Resolution and Order **the uncontested** explanations by Mrs. Everett regarding the interrelation between life-cycle replacement costs and marginal costs:

> So, life-cycle replacement costs are not part of the marginal cost because marginal cost is creating that linkage between needed load and meeting that with incremental capacity. Life- cycle replacement exists to maintain the availability of all plants for all customers. And so, when you're doing your integrated resource planning process, you're looking at plant replacements along with new plant built. And so those life-cycle costs are going to the life-cycle replacement cost are integrated into the IRP.· The decision making around those life-cycle replacement costs are integrated into the IRP. If load is lower, there is a potential that a plant would then be chosen to be retired. But, again, that's sort of a hypothetical in a cost of service. As I mentioned before, cost-of- service studies are a moment in time with a forecast. And so, to the extent that those types of decisions and anticipated load. Departures are integrated in the IRP, then they are integrated into the cost of service.· So that's what we're trying to say, is that just because load depart doesn't mean that you avoid a life-cycle replacement cost necessarily.

See July 19th Transcript at page 68 lines 5-25 and page 69 lines 1-5.

This Energy Bureau erred and abused its discretion in failing to consider the totality of the evidence. *See Assoc. Ins. Agencies inc. v. Com. Seguros de PR,* 144 DPR 425, 437 (1997) (holding

that that decisions by administrative agencies should reflect that the agency considered the totality of the evidence); *Capó Cruz v. Junta*, 204 DPR 581, 591 (2020) (same); *see also Lyons Villanueva v. Departamento de Correción*, 206 DPR 931, 934 (2021) (explaining that factual determinations by administrative agencies must by justified on the basis of the evidence, the topics subject to administrative notice and all that transpired during the hearing that was incorporated into the administrative record).

Additionally, the Energy Bureau's determination to rely on a portion of the testimony of Mrs. Everett on savings from decommissioning plants is beyond the scope of what was requested in the December 23rd Resolution and Order as it requires scenario analyses of the marginal costs associated with different scenarios of load reduction. That is not reasonably included in what the Energy Bureau requested from PREPA in the December 23rd Resolution and Order. The MCoSS is not designed to run such scenarios, but to aid the Energy Bureau in unbundling costs, develop a means to allocate costs among customer classes in accordance with their contribution to the cost of service, inform the rate design, create rates that reflect costs, and determine the expected incremental costs to serve individual customers. *See* MCoSS, Exhibit B to May 17th testimony at pages 1, 3. In any event, this Energy Bureau should not reject the methodology of the MCoSS based on a disagreement on labeling on marginal and non-marginal costs.

Importantly, in issuing its finding that maintenance and operating costs may be saved if load is decreasing, the Energy Bureau did not identify any other admissible evidence presented on the record that could refute the testimony of Mrs. Everett on decommissioning costs. Neither the Energy Bureau nor intervenors submitted evidence to support the Energy Bureau's conclusion to reject the MCoSS based on a disagreement with the results of the MCoSS that marginal capacity

costs are zero due to absence of load growth. It is respectfully submitted that the Energy Bureau erred and abused its discretion in failing to recognize the uncontested testimony of Mrs. Everett cited above, which established that decommissioning costs would offset savings. Relatedly, POLR requirements that this Energy Bureau adopted in the Final Resolution and Order would require maintenance of capacity to serve returning customers and thus, load is not permanently reduced. *See* July 19th Transcript Page 52 lines 11-25 and page 53 lines 1-3 and Page 55 line 22–25 and page 56 line 1-13. POLR requirements to serve load to returning customers, show there is no reduction in capacity and no way for the POLR to build less capacity.

Regardless of the characterization of the IRP regarding plant retirements that was used for the **first time in this proceeding** on page 10 of the Final Resolution, the uncontested record supports the soundness of the conclusion of the MCoSS regarding marginal capacity costs, as the aforementioned testimony by Mrs. Everett is uncontested and supports the finding that life-cycle replacement costs are not a part of the marginal costs. This Energy Bureau erred in rejecting the MCoSS and adopting a determination on marginal energy costs that is not supported by any testimonial or documentary evidence admitted to the administrative record and elicits scenario analysis that were not requested in the December 23rd Resolution and Order. Importantly, the Final Resolution and Order does not identify any evidence on the record to establish the existence of costs related to meeting incremental load, that could warrant rejection of the results of the MCoSS.

For the reasons stated above, LUMA requests reconsideration of the Energy Bureau's findings of fact 1 and 2 included on page 21 of the Final Resolution and Order, where this Energy Bureau determined that:

1. The marginal cost of service study put forward by Guidehouse has significant flaws, including a failure to consider cost reductions due to reduced demand, and

2. Marginal energy generation costs tend to be higher than average fuel and purchased power costs, as demonstrated by the relationship between projected fuel and purchased power costs per MWh for individual units and the actual FCA and PPCA rates based on average costs.

LUMA also requests reconsideration of the statement on page 8 of the Final Resolution and Order that "[t]he sole non-zero marginal cost number identified by Guidehouse in their final table, which is for marginal energy costs, is not based on a forward-looking marginal cost technique but rather a weighted average of the FCA and PPCA riders based on generation capacity." The MCoSS includes the best approximation to the methodology given the data presented. The calculation takes into account only the forward looking energy costs and is based on the weighted average based on generation capacity, but the rationale for doing so was set forth both in the MCoSS Exhibit B to May 17th testimony, Table 2-1 at page 9 and in the uncontested testimony of Mrs. Everett who explained in her pre-filed direct testimony that "[t]he approach used was a Discounted Total Investment Method (DTIM) that relies on the development of a numerical relationship between costs related to load growth and the driver of that load growth." Guidehouse determined that measuring marginal costs of energy was the appropriate approach to developing unbundled rates and an appropriate supply credit that represents the avoided costs of a customer leaving PREPA's system for an alternative energy supply. *See* Exhibit A to May 17th Submission, lines 97-102. The proposed approach to the MCoSS was presented at the Technical Conferences held in this proceeding no alternatives were proposed by this Energy Bureau or intervenors. In fact, as noted in the direct testimony of Mrs. Everett's, which is uncontested, there was little feedback in the Technical Conferences, and this statement was not challenged in the hearings. *See*

Exhibit A to May 17th Submission, lines 107 to 111 ("Q15.What information did you receive from the Energy Bureau's experts during the Technical Conferences that helped in the development of the 2021 Cost of Service Study? A15.We received limited feedback during the Technical Conferences regarding the cost of services results, but we listened to the questions and tried to address some of those questions directly in our proposal."); *see* July 19th Transcript page 133, lines 5-25 ("This cost-of-service approach that we took, we used a methodology that requires looking at a forecast of load relative to a forecast of capital additions. And that analysis we were able to complete. We completed it completely, and it's transparent in our work papers, how we went about it. So our approach, our methodology and the data that we used in that were not impacted. The only proxy that we used in that -- you know, we are transparent about the proxys that we used, and the one that was noted earlier, which was the load data from the IRP that talks about when the contribution of coincident -- what coincident peak and non-coincident peak was. So, what I meant by that is that I still -- I support our submission even though there are some challenges with the data."). Thus, this Energy Bureau's rejection of the methodology underlying the MCoSS is arbitrary and unreasonable, as the Energy Bureau did not consider the totality of the evidence and is not based on substantial evidence that may be found in the administrative record.

3. Adoption of the Default Wheeling Tariff

In the Final Resolution and Order, this Energy Bureau determined that "establishing the formula for the wheeling credit as the sum of the full FCA and full PPCA is just and reasonable, and combined with balancing charges and other provisions…will protect rate ratepayers who do not participate in wheeling from adverse financial impacts. Marginal energy costs are higher than average energy costs, this means that setting the credit based on an average cost calculation, as

represented by the FCA and PPCA, will tend to be conservative, reducing the risk that non-participating customers could be impacted by wheeling. The PPCA does include some fixed costs, which do not vary with energy use and reduce the difference between marginal energy costs and the sum of FCA and PPCA." *See* Final Resolution and Order at page 16. LUMA respectfully requests reconsideration of these statements, of the determination that the full FCA and PPCA is a reasonable proxy for marginal energy costs for the wheeling credit and the conclusions of law 1 through 3 on page 22 of the Final Resolution and Order, that reproduce the conclusion that it is reasonable to fix the energy wheeling credit on the basis of the current FCA and PPCA riders.[2]

During the evidentiary hearing, no evidence was filed in support of the default wheeling tariff or framework that this Energy Bureau adopted in the Final Resolution and Order. To the contrary, the only testimony admitted regarding the wheeling tariff was in the form of the recommendations by Mrs. Everett who testified in support of a supply credit that is less than the rate components. *See* May 17th Filing, Pre-Filed Testimony of Mrs. Everett, lines 231-33. *See also May* 17th Filing, Pre-Filed Testimony of Mrs. Everett, lines 78-79 ("PREPA encourages the Energy Bureau to consider the results of the marginal cost of service study in the development of the supply credit."). Although throughout this proceeding the Energy Bureau requested that a default

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[2] The conclusion of law on page 22 are:

1. Using existing rates as the basis for unbundling and wheeling tariffs is a simple and feasible method that can evolve in the future.

2. Establishing a wheeling credit defined by the sum of the fuel cost adjustment and purchased power cost adjustment is just and reasonable and satisfies the requirements of Article 9 of Regulation 9351.

3. This definition of a wheeling credit, in conjunction with hourly balancing charges and annual imbalance charges, will protect non-participating ratepayers from adverse financial consequences as required by Act 17-2019, § 5.26.

tariff equaling the sum of the FCA and PPCA riders be filed, neither the Energy Bureau nor intervenors submitted evidence in support of this option. Rather, there is substantial evidence on the record to contest the reasonableness of said option and advocates for alternate proposals. *See* Exhibit C to the May 17th Filing at pages 3-4 (explaining the shortcomings of the Default Tariff and explaining the benefits of the Alternative Unbundled Tariff). In these circumstances, the rejection of the proposed Alternative Unbundled Tariff amounts to an arbitrary and unreasonable decision by this Energy Bureau. Given that the weight of the administrative record supports the Alternative Unbundled Tariff, if the Energy Bureau had concerns with elements of the same, the more reasonable course of action would have been to propose or request revisions even after the technical conferences that were held prior to the evidentiary hearings, rather than reject the proposal as a whole and adopt a default tariff that none of the parties supported and whose justifications and implementation to avoid cost shifting are nowhere to be found on the administrative record given that no supporting evidence was submitted.

The Energy Bureau erred in disregarding the uncontested evidence and adopting the default wheeling credit that it proposed in the December 23rd Order, but that lacks support in the totality of the administrative record. The filings by PREPA, the pre-filed testimonies and the record of the evidentiary hearing would be rendered ineffectual if the Final Resolution and Order is maintained whereby the Energy Bureau adopts a default wheeling tariff that was not supported by PREPA and as to which the Energy Bureau did not submit evidence other than its initial statement in the December 23rd Order.

Importantly, the Final Resolution and Order lacks support for the conclusion that the adopted wheeling rate tariff will provide a just reasonable rate and is protecting non-participating

ratepayers. The default tariff adopted by this Energy Bureau is overly simplistic and does not consider costs that the Uniform Services Agreement proposed by PREPA and LUMA outlined, such as ancillary and administrative costs. The administrative record, including the May 17th filing and the testimony presented in the evidentiary hearing, clearly support the conclusion that the wheeling credit should consider true up costs. Mrs. Everett testified to that effect and no other testimony or documentary evidence was admitted to the contrary. Thus, the determination by this Energy Bureau to adopt a tariff that is not designed to cover costs for ancillary services and administrative costs, is not based on the record, and amounts to an arbitrary determination.

The uncontested testimony of Mrs. Everett supports the conclusion that the FCA and PPCA include fixed costs embedded in certain contracts such as PPOAs and the inclusion of these costs could increase in the future if generation contracts include take or pay provisions. Take or Pay provisions show that there are fixed costs that do not change with load and should be removed as stated in the testimony of Mrs. Everett. *See* July 19th Transcript, page 90 lines 23-25 and page 91 lines 1-4. The inclusion of these costs in the FCA and PPCA could lead to scenarios where average costs would be higher than marginal costs. *See* May 17th Filing, Pre-Filed Testimony of Mrs. Everett, lines 218-224. For context, due to the fixed costs, non-wheeling customers will have to pay more as the fixed costs that would now bespread over less kWh. It also bears noting that the FCA and PPCA include fixed costs that non-wheeling customers would not pay. In several jurisdictions, for example, high penetration of low-cost solar has depressed mid-day energy costs below average costs in often, into negative pricing *See* July 19th Transcript, page 76 line 25, page 77 lines 1-25, page 78 lines 1-12. In these situations, the wheeling credit would be too high and

would lead to cost-shifting to non-wheeling customers. The uncontested record thus refutes the conclusion by this Energy Bureau that marginal energy costs are higher than average energy costs.

The determination on page 16 of the Final Resolution and Order the default the credit is based on an average cost calculation, as represented by the FCA and PPCA, is misleading or imprecise, given that the FCA and PPCA are based on a forecasted cost for the next quarter plus a reconcilation from the previous three months and averaged over the quarter. This is different than the average cost.

As noted in LUMA's Final Brief on page 29, "the sum of the FCA and PCA exclusively does not establish a linkage between the supply credit and avoided costs" as it includes certain costs that wheeling customers should not be able to avoid. LUMA's Final Brief and Exhibit D to the May 17 Filing at page 29, also highlight the substantial changes in the sector, including the creation of GenCo that will own and operate PREPA's legacy thermal generation assets and sell supply to LUMA. These sector changes could result in changes to compensation structures that may impact the FCA and PPCA and therefore the wheeling credit.

LUMA also requests reconsideration of the Energy Bureau's determination on page 15 of the Final Resolution and Order that "that Guidehouse's capacity-weighting proposal does not represent an appropriate marginal energy cost estimate to define the credit for wheeling customers." First, no evidence has been presented on the record to contest the assumptions of this method. Second, the workpapers submitted to this Energy Bureau support the methodology.

The FCA and PPCA include reconciliation adjustments from the previous quarter. In this regard, the Energy Bureau stated on page 16 of the Final Resolution and Order that including reconciliation costs in the credit could "correct for under compensation in the previous period, or

sometimes, including a reconciliation credit in the wheeling credit could correct for overcompensation in the previous period" and that it "is possible that including reconciliation adjustments in the wheeling credit would even out." On page 17 of the Final Resolution and Order, the Energy Bureau further states that the "reconciliations are unlikely to distort incentives or allow gaming, since neither customers nor retail electricity suppliers will be able to time the adoption of wheeling to take advantage of reconciliations." Respectfully, the aforementioned statements should be reconsidered.

First, the statements are not grounded on substantial evidence on the administrative record. Neither the Energy Bureau nor intervenors submitted evidence to support these inferences and the Final Resolution and Order lacks reference or citations to any such evidence. In issuing these statements, this Energy Bureau did not consider that it is also "possible" that the default wheeling credit will not even out and it is more likely that it will lead to gaming. One should expect that the RESs and the wheeling customers will pay close attention to these rates and economic behavior by wheeling customers will lead to exactly the opposite reaction intended. For example, a reconciliation adjustment that increases the rate would result in a price signal to the non-wheeling customer to consume less electricity. However, for a wheeling customer, the higher the sum of the PPCA and FCA, the larger the credit, so the wheeling customer is incentivized to increase consumption during these quarters and reduce consumption when the PPCA and FCA are lower. Consequently, non-wheeling customers will bear a larger portion of these costs. Put another way, in a month where there is a large reconcilation charged, this means that the wheeling customer's credit increases. This would incentivize the wheeling customer to consume more whereas for a non-wheeling customer it would incentivize them to use less. If gaming occurs, then the effect is

that the reconciliation over time will be paid by the non-participating customers. *For evidence on the need for clear rules to avoid gaming see* July 19th Transcript page 148 lines 22-25 and page 149 lines 1-5.

As noted on page 30 of LUMA's Final Brief, there are several shortcomings associated with the default tariff, including the masking of the forward-looking energy costs due to the inclusion of backward-looking costs and the backward-looking costs have already occurred and thus cannot be avoided. While these adjustments could even out over time, as the Energy Bureau has indicated, LUMA respectfully disagrees with the Energy Bureau's decision not to separate the prior period adjustments into a separate rider that is collected from all customers.

As the May 17th Filing and the pre-filed testimony of Mrs. Everett show, there is significant uncertainty in the sector and the cost structure of the sector will be impacted by changing rules. Thus, it is important to provide a framework that allows for the updating of this administratively set credit as more information and better data becomes available. *See* Exhibit C to May 17th Filing, Sections 3.1 and 3.2 at pages 25-26 and Exhibit D to the May 17th Filing, Section 4, Table 4-1 at pages 29-30 (the challenges include sector changes, stranded costs and POLR obligations, billing, cost shifts, customer supply and ancillary service costs). *See also* LUMA's Final Brief at pages 22-26. In addition, the Energy Bureau has acknowledged that the wheeling credit is a proxy for marginal energy cost due to the lack of data and, as a result, this proposed credit does not reflect the actual locational and temporal value of energy to the grid and to customers.

For all of the above reasons, LUMA requests that this Energy Bureau reconsider its determination to adopt the default wheeling rate. LUMA proposes to first set up a tracking mechanism to monitor the actual costs and value associated with wheeling. LUMA would track

these costs in a variance account for potential future dispensation with approval from the Energy Bureau.

4. POLR Obligations

On page 17 of the Final Resolution and Order, this Energy Bureau determined that the change of service date "will be at the end of a customer's billing period, except in case of a default by the retail electricity supplier. If a default occurs, the change of service date will be the day of default." This determination is problematic in practice given that it would mean that LUMA would have to be prepared to take back all the wheeling customers within a one-day notice. *See* July 9th Transcript page 52 lines 11-25 and page 53 lines 1-3. Also, on page 17 through 18 of the Final Resolution and Order, this Energy Bureau determined that "no special provisions need be made for a new rate upon return to the provider of last resort." Furthermore, the Energy Bureau declined "to include any charges on wheeling customers in the tariff rider for switching back to the provider of last resort." *See* Final Resolution and Order at page 18. LUMA requests reconsideration of these determinations that are not supported by substantial evidence on the record. To the contrary, the substantial evidence on the record, establishes the burden on the POLR when customers return.

For example, on page 52, lines 11-16 and 22-25, page 53 lines 1-3, page 55, lines 11-25, page 56, lines 1-13, page 59 lines 5-14, and page 141 lines 2-13 of her testimony during the July 19th evidentiary hearing, Mrs. Everett explained that the capacity needs of the POLR only change if the customer who chooses and alternative supplier never returns to the POLR, but if the customer returns, the POLR has the incremental cost. Mrs. Everett further explained that "[t]he capacity obligation of a customer returning could be harmful to the customers that are currently -- and this is one of the reasons why you typically see indirect access markets either a separate rate that the

customer who returned has to go on, a commitment by that customer to stay with the POLR provider once they come back on, or some sort of a buy in back into the portfolio." *See id.,* page 60 lines 20-25, page 61 lines 1-5. Additionally, Mrs. Everett testified that there are two opportunities for a solution: "One is to rely solely on an energy credit, and energy-related credit. The other is, if a customer returns, that they perhaps end up on a separate rate than they would have. So if they were on a standard rate offering and they left and the came back, they would not be on that standard offering. They would be on a separate rate that's reflective of the incremental costs that are being incurred to serve them." *Id.* page 152 lines 14-24. A final caution by Mrs. Everett that is not incorporated in the Final Resolution and Order is the following:

> But one of the things -- again, a caution that with all of these types of markets, is making sure that there's planning going on such that you don't end up in the situation that we saw in some of these other jurisdictions, where supply was problematic, is making sure that there --that the responsibility for planning and ensuring the reliability of power for Puerto Rico is uniformly shared between the POLR and the ESPs or there are mechanisms put in place that, if the POLR is responsible for ensuring reliability, that those charges go to the ESP. So that's another consideration. We need to make sure that -- my biggest concern when you go to deregulation is the lack of regulation over reliability.

Id. page 152 lines 25 and page 153 lines 1-15.

As noted in LUMA's Final Brief on page 36 "when a customer returns, LUMA may not have the capacity to serve that customer as they did not make the required investment…Therefore, when a customer returns to the POLR it is common practice to put that customer on different rates that reflect the incremental costs, particularly capacity, that are required to serve the customer." In sum, the administrative record supports the need for further consideration of mechanisms to ensure that returning customers bear the costs of returning to the POLR.

It is submitted that the Energy Bureau should further consider evidence on the impact of requiring that the POLR receive all customers within one day following the default of an RES. One consideration is that the POLR would need to treat the load as not having departed because it would need to be available withing one day based on circumstances beyond the control of the POLR. The record of this proceeding does not include a discussion on these scenarios in connection with the wheeling tariff, although it was one of the options included in the proposal for a Uniform Services Agreement. Also, the Final Resolution and Order does not account for administrative costs related to returns. It is a ruling that falls outside the scope of the proposal for an unbundled wheeling tariff. Finally, the proposal on the Uniform Services Agreement, prepared by Guidehouse also supports the need to adopt return rates. *See* Exhibit D to the May 17th Filing at pages 22-23 and Table 2-5. It is an error and an abuse of discretion for the Energy Bureau to fail to consider the totality of the uncontested evidence to decline to adopt such a mechanism.

5. Balancing Charges

On page 19 of the Final Resolution and Order the Energy Bureau found "that the Guidehouse proposal for monthly balancing charges and an annual true-up is unworkable for two related reasons. The monthly balancing charges using marginal energy costs from the Aurora production cost modeling is likely not sufficiently accurate, and thus has too high a probability of high bills or credits for annual true ups for retail electricity suppliers." LUMA agrees that forecasting and measuring actual hourly generation costs is problematic and unreliable. While LUMA will work to develop a method for determining these costs as directed by the Energy Bureau, LUMA respectfully disagrees with the Energy Bureau's finding that there is no need for any additional true-up charges. Given data concerns raised by LUMA and the Energy Bureau

throughout this proceeding, especially as it relates to production cost modeling and the use of proxies for marginal energy costs, there is a need to track deviations between revenue collected and actual costs to ensure that there is no cost-shifting to non-participants.

Importantly, although the Energy Bureau referenced the limitations of the Aurora Model, the administrative record lacks substantial evidence on how accurate the Aurora model needs to be to reject its methodology for the purposes of adopting a wheeling rate credit and the Energy Bureau did not consider how much increased accuracy is needed to justify their abandonment of the entire methodology proposed by Guidehouse.

As established in Exhibit D to the May 17th Filing Testimony of Mrs. Everett, Section 2.7.5 on page 18, there are several costs that could be incurred by the POLR to follow the ESP's load in the event the ESP is not able to do so and the most obvious is congestion. Without a true-up mechanism, there is the risk these costs would be incurred by non-participants. *See id.* The Energy Bureau erred and abused its discretion in failing to consider scenarios such as congestion and outages and the implications to LUMA as the POLR.

Also, on page 19 of the Resolution and Order, the Energy Bureau determined that, "whichever method is used to determine marginal costs, if hourly metered load and line losses of RES's wheeling customers exceeds the output of its generation sources, LUMA shall charge the RES for excess load at the marginal hourly generation cost. If the hourly output of the RES's generation sources exceeds the metered load and line losses of its wheeling customers, LUMA shall credit the RES for excess generation at 95% of the marginal hourly generation cost." As an initial matter, the Energy Bureau did not support this determination with reference to evidence admitted on the record to support the calculation of 95% for the excess credit to the RES. In the

Appendix A to the Resolution and Order of October 14, 2020, the imbalance charge was placed in square bracket. Thus, the record does not include a rationale to support the conclusion that the 95% credit is proper or reasonable. Similar to the above discussion, the Energy Bureau did not consider congestion charges, ancillary costs or issues with dispatch around RES's generation.

LUMA also requests reconsideration of that portion of the Final Resolution and Order, the Energy Bureau "adopts the structure of the default proposal for the annual imbalance charge," which computes the annual imbalance based on the sum of all over and under deliveries over the course of the year rather than the sum of the absolute value of each hour's difference between supply and load and losses as proposed by Guidehouse.

At the outset, LUMA takes issue with the Energy Bureau's determination to adopt elements of the default Uniform Services Agreement that PREPA was required to file in this proceeding, despite the fact that per the uncontested record, PREPA proposed that the Energy Bureau adopt the Alternative Uniform Services Agreement, which includes an alternate proposal for an annual imbalance charge. *See* Exhibit D of the May 17th Filing at pages vii and 16-17 (Section 2.7.3). Particularly, because neither the Energy Bureau nor intervenors submitted any evidence, justification or explanations on the scenarios underlying implementation of the default proposal to support the default proposal and the determination that it should be chosen over the alternate proposal that is supported by PREPA and LUMA and their consultants with evidence on the record that is uncontested. It is respectfully submitted that the administrative record lacks substantial evidence to support the finding to adopt the structure of the default proposal for the annual imbalance charge and thus, this Energy Bureau should reconsider its determination that is

unsupported and is thus in violation of bedrock procedural requirements and guarantees ser forth in Section 3.1 of the LPAU.

LUMA respectfully disagrees with the Energy Bureau's suggestions that the default annual imbalance structure encourages a RES to meet a customer's load profile on an hourly basis. Neither the administrative record nor the Final Resolution and Order provide support for this conclusion. In fact, the Energy Bureau and intervenors did not submit evidence on the imbalance charge, its implementation and repercussions or how it will encourage a RES to meet a customer's load profile. What the record does establish is that the imbalance rate should be set based off of marginal costs, *See* July 19th Transcript, page 108, lines 24-25, page 109 lines 1-7, which this Energy Bureau did not do. While it is not the Energy Bureau's intention, it could lead to inter-hour gaming of high and low marginal priced hours. LUMA also understands that the default proposal may lead to the RES overbuilding and supplying excess capacity to the T&D System unconstrained. This, in turn, would allow a RES to bypass the competitive process for new generation run by the Energy Bureau and avoid a Purchase Power Operating Agreement with LUMA / PREPA. This could result in higher costs to the non-wheeling customer.

Unfortunately, the Energy Bureau did not consider in the Final Resolution and Order, the testimony of Mrs. Everett, prior to setting an annual imbalance charge and the Final Resolution and Order lacks support to ensure, as Mrs. Everett testified and recommended without opposition, that "data of around actual cost per kilowatt hour can be tracked, captured and managed for purposes of· creating an appropriate imbalance charge." *See* July 19th Transcript, *Id.* page 147 lines 20-24; *see also* page 148, lines 22-25, 149 lines 1-5 ("the details of the Uniform Services Agreement, that we outlined several areas where we thought some additional detail needs to be

added to, in particular, making sure that your imbalance rate eliminates any opportunity for parties to game the system and use LUMA or the POLR provider as . . . providing services to their customers, that the ESP should be providing.").

As Mrs. Everett testified during the evidentiary hearing of July 19, 2022, before implementing a wheeling tariff and to avoid cost shifting, it is important to ensure that "that data of around actual cost per kilowatt hour can be tracked, captured and managed for purposes of creating an appropriate imbalance charge. So you need to make sure that you have a system that is put in place, that can capture this data, that is accurate and auditable. Because ultimately, this is a rate that the POLR provider will be charging to the ESP, and the ESP should have visibility into how that rate is being generated. So there needs to be a fairly robust structure around capturing that, a process for capturing that, and the ability to audit that." *See* July 19th Transcript, page 147 lines 20-25 and page 148 lines 1-8.

In addition, if there is insufficient data to be able to predict the needs to meet hourly schedules (beyond the monthly balancing charges), it could increase unit starts and ramping wear and tear on LUMA units used for system balancing and ancillary services. LUMA will have to provide reserves to manage system reliability which can include running units at idle to act as a shock absorber for excess supply or undersupply for wheeling customers.

This Energy Bureau also stated on page 20 of the Final Resolution and Order that a "RES that supplied energy in a pattern different from its customer usage would be penalized, even if the RES provided more energy to LUMA at high-value times and its customers took more energy at low-cost times." LUMA requests reconsideration of this statement that lacks a reference to the evidence on the record that could support it. LUMA has not been able to identify the testimonial

or written evidence and substantial evidence that may have been admitted during the evidentiary hearing to support this conclusion. Thus, on reconsideration this statement should be eliminated from the Resolution and Order. LUMA cautions that, although the RES would be "penalized" through payment of an annual imbalance charge, the Final Resolution and Order fails to consider likely scenarios anent implementation of the charge whereby it would also be likely that the "penalty" would be significantly less than the economic benefit that the RES gained from this market behavior, with the net result of additional costs imposed upon non-participating customers.

Finally, LUMA requests reconsideration of the determination on page 20 of the Final Resolution and Order that "there is no need for any additional annual true-up charges as proposed by LUMA and Guidehouse." Without a dedicated true-up mechanism, it will be difficult to monitor over/under-collection of costs. Therefore, there could be potential cost-shifting to non-wheeling customers. As argued above, there are several costs that could be incurred by the POLR to follow the ESP's load in the event the ESP is not able to do so. *See* Exhibit D to the May 17th Filing, Section 2.7.5 on page 18. Without a true-up mechanism, there is the risk these costs would be incurred by non-participants. *See id.* These costs include ancillary services that are embedded in the FCA and PPCA and which the wheeling customers will not pay. *See id.,* at page 27; *see also* July 19th Transcript, page 57, lines 3-25, page 58, lines 1-12, page 58 lines 19-25 and page 59 lines 1-2 (testimony of Mrs. Everett referencing examples of ancillary services such as capacity, load shifting, generation shifting and reactive power and explaining that either the RES buys those services from LUMA or the RES provides them and received a credit). The Energy Bureau erred and abused its discretion in failing to consider scenarios such as congestion and outages and the implications to LUMA as the POLR.

6. Findings on Generation Eligibility

On page 18 of the Final Resolution and Order, this Energy Bureau found "that any generating facility that satisfies the requirements to interconnect to either the transmission or distribution system should be able to participate in wheeling as an independent power producer, subject to the other conditions and requirements of the wheeling regulation and Energy Bureau orders." However, the resolutions and orders that initiated this adjudicative proceeding, including the December 23rd Resolution and Order and the February 5th Procedural Calendar, do not include among the proposals to be submitted or the matters to be adjudicated, the particulars of generation eligibility requirements or technical aspects of interconnections.

It is respectfully submitted that LUMA was not afforded prior notice or opportunity to be heard on the Energy Bureau's intention to fix generation eligibility requirements. Thus, the determinations included on page 18 of the Final Resolution and Order are arbitrary and deprive LUMA of its rights to procedural due process, including those guaranteed in Section 3.1 of the LPAU (prior notice, opportunity to be heard and a decision based on the administrative record).

Furthermore, the findings and determinations on page 18 of the Final Resolution and Order lack support on the administrative record and should be stricken from the Final Resolution and Order. LUMA submits that this should be a topic for discussion and analysis in separate or future regulatory proceedings where LUMA should be given the opportunity to provide comments and submit documentation, explanations or evidence, in support of its position regarding generation eligibility requirements, including the types of facilities that may interconnect to the Transmission and Distribution system and related technical aspects.

7. Determination on Additional Processes.

On page 21 of the Final Resolution and Order, this Energy Bureau determined that further processes were needed to adopt a standard Wheeling Services Agreement. For this, the Energy Bureau requested stakeholder comments by April 25, 2022 and scheduled a technical conference for May 17, 2022. LUMA respectfully posits that the time frame proposed by this Energy Bureau to consider a Standard Wheeling Services Agreement is unreasonable. It does not provide sufficient or reasonable time for the Energy Bureau to consider the motions for reconsideration that may be filed on or before April 13, 2022 regarding the Final Resolution and Order. Second, given that proceedings in this case regarding the Wheeling Services Agreements were dormant from August 2021 when LUMA submitted its final reply brief until issuance seven months later of the Final Resolution and Order, LUMA will need to reassess the resources available to conduct further proceedings on a Wheeling Services Agreement, including identifying the availability of funds to engage external consultants for this endeavor. Thus, LUMA respectfully requests that the Energy Bureau stay proceedings regarding the Wheeling Services Agreement or extend the deadlines for June 2022, after proceedings regarding LUMA's Annual Budgets, which are ongoing in Case NEPR-MI-2021-004, conclude and the Energy Bureau approves LUMA's Budget for Fiscal Year 2023.

Furthermore, LUMA suggests that if the Energy Bureau intends to set the default wheeling credit, that credit should be adopted temporarily or implemented as a pilot effort. This will allow LUMA to gather additional data to have "the correct information to allocate costs properly across customer classes . . . to ensure that wheeling does not result in technical problems, rate increases or any other unfair cross-subsidization between or among customer classes," *see* Resolution and

Order of February 9, 2019, and to use studies to inform the unbundling of rates for the establishment of wheeling and facilitate the adoption of a truly unbundled rate based on cost reflective marginal costs. This path was chartered since the December 23rd Resolution and Order, when this Energy Bureau issued a finding that adoption of a credit for wheeling customers required unbundling rates based on marginal costs. The record amply supports said course of action and demands that further processes be conducted before a permanent wheeling rate or credit to customers is adopted. The default wheeling credit should be viewed as a first and important step that should not displace the efforts conducted by PREPA and LUMA to unbundle rates and to develop a methodology for estimating marginal costs and develop marginal energy costs.

8. Consideration of the Wheeling Regulation that was enacted on December 22, 2021.

Finally, LUMA requests reconsideration of the Energy Bureau's determinations on page 11, footnote 67, and the conclusions of law on page 22, that consider the provisions of the Regulation on Electric Energy Wheeling, Regulation 9351, that was enacted on December 22, 2021, some four months **after** the record in this adjudicative proceeding closed. It must be noted that at this time, LUMA has not been able to corroborate that Regulation 9351 was approved in conformity with the LPAU, as it has not been able to find evidence that the Puerto Rico Department of State published the regulation as required by Section 2.8 of the LPAU, 3 LPRA § 9618 (2022). But even if Regulation 9351 is valid and binds stakeholders and LUMA prospectively, it is legal error and a violation of due process to apply it in the Final Resolution and Order without having granted LUMA and intervenors a prior opportunity to assess the weight and repercussions of Regulation 9351, if any, in connection with the proposed unbundling framework and proposals on unbundled tariffs and a wheeling credit that, as ordered by this Energy Bureau, PREPA was

required to file in May, 2021 and defend in evidentiary hearings that this Energy Bureau scheduled knowing that it had not yet approved a final revised regulation on wheeling.

Throughout this process, PREPA and LUMA cautioned this Energy Bureau of the harmful perils of continuing this proceeding meanwhile sector rules were not clearly defined. The Independent Consumer Protection Office also provided testimony to caution against premature implementation of wheeling. To wit, Mr. Gerardo Cosme "recommend[ed] feasibility studies or evaluations to be done on minimum grid and generation requirements that need to be in place before commencement of wheeling agreements. These studies or evaluation can be done similar to the ones currently being done to allocate and host distributed renewable energy resources. This will ensure a suitable open sector of RES in Puerto Rico that will benefit wheeling customers and present no harm to non-wheeling customers as well." *See* Pre-Filed Testimony submitted on July 9, 2021, lines 22-30 at page 2. During the July 20th evidentiary hearing, Mr. Cosme mentioned the problems with implementing net metering in Puerto Rico as an example to illustrate the need to avoid unorganized implementation of wheeling. *See* July 19th Transcript page 45 lines 12-25; page 46 lines 1-15; and page 47 lines 1-5. His recommendation included the following: "What I think that, at least for this time, it's just to make an assessment of what we have and what would we need for that to happen." *Id.* page 47 lines 23-25.

Thus, this Energy Bureau should reconsider its statements and findings that consider that Regulation 9351 does not require a full unbundling of rates, and the second and third conclusions of law that adjudicate compliance with a regulation that had not been approved when PREPA filed its proposals and the evidentiary hearings were held in this proceeding (second conclusion of law: "Establishing a wheeling credit defined by the sum of the fuel cost adjustment and purchased

power cost adjustment is just and reasonable and satisfies the requirements of Article 9 of Regulation 9351"; third conclusion of law: "Further terms and conditions around metering requirements and return to the provider of last resort pursuant to Section 3.03 of Regulation 9351, as described above, are reasonable and necessary to establish a fair and efficient framework for a wheeling customer rider.").

LUMA respectfully restates that there are risks associated with a flawed Retail Wheeling design without adequate off-ramps or protections. As Mrs. Everett testified, "there have been so many instances where there had -- where jurisdictions have moved forward without sorting a lot of that out, and it has resulted in some pretty unfortunate situations, you know, bankrupt utilities, customer bills going through the roof." *See* July 19th Transcript, page 128 lines 10-21. Given that the Puerto Rico Transmission and Distributing System Operation and Maintenance Agreement has provisions for remediation recognizing that it will be several years before LUMA is operating at Prudent Utility Standards, *see* Article 4.1 (d) and Section 5.4, as this Energy Bureau has also acknowledged, *see* Resolution and Order of June 23, 2021 approving LUMA's System Remediation Plan Case NEPR-MI-2020-0019, pages 17-22; 26;-27;28-34; 37, and considering that PREPA is in bankruptcy which imposes additional duties on the utility and financial risks for implementation of the wheeling credit, this Energy Bureau should also recognize the significant risks associated with moving too fast in implementing a wheeling tariff.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **grant** this Motion for Reconsideration and issued the rulings requested herein.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 13th day of April 2022.

I hereby certify that this Motion was filed in person with the Puerto Rico Energy Bureau and that a stamped copy of this Motion will be served via certified and electronic mail to intervenors: Cooperativa Hidroeléctrica de la Montaña, via Ramón Luis Nieves, ramonluisnieves@rlnlegal.com, 430 Avenida Hostos (Altos), San Juan, Puerto Rico 00918; Office of the Independent Consumer Protection Office, Hannia Rivera, hrivera@opic.pr.gov, and Pedro E. Vázquez Mélendez, contratistas@oipc.pr.gov, 268 Hato Rey Center Suite 802, Ave. Ponce de León, San Juan, Puerto Rico 00918; Puerto Rico Manufacturer's Association via Manuel Fernández Mejías, manuelgabrielfernandez@gmail.com, PO Box 725, Guaynabo, Puerto Rico 00970-0725; and Ecoeléctricas via Carlos Colón, ccf@tcm.law, PO Box 195383, San Juan, Puerto Rico 00919-5383. It is also certified that I will serve notice of this motion to counsel for the Puerto Rico Electric Power Authority, Katiuska Bolaños, kbolanos@diazvaz.law, and Joannely Marrero Cruz, jmarrero@diazvaz.com, PO Box 11689, San Juan, Puerto Rico 00922-1689.

I will also send a copy of this motion to the following individuals or entities that the Energy Bureau included in its email serving notice of the Final Resolution and Order. Several of those entities and persons **were not intervenors in this proceeding:**

astrid.rodriguez@prepa.com, jorge.ruiz@prepa.com, margarita.mercado@us.dlapiper.com, Elias.sostre@aes.com; jesus.bolinaga@aes.com; cfl@mcvpr.com; ivc@mcvpr.com; notices@sonnedix.com; leslie@sonnedix.com; victorluisgonzalez@yahoo.com; tax@sunnova.com; jcmendez@reichardescalera.com; r.martinez@fonroche.fr; gonzalo.rodriguez@gestampren.com; kevin.devlin@patternenergy.com; fortiz@reichardescalera.com; jeff.lewis@terraform.com; mperez@prrenewables.com; cotero@landfillpr.com; geoff.biddick@radiangen.com; hjcruz@urielrenewables.com; carlos.reyes@ecoelectrica.com; meghan.semiao@longroadenergy.com; tracy.deguise@everstreamcapital.com; agraitfe@agraitlawpr.com; h.bobea@fonrochepr.com; ramonluisnieves@rlnlegal.com; hrivera@jrsp.pr.gov; info@sesapr.org; yan.oquendo@ddec.pr.gov; acarbo@edf.org; pjcleanenergy@gmail.com; nicolas@dexgrid.io; javrua@gmail.com; JavRua@sesapr.org; lmartinez@nrdc.org; thomas.quasius@aptim.com; rtorbert@rmi.org; lionel.orama@upr.edu; noloseus@gmail.com; aconer.pr@gmail.com; dortiz@elpuente.us;wilma.lopez@ddec.pr.gov; gary.holtzer@weil.com; ingridmvila@gmail.com; rstgo2@gmail.com; agc@agcpr.com; presidente@ciapr.org; cpsmith@unidosporutuado.org; jmenen6666@gmail.com; CESA@cleanegroup.org; acasepr@gmail.com; secretario@ddec.pr.gov; julia.mignuccisanchez@gmail.com; professoraviles@gmail.com; gmch24@gmail.com; ausubopr88@gmail.com;carlos.rodriguez@valairlines.com; amaneser2020@gmail.com; acasellas@amgprlaw.com;presidente@camarapr.net; jmarvel@marvelarchitects.com; amassol@gmail.com;jmartin@arcainc.com; eduardo.rivera@afi.pr.gov; leonardo.torres@afi.pr.gov;carsantini@gmail.com;

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Fax 939-697-6147

Margarita Mercado Echegaray
RUA NÚM. 16,266
margarita.mercado@us.dlapiper.com

Exhibit 2

Notification to intervenors through certified mail.

EXHIBIT 2


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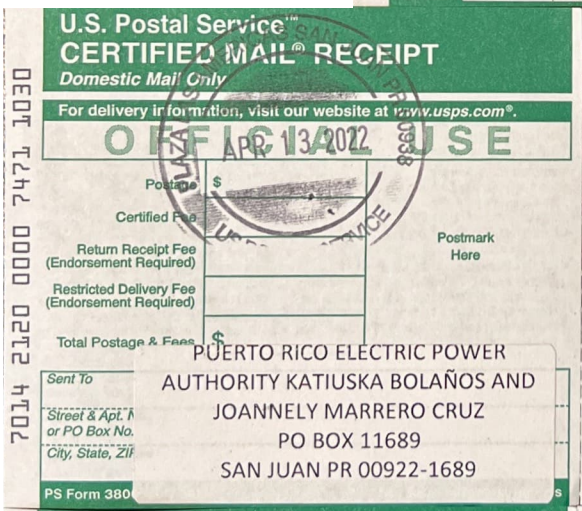
ECOELÉCTRICAS
CARLOS COLÓN
PO BOX 195383
SAN JUAN PR 00919-5383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7014 2120 0000 7471 1030
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PUERTO RICO ELECTRIC POWER AUTHORITY KATIUSKA BOLAÑOS AND JOANNELY MARRERO CRUZ
PO BOX 11689
SAN JUAN PR 00922-1689


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HANNIA RIVERA Y PEDRO E VÁZQUEZ MÉLENDEZ
268 HATO REY CENTER SUITE 802
AVE PONCE DE LEÓN SAN JUAN PR 00918


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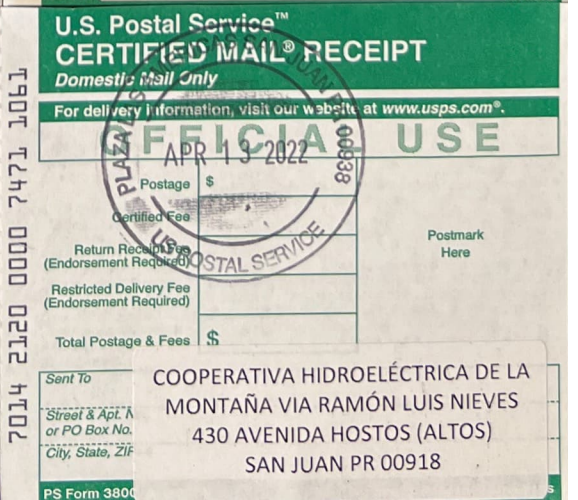
PUERTO RICO MANUFACTURER'S ASSOCIATION
MANUEL FERNÁNDEZ MEJÍAS
PO BOX 725
GUAYNABO PR 00970-0725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COOPERATIVA HIDROELÉCTRICA DE LA MONTAÑA VIA RAMÓN LUIS NIEVES
430 AVENIDA HOSTOS (ALTOS)
SAN JUAN PR 00918

Exhibit 3

Notification to intervenors through electronic mail

EXHIBIT 3

From: Jimenez, Adrian
Sent: Wednesday, April 13, 2022 6:08 PM
To: Ramón Luis Nieves; Hannia Rivera-Diaz; ccf@tcm.law; Contratistas; Katiuska Bolaños-Lugo; Joannely Marrero-Cruz; manuelgabrielfernandez@gmail.com
Cc: Mercado, Margarita; Torres, Yasmin
Subject: NEPR-AP-2018-0004: Motion For Reconsideration of Final Resolution and Order of March 24, 2022
Attachments: Motion for Reconsideration of Final Resolution and Order re Unbundling of the Assets of PREPA.pdf

Tracking:

Recipient	Read
Ramón Luis Nieves	
Hannia Rivera-Diaz	
ccf@tcm.law	
Contratistas	
Katiuska Bolaños-Lugo	
Joannely Marrero-Cruz	
manuelgabrielfernandez@gmail.com	
Mercado, Margarita	Read: 4/13/2022 6:23 PM
Torres, Yasmin	

Dear Counsel,

Please find attached to this email a stamped copy of LUMA's *Motion for Reconsideration of Final Resolution and Order of March 24, 2022*, physically filed today in the Puerto Rico Energy Bureau, for Case No. NEPR-AP-2018-0004.

Adrian Jimenez-Torres
Associate

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DLA PIPER

dlapiper.com

Exhibit 4

Notification to all of the individuals or entities that the Puerto Rico Energy Bureau included in its notice of the Final Resolution and Order issued on March 24, 2022

EXHIBIT 4

From: Jimenez, Adrian
Sent: Wednesday, April 13, 2022 7:39 PM
To: 'astrid.rodriguez@prepa.com'; 'jorge.ruiz@prepa.com'; Mercado, Margarita; 'elias.sostre@aes.com'; 'jesusbolinaga@aes.com'; 'cfl@mcvpr.com'; 'ivc@mcvpr.com'; 'notices@sonnedix.com'; 'leslie@sonnedix.com'; 'victorluisgonzalez@yahoo.com'; 'tax@sunnova.com'; 'jcmendez@reichardescalera.com'; 'r.martinez@fonroche.fr'; 'gonzalo.rodriguez@gestampren.com'; 'kevin.devlin@patternenergy.com'; 'fortiz@reichardescalera.com'; 'jeff.lewis@terraform.com'; 'mperez@prrenewables.com'; 'cotero@landfillpr.com'; 'geoff.biddick@radiangen.com'; 'hjcruz@urielrenewables.com'; 'carlos.reyes@ecoelectrica.com'; 'meghan.semiao@longroadenergy.com'; 'tracy.deguise@everstreamcapital.com'; Fernando Agrait; 'h.bobea@fonrochepr.com'; 'Ramón Luis Nieves'; Hannia Rivera-Diaz; 'info@sesapr.org'; 'yan.oquendo@ddec.pr.gov'; 'acarbo@edf.org'; 'pjcleanenergy@gmail.com'; 'nicolas@dexgrid.io'; 'javrua@gmail.com'; 'javrua@sesapr.org'; 'lmartinez@nrdc.org'; 'thomas.quasius@aptim.com'; 'rtorbert@rmi.org'; 'lionel.orama@upr.edu'; 'noloseus@gmail.com'; 'aconer.pr@gmail.com'; 'dortiz@elpuente.us'; 'wilma.lopez@ddec.pr.gov'; 'gary.holtzer@weil.com'; 'ingridmvila@gmail.com'; Ruth Santiago; 'agc@agcpr.com'; 'presidente@ciapr.org'; 'cpsmith@unidosporutuado.org'; 'jmenen6666@gmail.com'; 'CESA@cleangroup.org'; 'acasepr@gmail.com'; 'secretario@ddec.pr.gov'; 'julia.mignuccisanchez@gmail.com'; 'professoraviles@gmail.com'; 'gmch24@gmail.com'; 'ausubopr88@gmail.com'; 'carlos.rodriguez@valairlines.com'; 'amaneser2020@gmail.com'; 'acasellas@amgprlaw.com'; 'presidente@camarapr.net'; 'jmarvel@marvelarchitects.com'; 'amassol@gmail.com'; 'jmartin@arcainc.com'; 'eduardo.rivera@afi.pr.gov'; 'leonardo.torres@afi.pr.gov'; 'carsantini@gmail.com'; 'directoralcaldes@gmail.com'; 'imolina@fedalcaldes.com'; 'LCSchwartz@lbl.gov'; 'thomas@fundacionborincana.org'; 'cathykunkel@gmail.com'; 'joseph.paladino@hq.doe.gov'; 'adam.hasz@ee.doe.gov'; 'sergio.gonsales@patternenergy.com'; 'eric.britton@hq.doe.gov'; 'energiaverdepr@gmail.com'; 'arnaldo.serrano@aes.com'; 'gustavo.giraldo@aes.com'; 'accounting@everstreamcapital.com'; 'mgrpcorp@gmail.com'; 'jczayas@landfillpr.com'; 'jeanna.steele@sunrun.com'; 'mildred@liga.coop'; 'cpsmith@cooperativahidroelectrica.coop'; 'maribel@cooperativahidroelectrica.coop'; 'apoyo@cooperativahidroelectrica.coop'; larroyo@earthjustice.org; flcaseupdates@earthjustice.org; 'gguevara@prsciencetrust.org'; Hannia Rivera-Diaz; Contratistas; Fernando Agrait; Ruth Santiago; Pedro Saadé-LLoréns; Rolando Emmanuelli-Jimenez; Notificaciones Bufete Emmanuelli; rhoncat@netscape.net; 'marisol.bonnet@hq.doe.gov'; 'ernesto.rivera-umpierre@hq.doe.gov'; 'elizabeth.arnold@hq.doe.gov'; 'info@icsepr.org'; 'john.jordan@nationalpfg.com'; 'info@marinsacaribbean.com'; 'aconer.pr@gmail.com'; 'pathart@ge.com'; Rozas, Laura; 'renewableenergy@me.com'; 'rocorrea@prfaa.pr.gov'; 'jgob@prepa.com'; 'israel.martinezsantiago@fema.dhs.gov'; 'jcintron@cor3.pr.gov'; 'gsalgado@cor3.pr.gov'; Mario Hurtado; 'wayne.stensby@lumamc.com'; Ashley Engbloom; 'legal@lumamc.com'; Jorge L Flores de Jesus; 'Breanna Wise'; 'energia@ddec.pr.gov'; 'francisco.berrios@ddec.pr.gov'; 'ialicea@sanjuanciudadpatria.com'; 'alescudero@sanjuanciudadpatria.com'; 'oabayamon@yahoo.com'; 'quinoneporrata@qaclaw.com'; 'equinones@qaclaw.com'; 'vcandelario@qaclaw.com'
Cc: Mercado, Margarita; Torres, Yasmin
Subject: NEPR-AP-2018-0004: Motion For Reconsideration of Final Resolution and Order of March 24, 2022
Attachments: Motion for Reconsideration of Final Resolution and Order re Unbundling of the Assets

Attachments: of PREPA.pdf

Tracking:

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'astrid.rodriguez@prepa.com'	
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'john.jordan@nationalpfg.com'	
'info@marinsacaribbean.com'	
'aconer.pr@gmail.com'	
'pathart@ge.com'	
Rozas, Laura	Read: 4/14/2022 10:23 AM
'renewableenergy@me.com'	
'rocorrea@prfaa.pr.gov'	
'jgob@prepa.com'	
'israel.martinezsantiago@fema.dhs.gov'	
'jcintron@cor3.pr.gov'	
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Mario Hurtado	
'wayne.stensby@lumamc.com'	
Ashley Engbloom	
'legal@lumamc.com'	
Jorge L Flores de Jesus	
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'energia@ddec.pr.gov'	

Recipient	Read
'francisco.berrios@ddec.pr.gov'	
'ialicea@sanjuanciudadpatria.com'	
'alescudero@sanjuanciudadpatria.com'	
'oabayamon@yahoo.com'	
'quinoneporrata@qaclaw.com'	
'equinones@qaclaw.com'	
'vcandelario@qaclaw.com'	
Mercado, Margarita	
Torres, Yasmin	

Good evening,

Please find attached to this email a stamped copy of LUMA's *Motion for Reconsideration of Final Resolution and Order of March 24, 2022*, physically filed today in the Puerto Rico Energy Bureau, for Case No. NEPR-AP-2018-0004.

Adrian Jimenez-Torres
Associate

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adrian.jimenez@us.dlapiper.com

DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969

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From: Jimenez, Adrian
Sent: Wednesday, April 13, 2022 8:21 PM
To: jesus.bolinaga@aes.com; quinonesporrata@qaclaw.com; gguevara@prsciencetrust.org
Cc: Mercado, Margarita; Torres, Yasmin
Subject: NEPR-AP-2018-0004: Motion For Reconsideration of Final Resolution and Order of March 24, 2022
Attachments: Motion for Reconsideration of Final Resolution and Order re Unbundling of the Assets of PREPA.pdf

Good evening,

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Adrian Jimenez-Torres
Associate

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From: Jimenez, Adrian
Sent: Thursday, April 14, 2022 10:09 AM
To: CESA@cleanegroup.org
Subject: NEPR-AP-2018-0004: Motion For Reconsideration of Final Resolution and Order of March 24, 2022
Attachments: Motion for Reconsideration of Final Resolution and Order re Unbundling of the Assets of PREPA.pdf

Good evening,

Please find attached to this email a stamped copy of LUMA's *Motion for Reconsideration of Final Resolution and Order of March 24, 2022*, physically filed yesterday in the Puerto Rico Energy Bureau, for Case No. NEPR-AP-2018-0004.

Adrian Jimenez-Torres
Associate

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