

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

NEPR

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IN RE:
IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY PERMANENT RATE

CASE NO. NEPR-MI-2020-0001

SUBJECT: Motion in Compliance with Order of July 13, 2022, Submitting Reconciliations for the Month of June 2022 and Revised FCA, PPCA and FOS Factors, and Request for Confidential Treatment

MOTION IN COMPLIANCE WITH ORDER OF JULY 13, 2022, SUBMITTING RECONCILIATIONS FOR THE MONTH OF JUNE 2022 AND SUBMITTING REVISED FCA, PPCA AND FOS CALCULATED FACTORS, AND REQUEST FOR CONFIDENTIAL TREATMENT

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC (“ManagementCo”), and LUMA Energy Servco, LLC (“ServCo”), (jointly referred to as the “Operator” or “LUMA”), through the undersigned counsel, and respectfully state and request the following:

I. Introduction and Relevant Background

In a Resolution and Order dated June 29, 2022 (“June 29th Order”), this honorable Energy Bureau (“Energy Bureau”) set the factors associated with the riders for contributions in lieu of taxes cost adjustment (CILTA), help to human subsidies (SUBA-HH), non-help to human subsidies (SUBA-NHH) to apply from July 1, 2022, through June 30, 2023. In the June 29th Order, the Energy Bureau also set the factors associated with the Fuel Charge Adjustment (FCA), the Purchased Power Charge Adjustment (PPCA) that will apply from July 1, 2022, through September 30, 2022, and the Fuel Oil Subsidy (FOS). This honorable Energy Bureau set the following FCA, PPCA and FOS factors:

Adjustment	Factor	Effective Dates
FCA	0.221919	July 1, 2022 - September 30, 2022
PPCA	0.032501	July 1, 2022 - September 30, 2022
FOS	-0.028901	July 1, 2022 - September 30, 2022

On July 1, 2022, the Puerto Rico Electric Power Authority (“PREPA”) filed a report with this Energy Bureau in the instant proceeding, updating the amounts that it had recovered from its insurers and the Federal Emergency Management Agency (“FEMA”) related to the purchases of fuel for rapid response generators due to the January 2020 earthquake (“July 1st Report”). In the July 1st Report PREPA stated that FEMA would reimburse 75% of the expenditure, which totals \$175,371,558.24. The remaining 25%, which totaled \$58,457,186.08, would be covered by the state, and has already been billed to customers. On July 8, 2022, PREPA notified this Energy Bureau that FEMA's contribution for the cost of fuel used in the emergency of January 2020, would increase from 75% to 90% (“July 8th Report”). PREPA also informed that to date, it has received payments from insurers in the amount of \$70,000,000.00 for damages associated with the 2020 earthquake and explained that it has filed an insurance claim of \$141,177, 439.

In a Resolution and Order issued on July 13, 2022 (“July 13th Order”) this Energy Bureau took notice of the information that FEMA determined to reimburse to a sum equivalent to 90% of the costs of fuel purchases incurred in operating the rapid response units in the aftermath of seismic activity that occurred in Puerto Rico in January 2020, for a total sum of \$219,892,664.09. *See* July 13th Order at 2. This Energy Bureau stated that the increase meant that the state’s contribution was reduced by 15%, resulting in a benefit to the customer and that, FEMA's contribution for the purchase of fuel increased from \$175,371,558.24 to \$219,892,664.09, which represented an additional \$44,521,105.85 to be recovered by PREPA from FEMA. This Energy Bureau also determined that the additional funds were significant and

that it was in the public's interest to consider the \$44,521,105.85 in the remaining months of the current quarter.

Secondly, in the July 13th Order, this Energy Bureau took notice of a change in fuel costs in the global markets and determined that LUMA should re-estimate the FCA, PPCA, and FOS rider factors for the months of August and September 2022.

In light of the aforementioned information, this Energy Bureau determined, in its discretion, to initiate an accelerated process to adjust the quarterly FCA, PPCA and FOS riders factors that were approved on June 29, 2022. *See Id.* To that end, this Energy Bureau directed LUMA to (i) file a reconciliation of the FCA, PPCA and FOS riders factors for the month of June, 2022; (ii) submit updated projections on fuel costs, including supporting files and documents in native format; and (iii) re-estimate the factors for the FCA, PPCA, and FOS riders for the remainder of the current quarter (August through September, 2022).

In compliance with the July 13th Order, as Operator of the Transmission and Distribution ("T&D") System, and in furtherance of its duties over system regulatory matters pursuant to Section 5.6 of the Puerto Rico Transmission and Distribution Operation and Maintenance Agreement ("T&D OMA"), supplemented by the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement, LUMA has prepared the required reconciliation for the month of June and the updated and revised factors for the FCA, PPCA and FOS riders. It is important to note that LUMA's role is to calculate the reconciliations and FCA, PPCA, and FOS riders; it does not own or operate generation facilities, nor does it purchase any fuel for generation.¹

¹ LUMA's costs of operations are not included in the FCA, PPCA and FOS riders. The Final Rate Order and the PREPA tariff book require the calculation of the FCA, PPCA and FOS riders to assure the pass-through of fuel used by PREPA and others in generation of electricity and the power purchased from private

LUMA’s submission of the reconciliation for the months of June 2022 and the revised calculated FCA, PPCA and FOS riders factors includes excel spreadsheets that are being filed publicly via email in a file entitled *Values* submitted with this Motion. With this Motion, LUMA is also submitting via email, confidential excel spreadsheets with formulae intact submitted in a file entitled *Confidential*. As explained in Section VI *infra*, it is hereby respectfully requested that the Energy Bureau accept and maintain the files and spreadsheets submitted in the file, *Confidential*, under seal of confidentiality.

II. Regulatory Formulas for Calculated FCA, PPCA and FOS Factors

A. FCA

The FCA is a reconciling tariff mechanism which recovers the costs of fuel consumed in PREPA’s generating units on a quarterly basis. *See* PREPA Book of Tariff at page 49. The FCA applies to all the PREPA tariffs, except to the RHR tariff (RFR by its Spanish acronym, applicable to residents of public complexes owned by the Public Housing Administration). The formula to calculate the FCA factor is:

$$\text{FCA} = \frac{\text{Total Cost of Fuel} + \text{Prior Period Reconciliation}}{\text{Total Applicable Net Retail kWh Sales}}$$

Id.

The total cost of fuel is the cost of fuel purchased for all PREPA generating facilities for the three forecasted months in the quarterly time-period. *Id.* The prior period reconciliations is the under or over recovered funds for the first two months of the current quarter and the last month of the prior quarter. *Id.* LUMA, on behalf of PREPA, shall provide the estimates of the reconciling balance with each proposed quarterly filing of the FCA. *Id.* Finally, the applicable

generators by PREPA, without any markup, profit or additional charges that would benefit PREPA (or LUMA).

net retail kWh sales include the sale of energy to all customer classes, including the net metering clients. *Id.*

The quarterly filing of reconciliations and calculated factors is due the second week of the third month of each quarter and the calculated factors, approved by this Energy Bureau, go into effect the first month of the following quarter.

B. PPCA

The PPCA is a reconciling tariff mechanism which recovers the costs of purchased power consumed in PREPA’s generating units on a quarterly basis. *See* PREPA Book of Tariffs at page 51. The PPCA applies to all the PREPA tariffs, except to the RHR tariff (RFR by its Spanish language acronym) (applicable to residents of public complexes owned by the Public Housing Administration). The formula to calculate the PPCA factor is:

$$\text{PPCA} = \frac{\text{Total Costs Purchased Power} + \text{Prior Period Reconciliation}}{\text{Total Applicable Net Retail kWh Sales}}$$

Id.

The total cost of purchased power is the cost of purchased resources of energy and capacity for the three forecasted months in the quarterly time-period. *Id.* The prior period reconciliations is the under or over recovered funds for the first two months of the current quarter and the last month of the prior quarter. *Id.* LUMA shall provide the estimated of the reconciling balance with each proposed quarterly filing of the PPCA. *Id.* Finally, the applicable net retail kWh sales include the sale of energy to all customer classes, include the net metering clients. *Id.*

The quarterly filing of reconciliations and calculated factors is due the second week of the third month of each quarter and the calculated factors will go into effect the first month of the following quarter.

For both the FCA and the PPCA, the following provision for accelerated adjustment applies:

Each month after final Fuel Purchase Expense and Purchased Power Expense are available to PREPA, the company shall prepare a re-estimate comparing the re-estimated recovery of fuel purchased and purchased power for the quarterly period. If the re-estimated fuel purchase and purchased power expenses deviated from the estimates by more than \$20 million, PREPA shall re-estimate the Fuel and Purchased Power Charge Adjustment factors to provide an expected value of zero for the quarterly time period.

C. FOS

The FOS applies to certain general residential services tariffs (GRS by its English-language acronym), including disabled persons, elderly persons and university students, tariffs for special residential services (LRS by its English-Language acronym) and residential services for public projects (RH3 by its English-Language acronym). *Id.* at page 53. This fuel subsidy applies to monthly consumption that does not exceed 500 kWh. It is calculated on a quarterly basis.

For the first \$30 per barrel of fuel, excluding natural gas, clients will receive a credit equivalent to the subsidy factor multiplied by the customer's monthly consumption up to a consumption of 400 kWh. *Id.* Customers that consume between 401 and 425 kWh will receive a credit equivalent to a consumption of 400 kWh. *Id.* Finally, for customers that consume between 426 and 500 kWh the credit will be progressively reduced to 425 kWh to reach 0 or 500 kWh. *Id.*

III. FEMA Reimbursements

Per the information that PREPA has filed with this Energy Bureau, FEMA’s reimbursements of costs for fuel purchases in the aftermath of the 2020 earthquake and seismic activities resulted in additional funds that may benefit customers and should be considered in reviewing the rider factors that were approved on June 29, 2022. However, LUMA’s analysis, which is included in this filing as Attachment 7 of the file titled “August-Sept 2022 Factors”, shows that the total amount to be reimbursed by FEMA is less than the \$44,521,105.85 stated in the July 13th Order. According to LUMA’s analysis, the total sum of PREPA’s claim regarding fuel costs is \$375,006,183.32 of which \$244,325,182.32 were included in a claim to FEMA and \$130,681,001.00 to PREPA’s insurance ($\$244,325,182.32 + \$130,681,001.00 = \$375,006,183.32$). With FEMA covering 90% of the sum total of PREPA’s claim to FEMA, FEMA would pay a total of \$219,892,664.00 which, when added to the \$130,681,001.00 to be covered by insurance, results in a total claim of \$350,573,665.09. Per LUMA’s calculation, to date, a total of \$316,548,996.86 have been deferred in attention of possibly obtaining reimbursements from FEMA and insurance:

Period	Amount	PREB R&O Date
April-June 2020	\$34,177,068.87 & \$29,869,698.74	March 27, 2020
June 2020	\$25,865,274.75 & \$26,702,707.50	May 30, 2020
January-March 2021	\$17,620,024.58 & \$25,258,402.98 & \$13,907,594.00	December 31, 2020
April-June 2021	\$9,364,755.62 & \$5,106,408.69 & \$128,677,070.13	March 31, 2021
Total Applied to Previous FCA	\$316,548,996.86	

Thus, LUMA's records show that the pending amount that has not already been applied for deferment is \$350,573,665.09 - \$316,548,996.86, which totals \$34,024,668.23; not \$44,521,105.85 as stated in the July 13th Order.

LUMA respectfully submits that if this Energy Bureau is to contemplate additional deferments of the costs of fuel purchases made by PREPA to serve customers, careful consideration should be given to the amounts actually received by PREPA for reimbursement from its insurers and from FEMA for the fuel expense incurred in the aftermath of the 2020 earthquake. PREPA has reported to this Energy Bureau, including in the latest report of July 8, 2022 that was filed publicly with this Energy Bureau, that PREPA has recovered approximately \$70 million from its insurers regarding its claim for additional fuel costs that PREPA estimates amounts to \$141,177,439, and has received \$139,743,185.30 million from FEMA attributable to fuel costs from a claim to FEMA that PREPA has stated amounts to \$281,050,894.75 *See* July 8th Report.

Additionally, LUMA is highly concerned with the impact that rising fuel costs have had on customers. The principle of the FCA and PPCA is that customers should bear only the costs of fuel actually incurred by PREPA in the generation of electricity and purchase of power from other generators. In this sense the fuel and purchased power costs are passed through to customers with deferrals and adjustments resulting in possible lags between PREPA's purchases and monies received from customers to recover the costs of such purchases. These lags result in working capital requirements for PREPA to be able to cover its costs currently while recovering these costs over a longer period. This working capital for fuel and energy purchases is a real cost of operation for PREPA and has an impact on PREPA's cash flow and liquidity position. PREPA informed in its motion filed on July 18, 2022, entitled "Moción en Cumplimiento de

Orden del 16 de julio de 2022 y para informar efectos de posibles efectos adicionales”, that PREPA’s cashflow is materially affected by the lag in FCA and PPCA reconciliations and the fact that PREPA has not yet received full reimbursements from FEMA or from PREPA’s insurers for the costs incurred in operating the quick response units to address the emergency of the seismic activities and earthquake of 2020. While incurred fuel costs claimed by PREPA due to the earthquake are \$375,006,183.32, PREPA reports that it has to date received \$139, 743, 185.30. In addition, in its “Moción en Cumplimiento de Orden del 14 de julio de 2022 para mostrar causa” filed before the Energy Bureau on July 19 (“PREPA’s July 19th Motion”), PREPA informed the Energy Bureau that additional reimbursement from FEMA while anticipated, has not yet been made.

This Energy Bureau has also been informed by PREPA that since October 2021 PREPA has not been receiving from its fuel suppliers all of the natural gas which PREPA has requested under its contracts for use in the Costa Sur, Ecoeléctrica and San Juan power generation facilities. As a result, as the Energy Bureau has noted, PREPA has incurred additional costs for purchase of fuel due to this insufficiency of supply. This Energy Bureau has deferred amounts of this additional cost from being included in the FCA rider which sums PREPA has not yet fully recovered. *See* Resolution and Order of December 30, 2021 (deferral of \$14,058,921.05 of incremental fuel costs associated with the use of diesel fuel in the San Juan 5 and 6 plants due to irregularities in supply of natural gas); Resolution and Order of March 30, 2022 (deferral of \$30,185,196.57 of incremental fuel costs associated with the use of diesel fuel in the San Juan 5 and 6 plants due to irregularities in supply of natural gas), and Resolution and Order of June 29, 2022 (deferral of \$5,962,593.50 of incremental fuel costs associated with the use of diesel fuel in the San Juan 5 and 6 plants due to irregularities in supply of natural gas). These deferments have

also impacted PREPA's cash flow and liquidity position. As to date, PREPA has not reported recovery of any funds from its fuel suppliers for the shortfall in natural gas supplies.

Additional deferments will materially and adversely affect PREPA's liquidity and potentially impact its ability to pay suppliers in a timely manner. *See* PREPA Motion of July 18, 2022, at pages 3 and 13 (paragraph 29). A shortfall in liquidity at PREPA may also impose additional costs on customers and potentially threaten the continuity of electric generation.

IV. June Reconciliation

The quarterly reconciliations for the FCA and PPCA riders that are being submitted in the file entitled "FAC-PPAC RECONCILIATION JUN 2022" include the calculations for the reconciliations of the FCA and PPCA riders (costs versus revenues) and the amounts to be recovered or returned for each of these riders.

The Fuel Cost and prior period adjustments (FCA) were \$302,192,188.45 and revenues totaled \$254,043,305.30. There was a revenue insufficiency of \$48,137,842.64.

The Purchased Power Cost and the prior period adjustments (PPCA) were \$42,872,730.88 and revenues totaled \$42,928,880.08. There was an excess revenue of \$(56,149.20).

Given LUMA's analysis of funds available for deferment, as stated in Section III of this motion, and because as of the filing of this motion, a certification from the *Oficina Central de Recuperación, Reconstrucción y Resilencia ("COR3")* on the funds to be reimbursed is not available, LUMA calculated the FCA, and PPCA, factors for the remainder of the quarter under the following two scenarios, *see* file entitled "August-Sept 2022 Factors," Attachments 8 (a) and 8 (b):

Scenario 1: This scenario does not consider the deferment of the potential \$34,024,668.23 available. Under scenario 1, the following revised factors are applicable for the remainder of the quarter, August 1st, 2022, through September 30th, 2022:

Adjustment Clause	Factor(\$/kWh)
FCA	\$0.210783
PPCA	\$0.032409

Scenario 2: This scenario does consider the \$34,024,668.23. Under scenario 2, the following revised factors are applicable for the remainder of the quarter, August 1st, 2022, through September 30th, 2022:

Adjustment Clause	Factor(\$/kWh)
FCA	\$0.199268
PPCA	\$0.032409

Please note that both scenarios consider the \$48,081,693.44 revenue insufficiency for FCA and PPCA for June.

V. Documents Filed in Support of June Reconciliation and Revised Proposed FCA, PPCA and FOS Factors.

A. Confidential Folder

FAC-PPAC RECONCILIATION JUN 2022
August-Sept 2022 Factors_
Precio Ponderado Analisis _ 2022.05.31 - certified 6.16.22
PRECIO PONDERADO DIRECTORADO DE GENERACION @ mayo 31, 2022 (1)

B. Public Files

FAC-PPAC RECONCILIATION JUN 2022_Values
August-Sept 2022 Factors_Values
Fuel Inventory Folder: Folder: Inventory (Fuel) - May 31, 2022
<ul style="list-style-type: none"> • PRECIO PONDERADO DIRECTORADO DE GENERACION @ mayo 31, 2022 (1)_Values • Precio Ponderado Analisis _ 2022.05.31 – certified 6.16.22_values • GA022385 PREPA JB TANK INVENTORY (May 31, 2022)

- GA022384 PREPA DG TANK INVENTORY Figures (May 31 2022)
- GA022380 PREPA PS TANK INVENTORY (May 31, 2022)
- Full Report 1310100016648 - YABUCOA
- Full Report 1310100016647 - AGUIRRE
- Full Report 1310100016646 - SAN JUAN
- 22-00120 FINAL REPORT END OF MONTH INVENTORY
31MAY2022 NO. 2 FUEL OIL VEGA BAJA
- 22-00119 END OF MONTH INVENTORY 31MAY2022 NO. 2 FUEL
OIL MAYAGUEZ
- 22-00118 END OF MONTH INVENTORY 31MAY2022 NO. 2 FUEL
OIL & NO. 6 FUEL COSTA SUR
- 22-00117 END OF MONTH INVENTORY 31MAY2022 NO. 2 FUEL
OIL CAMBALACHE

VI. Request for Confidential Treatment of Excel Files and Supporting Memorandum of Law.

The confidential excel files mentioned in Section VA of this Motion *supra*, that are being submitted with this Motion, include excel spreadsheets submitted in native format (.xls) and with formulae intact. They include formulae and original calculations made by LUMA personnel that reveal confidential procedures and include sensitive commercial information belonging to LUMA and/or PREPA and that are thus protected by law from disclosure and that should not be disclosed in native form.

B. Applicable Laws and Regulation to submit information confidentially before the Bureau.

The bedrock provision on management of confidential information that is filed before this Bureau, is Section 6.15 of Act 57-2014, known as the “Puerto Rico Energy Transformation and Relief Act.” It provides, in pertinent part, that: “if any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the Commission to treat such information as such” 22 LPRA §1054n. If the Energy Bureau determines, after appropriate evaluation, that the information should be protected, “it shall grant such protection in a manner that least affects the public interest,

transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.” *Id.*, Section 6.15 (a).

Relatedly, in connection with the duties of electric power service companies, Section 1.10 (i) of Act 17-2019 provides that electric power service company shall provide information requested by customers, except for confidential information in accordance with the Rules of Evidence of Puerto Rico.”

Access to the confidential information shall be provided “only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.” *Id.*, Section 6.15(b). Finally, Act 57-2014 provides that this Energy Bureau “shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the [Bureau] who needs to know such information under nondisclosure agreements. However, the [Bureau] shall direct that a non-confidential copy be furnished for public review”. *Id.*, Section 6.15 (c).

The Energy Bureau’s Policy on Confidential Information details the procedures that a party should follow to request that a document or portion thereof, be afforded confidential treatment. In essence, the referenced Policy requires identification of the confidential information and the ... filing of a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 16, 2016, CEPR-MI-2016-0009. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation and a summary of the reasons why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* paragraphs 3. The party who seeks confidential

treatment of information filed with the Bureau must also file both “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* paragraph 6.

The aforementioned Energy Bureau policy on management of confidential information in procedures states the following with regards to access to validated Trade Secret Information:

1. Trade Secret Information

Any document designated by the [Energy Bureau] as Validated Confidential information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

Id. Section D (on Access to Validated Confidential Information).

Relatedly, Energy Bureau Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing confidential information in adjudicatory proceedings before this honorable Bureau. To wit, Section 1.15 provides that, “a person has the duty to disclose information to the [Bureau] considered to be privileged information, request the [Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Energy Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed accordingly to ... Article 6.15 of Act No. 57-2015, as amended.” *See also* Bureau Regulation No. 9137 on *Performance Incentive Mechanism*, Section 1.13 (addressing disclosure before the Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

C. Grounds for Confidentiality

Under the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, 10 LPRA §§4131-4144, industrial or trade secrets are deemed to be any information:

- (a) That has a present or a potential independent financial value or that provides a business advantage, insofar as such information is not common knowledge or readily accessible through proper means by persons who could make a monetary profit from the use or disclosure of such information, and
- (b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.

Id. §4131, Section 3 Act. 80-2011.² Trade secrets include, but are not limited to, processes, methods and mechanism, manufacturing processes, formulas, projects or patterns to develop machinery and lists of specialized clients that may afford an advantage to a competitor. *See* Statement of Motives, Act 80-2011. As explained in the Statement of Motives of Act 80-2011, protected trade secrets include any information bearing commercial or industrial value that the owner reasonably protects from disclosure. *Id.* *See also* Article 4 of Puerto Rico's Open Data Law, Act 122-2019 (exempting the following from public disclosure: (1) commercial or financial information whose disclosure will cause competitive harm; (2) trade secrets protected by a contract, statute or judicial decision (3) private information of third parties). *See* Act 122-2019, Articles 4 (ix) and (x) and (xi).

The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to commercial information that is confidential in nature. *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891, 901-02 (2017) (citation omitted).

² Relatedly, Rule 513 of the Rules of Evidence of Puerto Rico provides that the owner of a trade secret may invoke the privilege to refuse to disclose, and to prevent another person, from disclosing trade secrets, provide that these actions do not tend to conceal fraudulent actions or lead to an injustice. 32 P.R. Laws Annot. Ap. VI, R 513. If a court of law mandates disclosure of a trade secret, precautionary measures should be adopted to protect the interests of the owner of the trade secret. *Id.*

The excel spreadsheets that have been submitted today in native form and with formulae intact in the file entitled *Confidential* are protected as trade secrets. They have commercial value to LUMA and PREPA as they reveal confidential processes and analysis to produce calculations in support of the public filings of the revised proposed FCA, PPCA and FOS factors. LUMA and PREPA keep and maintain these native files confidentially and do not disclose them to the public nor to unauthorized third parties.

LUMA appreciates the importance of placing the Energy Bureau in the position of reviewing the reconciliations and fixing the annual factors. However, to avoid future competitive harms that could ensue if original format spreadsheets with formulae and calculations are publicly disclosed, LUMA respectfully request that the excel files submitted today in the file entitled *Confidential*, be received, kept and maintained confidentially by this Energy Bureau.

The confidential spreadsheets included in the file entitled *Confidential* are: (1) documents with commercial and financial value, and (2) involve data that **is not common knowledge or readily accessible** by third parties who may seek to profit from the data or gain commercial advantages. The spreadsheets are business documents showing processes, methods, and mechanisms, that garner protection under Act 80-2011. They are original documents that have not been disclosed to the third parties and whose disclosure would reveal sensitive and private commercial processes employed by LUMA and PREPA. The disclosure of this sensitive commercial information would place LUMA and PREPA in vulnerable and disadvantageous commercial positions that could affect LUMA customers and impact rates. Reasonable measures have been taken to protect the files from disclosure and avoid unauthorized access by third parties that could seek to gain commercial advantages. It is respectfully submitted that the spreadsheets

included in the file entitled *Confidential* are trade secrets protected from public disclosure by Act 80-2011.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned, **accept** the filing of the FCA, PPCA and FOS reconciliations for the month of June 2022 and the revised calculated factors for the months of August and September, 2022; and **grant** the request to keep confidentially the spreadsheets that have been filed in excel format and with formulae in the file entitled *Confidential* that is submitted with this Motion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 20th day of July 2021.

I hereby certify that I filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to counsel for PREPA Katiuska Bolaños-Lugo, kbolanos@diazvaz.law and to the Independent Consumer Protection Office, through Director Hannia Rivera, hrivera@oipc.pr.com.



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