

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 22, 2022, Submitting Revised FCA, PPCA, and FOS Factors, and Request for Confidential Treatment

MOTION IN COMPLIANCE WITH ORDER OF JULY 22, 2022, 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 and those that PREPA expects to recover 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 was already 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”); resulting in an increase in FEMA funding from \$175,371,558.24 to \$219,892,664.09. 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 had filed an insurance claim of \$130,681,001.00.

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. It determined that LUMA should re-estimate the FCA, PPCA, and FOS rider factors for 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 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, on July 20, 2022, LUMA submitted the required reconciliation for June 2022 and the updated and revised factors for the FCA, PPCA and FOS riders. *See 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*, filed on July 20, 2022 (“LUMA’s July 20th Motion”). LUMA’s July 20th Motion also included LUMA’s analysis of the sums to be reimbursed by FEMA and PREPA’s Insurance that

are pending deferment. Per LUMA's calculation, the sum available for deferment is \$34,024,668.23.

On July 21, 2022, PREPA filed a motion entitled *Moción para Informar Reconciliación en Favor del Consumidor*" (PREPA's July 21st Motion) in which it requested that this Energy Bureau authorize a credit to customers equal to the sum that PREPA received from Naturgy in the form of a contractual penalty for failure to supply natural gas from January through June 2022. PREPA indicated that the sum to be credited after subtracting the sums that this Energy Bureau has already deferred is \$13,537,477.81.

On July 22, 2022, this Energy Bureau issued a Resolution and Order ("July 22nd Order) in which it directed LUMA to submit updated FCA, PPCA, and FOS factors and to carefully verify the sums to be reconciled in connection with PREPA's contract with Naturgy for the supply of natural gas in the Costa Sur 5 and 6 units.

On July 26, 2022, PREPA submitted a motion entitled *Moción Informativa en Cumplimiento de Orden del 22 de julio de 2022*, whereby it informed that the *Oficina Central de Recuperación, Reconstrucción y Resiliencia* ("COR3"), had not responded to PREPA's request for the certification required by this Energy Bureau of the funds to be reimbursed to cover incremental fuel costs incurred in the aftermath of the 2020 earthquake and seismic activities.

In compliance with the July 22nd Order, LUMA hereby submits revised calculated factors for the FCA, PPCA, and FOS riders. LUMA's role in preparing this submission 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 generators by PREPA, without any markup, profit or additional charges that would benefit PREPA (or LUMA).

LUMA's submission of 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 V *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 that recovers the costs of fuel consumed in PREPA's generating units on a quarterly basis. *See* PREPA Book of Tariff on 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:

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

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 are the under or over recovered funds for the first two months of the current quarter and the last month of the preceding 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 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 next quarter.

B. PPCA

The PPCA is a reconciling tariff mechanism that recovers the costs of purchased power consumed in PREPA's generating units on a quarterly basis. *See* PREPA Book of Tariffs on 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:

$$\text{PPCA} = \frac{\text{Total Costs Purchased Power} + \text{Prior Period}}{\text{Reconciliation}}$$

Reconciliation

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 are the under or over recovered funds for the first two months of the current quarter and the last month of the preceding quarter. *Id.* LUMA shall provide the estimated 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, 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 will go into effect the first month of the next 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 quarterly.

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. Revised Calculated FCA, PPCA, and FOS Factors

LUMA performed an analysis, detailed in attachment 7(a) to the file submitted with this Motion entitled "*Factors August-September 2022_Accelerated Clause_CONFIDENTIAL.*" Per LUMA's analysis, the amounts recovered from Naturgy totaled \$39,154,698.98, which is more than the \$24,969,083.41 that were previously deferred by this Energy Bureau by \$14,185,615.57. See "*Factors August-September 2022_Accelerated Clause_CONFIDENTIAL,*" Attachment 7 (a).

An alternative to ordering that the \$14,185,615.57 be returned to customers, would be to apply it towards other fuel-based deferrals.

It should be noted that PREPA has not recovered any costs from contractual claims by PREPA against New Fortress related to supply of natural gas for the San Juan 5 and 6 units. Per LUMA's calculations, the amount of \$34,327,258.17 was deferred by this Energy Bureau related to the New Fortress contract for supply of natural gas. If this amount is not recovered from New Fortress, then these costs will have to be recovered from customers in due course.

Considering the scenario of PREPA's liquidity, which PREPA has explained in its filings in this proceeding, *see e.g.* PREPA 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", paragraph 29 (stating that PREPA's cashflow is materially affected by the lag in FCA and PPCA reconciliations), LUMA notes that the most prudent allocation of funds is to apply the recovered Naturgy payment to the aggregate amount deferred by the Energy Bureau related to fuel contracts. Per LUMA's calculations, this would reduce the outstanding deferral amount by \$14,185,615.57, from \$34,327,258.17 to \$20,141,642.60 . *See id.* The aforementioned would result in the revised factors as presented on July 20, 2022.

LUMA has also developed for consideration a scenario where the \$14,185,615.57 would be returned to customers. This is Scenario 1, shown below. Additionally, LUMA has calculated the impact of the potential additional funding from FEMA/COR3 related to fuel costs post the 2020 earthquake and seismic activities, which is not yet certified. This scenario would return \$34,024,668.23 to customers if FEMA/COR3 indeed fund 90% of the costs instead of 75% of the costs.

A summary of the two additional scenarios, along with the original July 20, 2022 scenario is presented below:

1. **July 20, 2022 Scenario:** This scenario includes updated fuel prices and outage schedules for August and September, and an updated reconciliation for June 2022 but does not include the deferments (Naturgy or FEMA/COR3 & insurance).
2. **Scenario 1:** This is the July 20, 2022 Scenario with the inclusion of the Naturgy reimbursements in excess of deferments returned to customers (\$14,185,615.57).
3. **Scenario 2:** This is the July 20, 2022 Scenario with the inclusion of the Naturgy reimbursements in excess of deferments returned to customers (\$14,185,615.57) and the potential additional FEMA/COR3 funding returned to customers (\$34,024,668.23).

Under each scenario, the following revised factors are applicable for the remainder of the quarter, August 1, 2022, through September 30, 2022.

<i>Scenario</i>	<i>FCA Factor \$/kWh</i>	<i>PPCA Factor \$kWh</i>
July 20 Scenario: Excludes both the FEMA funds & Naturgy credit, but includes updated fuel prices, outage schedule, and June 2022 reconciliation.	\$0.210783	\$0.032409
Scenario 1: Includes deferment of Naturgy penalty but excludes deferment of potential FEMA funds.	\$0.205982	\$0.032409
Scenario 2: Includes the deferments of both the Naturgy penalty and the FEMA funds	\$0.194468	\$0.032409

For reference, LUMA hereby provides a table that includes the deferments that have been approved by this Energy Bureau to date:

Period & Deferment	Amount	R&O Date	Recovered
April-June 2020: Incremental cost of fuel from the January 6 and 7, 2020 earthquakes (FEMA/Insurance Claim)	\$64,046,758.61	March 27, 2020	
June 2020: 75% of incremental cost of fuel (FEMA/Insurance Claim)	\$52,567,982.25	May 30, 2020	
January-March 2020: 100% incremental cost of fuel (FEMA/Insurance Claim)	\$56,786,021.56	December 31, 2020	
April-June 2021: 100% incremental cost of fuel (FEMA/Insurance Claim)	\$143,148,234.44	March 31, 2021	
Total FEMA/Insurance	\$316,548,996.86		PREPA has recovered approximately \$209,743,185.30 (Per PREPA's July 8 Report)
June-August 2021: Incremental cost of fuel from lack of natural gas supply (New Fortress)	\$75,775,797.60	September 30, 2021	\$75,775,797.60 (ARPA Funds per December 30, 2021 R&O)
September-November 2021: Incremental cost of fuel from lack of natural gas supply (New Fortress)	\$14,058,921.05	December 30, 2021	\$223,211.80 (ARPA Funds per December 30, 2021 R&O) ²
December 2021: Incremental cost of fuel from lack of natural gas supply (New Fortress)	\$4,621,768.21	March 31, 2022	
December 2021: Incremental cost of fuel from lack of natural gas supply (Naturgy)	\$3,411,698.10	March 31, 2022	

² In the Resolution and Order of December 30, 2021, on page 6, this Energy Bureau stated that the difference between the \$76,000,000 assigned from ARRA funds and the sum of \$75,776,788.20 that was deferred by this Energy Bureau, was \$233,211.80. LUMA understands that this Energy Bureau erred in setting the difference in the sum of \$233, 211.80 and that the correct sum is \$223, 211, .80

January 2022: Incremental cost of fuel from lack of natural gas supply (New Fortress)	\$5,297,746.63	March 31, 2022	
January 2022: Incremental cost of fuel from lack of natural gas supply (Naturgy)	\$5,163,979.53	March 31, 2022	\$5,627,996.30 (Per PREB June 29, 2022 R&O)
February 2022: Incremental cost of fuel from lack of natural gas supply (New Fortress)	\$4,609,440.58	March 31, 2022	
February 2022: Incremental cost of fuel from lack of natural gas supply (Naturgy)	\$7,080,563.52	March 31, 2022	\$5,968,408.98 (Per PREB June 29, 2022 R&O)
March 2022: Incremental cost of fuel from lack of natural gas supply (New Fortress)	\$4,047,158.89	June 29, 2022	
March 2022: Incremental cost of fuel from lack of natural gas supply (Naturgy)	\$5,586,031.73	June 29, 2022	\$5,586,031.73 (Per PREPA's July 21 Motion)
April 2022: Incremental cost of fuel from lack of natural gas supply (New Fortress)	\$1,915,434.61	June 29, 2022	
April 2022: Incremental cost of fuel from lack of natural gas supply (Naturgy)	\$4,542,266.97	June 29, 2022	\$7,145,439.12 (Per PREPA's July 21 Motion)
May 2022: Incremental cost of fuel from lack of natural gas supply (Naturgy)	\$3,244,379.49	June 29, 2022	\$8,732,124.45 (Per PREPA's July 21 Motion)
June 2022			\$6,094,698.40 (Per PREPA July 21 Motion)
Total	\$455,904,183.77		\$312,268,897.38

IV. Documents Filed in Support of the Revised Proposed FCA, PPCA, and FOS Factors.

A. Confidential Folder

Factors August-September 2022_Accelerated Clause_CONFIDENTIAL
Fuels Forecast Calculation_CONFIDENTIAL

B. Public Files

Factors August-September 2022_Accelerated Clause_Values
Fuel Forecast Calculation_Values
PREPA-MOCION Para Informar Reconciliacion a Favor de Consumidor.pdf
Supporting Documents Prices Forecast 7-13-22.pdf

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

The confidential excel files mentioned in Section IVA of this Motion *supra*, 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 that should not be disclosed in its native form.

A. Applicable Laws and Regulation to submit confidential information before the Bureau.

The bedrock provision on the management of confidential information 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 LPRR §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 the 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).

B. 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. 80-2011.³ Trade secrets include, but are not limited to, processes, methods, mechanisms, 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).

³ 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 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 or 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 requests 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 revised calculated factors for 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 28th day of July 2022.

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



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