

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

**NEPR**

**Received:**

**Aug 26, 2022**

**8:00 PM**

**IN RE:**

THE PERFORMANCE OF THE PUERTO  
RICO ELECTRIC POWER  
AUTHORITY

**CASE NO.: NEPR-MI-2019-0007**

**SUBJECT: Request for Extension of Time to Comply  
with Resolution and Order of August 18, 2022**

**REQUEST FOR EXTENSION OF TIME TO COMPLY WITH RESOLUTION AND  
ORDER OF AUGUST 18, 2022**

**TO THE PUERTO RICO ENERGY BUREAU:**

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

1. Since beginning operation of the Puerto Rico Transmission and Distribution System (“T&D System”) in June 2021, LUMA has submitted quarterly reports on specified system data of the Puerto Rico Electric Power Authority (“PREPA”) in compliance with the orders issued by this honorable Puerto Rico Energy Bureau (“Energy Bureau”) on May 14, 2019 and December 30, 2020 in this proceeding. LUMA has submitted such quarterly reports in accordance with a Resolution and Order of May 21<sup>st</sup>, 2021 that itemizes in Attachments A, B and D, the statistics to be included in the quarterly reports.

2. On August 18, 2022, this Energy Bureau issued a Resolution and Order with the subject “June 2021-May 2022, 12-Month Metric Summary” (“August 18<sup>th</sup> Order”). Attachments A and B of the August 18<sup>th</sup> Order include a summary and analysis by this Energy Bureau of the system data that LUMA and PREPA reported from June 1, 2021 through May 31, 2022.

3. On page 7 of the August 18<sup>th</sup> Order, this Energy Bureau stated succinctly that for certain performance metrics, LUMA's and PREPA's performance had not improved when compared to the baseline that was previously set by this Energy Bureau. This Energy Bureau then directed LUMA and PREPA to file by September 1, 2022, "a motion explaining, to the extent possible, the causes of th[e] non-positive negative performance and the corrective measures that [LUMA and PREPA] will implement . . . ." This Energy Bureau also directed that by August 31, 2022, LUMA shall inform the name of a LUMA representative to meet with the Energy Bureau to discuss reporting on customer monthly peak data metrics and that by September 30, 2022, LUMA must file a timeline to report on non-technical losses as well as submit the first bi-monthly report on the status of LUMA's reporting on non-technical losses. Subsequently, on August 24, 2022, this Energy Bureau issued a Resolution and Order where it determined that from June 2021 through May 2022 "the performance of LUMA remained within the expected baseline target for approximately eighty four percent (84%) of the metrics evaluated . . . ."

4. Recent orders issued by this honorable Energy Bureau in several active proceedings, including the August 18<sup>th</sup> Order, establish concurrent deadlines and events that require participation by LUMA at complex and time-sensitive technical conferences, as well as technical filings that coincide in the last days of the months of August and during September, 2022. To wit, when this Energy Bureau issued the August 18<sup>th</sup> Order that set four (4) deadlines for the months of August and September, this Energy Bureau had issued the following orders that likewise set deadlines for filings and schedule technical conferences for the last week of the current month of August and the upcoming month of September:

- i. Case NEPR-MI-2021-004, *In re Review of LUMA's Initial Budgets*- Per a Resolution and Order of August 12, 2022, the Energy Bureau continued *motu proprio*, the technical conference to consider LUMA's Annual Budget for Fiscal Year 2023 that had been set for August 17, 2022 ("August 12<sup>th</sup> Annual Budgets Order"). The Energy Bureau re-scheduled the technical conference for September 9, 2022. In turn, the conference was rescheduled for September 13, 2022, per a Resolution and Order of August 19, 2022. In the August 12<sup>th</sup> Annual Budgets Order, this Energy Bureau issued seven requests for information that LUMA shall answer on August 29, 2022; required LUMA to file by September 6, 2022, the presentation that it will offer in the technical conference; and set a third deadline for September 23, 2022, when LUMA shall submit revised or additional information that the Energy Bureau may request in the technical conference. Currently, per Resolutions and Orders issued on August 19, 2022, and August 25, 2022, LUMA has until September 8, 2022, to submit the presentation for the technical conference and until September 27, 2022, to file revised or additional information that the Energy Bureau may request in the technical conference. Finally, as per a Resolution and Order of August 26, 2022, LUMA has been required to submit the Quarterly Report for the Fourth Quarter of Fiscal Year 2022, by September 2, 2022 and a submission in response to an order to show cause, by September 6, 2022. Consequently, in connection with LUMA's Annual Budget for Fiscal Year 2023, this honorable Energy Bureau's schedule currently includes **one full-day technical conference to be held from 10:00 am through 5:00 pm on September 13, 2022**; and **five (5) deadlines** for LUMA to complete substantive filings in the last week of August and during the month of September.
- ii. Case No. NEPR-MI-2021-0013 *In re Despliegue de Infraestructura de Cargadores para Vehículos Eléctricos*- Per a Resolution and Order of May 19, 2022, on September 1, 2022, LUMA shall file a draft of a First Phase of an EV Charging Infrastructure Deployment Plan ("Phase I EV Plan"); a Compliance Technical Hearing No. 3 is scheduled for September 15, 2022, at 1:00 pm; and the final Phase I EV Plan is currently set to be filed on September 30, 2022. Thus, currently, the scheduled before this Energy Bureau for the month of September, includes **three (3) events** in this proceeding on the topic of deployment of infrastructure for Electric Vehicles.
- iii. Case No. NEPR-AP-2020-0025, *In re Performance Targets for LUMA Energy ServCo, LLC*- LUMA has requested to file on September 21, 2022, a Revised Annex IX to the Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA") and supporting testimonies, in compliance with a Resolution and Order of August 1, 2022.
- iv. Case No. NEPR-MI-2020-0001, *In re Tarifa Permanente de la Autoridad de Energía Eléctrica*- On or before 12:00 noon of September 15, 2022, LUMA shall file the quarterly reconciliations and calculated factors for the Fuel Charge Adjustment, Purchased Power Clause Adjustment and Fuel Oil Subsidy Riders. *See* Resolution and Order of July 31, 2022, Case No. NEPR-MI-2020-0001. As per the Energy Bureau's prior practice and precedents, a technical conference is held prior to the last day of the month to discuss the factors that will be in force beginning on October 1, 2022. Thus, LUMA has budgeted time in September and after September 15, 2022,

to prepare this filing, appear at the technical conference and file any additional information that the Energy Bureau may require to consider the calculated factors and adopt the reconciliations.

- v. Case No. NEPR-AP-2018-0004, *In re the Unbundling of the Assets of the Puerto Rico Electric Power Authority*- In compliance with a Resolution and Order of August 10, 2022 (“August 10<sup>th</sup> Order”), on August 24, 2022, LUMA submitted proposed changes to the draft wheeling customer rider as instructed by the Energy Bureau. Also per the August 10<sup>th</sup> Order, LUMA shall file on or before August 30, 2022, comments to the wheeling services agreement. A technical conference is currently scheduled for September 23, 2022. To wit, the Energy Bureau has in its schedule **two (2)** events: a deadline for substantive submissions by stakeholders and a technical conference on the complex and policy-driven topic of wheeling services in Puerto Rico.
- vi. Case No. NEPR-MI- *In re Review of the Puerto Rico Electric Power Authority’s 10 Year Infrastructure Plan December 2020*- On or before September 15, 2022, LUMA is set to file the Supplemental 90-Day work plan regarding transmission and distribution programs submitted or to be submitted for approval by the Federal Emergency Management Agency.
- vii. Case No. NEPR-IN-2022-0002, *In re Interrupción de Servicio Eléctrico del 6 de abril de 2022*- As the record of this proceeding shows, LUMA is set to file a circuit breaker failure report on August 26, 2022; a power plant analysis on September 9, 2022; and a root cause analysis on September 23, 2022. To wit, LUMA will submit **three (3)** technical and specialized filings within the next four (4) weeks.
- viii. Case No. NEPR-IN-2022-0003, *In re Interrupción de Servicio Eléctrico del 12 de julio de 2022*- Per a Resolution and Order of July 13, 2022, LUMA will submit an incident report on October 15, 2022.
- ix. Case No. NEPR-IN-2022-0003, *In re Interrupción de Servicio Eléctrico del 17 de agosto de 2022*- Per a Resolution and Order of August 17, 2022, LUMA is required to submit an incident report on or before August 31, 2022.

5. Per the aforementioned outline of the filings and hearings calendar in several proceedings before this Energy Bureau, during the last week of August and the month of September 2022, there are **four technical conferences and at least fifteen (15) filings** to be submitted for consideration by this Energy Bureau. This illustration of the regulatory calendar for the coming weeks provides important insights on the overall workload of this Energy Bureau, LUMA, PREPA and stakeholders. Incidents of overlapping and successive events have occurred in the past and this Energy Bureau has mindfully postponed or re-scheduled events. *See* Resolution and Order of May 7, 2021, Case No. NEPR-MI-2019-0016, *In re Informes de*

*Progreso de Interconexión de la Autoridad de Energía Eléctrica* (postponing compliance hearing that had been set for May 17, 2021 due to conflicts with other proceedings with this Energy Bureau); Resolution and Order of May 7, 2021, Case No. NEPR-MI-2021.006, *In re Demand Response Plan Review, Implementation and Monitoring* (rescheduling technical conference bases on conflicts with other proceedings); Resolution and Order of May 5, 2021, Case No. NEPR-MI-2020-0016, *In re Optimization Proceeding of MiniGrid Transmission and Distribution Investments* (postponing two technical workshops to allow the Energy Bureau to thoroughly analyze information submitted by stakeholders), Resolution and Order of May 14, 2021, Case No. NEPR-2020-0025, *In re Performance Targets for LUMA Energy ServCo LLC* (amending procedural calendar *motu proprio* in attention to the pendency of parallel proceedings in Case No. NEPR-MI-2019-007).

6. It is respectfully submitted that when overlapping submissions and events are scheduled, the need for the procedural calendars and due dates to change on or close to a deadline increases, because the parties to proceedings, stakeholders, and this Energy Bureau, are not able to fully deploy their time and efforts to fulfill their duties, and processes become less efficient. LUMA, in good faith, proposes that a planning and scheduling approach that involves parties and stakeholders in setting short, medium term and long term agendas on the regulatory topics that will be addressed by this Energy Bureau each quarter, semester or year, will serve to streamline processes, enable the parties to comply timely with the orders of this Energy Bureau, ensure that the parties and stakeholders have sufficient time to work on topics and matters that have been prioritized, and further efficiencies. Moreover, a scheduling proceeding or scheduling meetings, will further the common goal of adopting reasonable timeframes to secure compliance with energy public policy goals and related legal mandates. To that end, LUMA will submit

forthwith to this Energy Bureau a proposal to open a scheduling docket where stakeholders and those entities that this Energy Bureau supervises and regulates, are able to engage in collaborative discussions with this Energy Bureau regarding schedules for active proceedings.

7. LUMA respectfully requests that this Energy Bureau consider the aforementioned summary of the current schedule and timeline of filings across several active dockets, to ascertain that even with several dedicated teams spanning regulatory, operations, and other components of LUMA's operations and workforce, it is not feasible to comply simultaneously with the overlapping deadlines and appear for the technical conferences that are scheduled in the aforementioned active and parallel proceedings. LUMA respectfully posits that there is a material benefit for all of those concerned to prioritize proceedings and deadlines for the Annual Budgets, the filing of FCA, PPCA and FOS quarterly reconciliations and calculated factors, the revised Annex IX to the T&D OMA, and the filing of the investigation reports outlined above. To wit, LUMA will propose in each of the relevant dockets and in this Motion, that several other deadlines and technical conferences be re-scheduled for the last week of September and the first-two weeks of October 2022. This will allow all of the parties concerned to concentrate on a group of filings and appearances at technical conferences that require considerable time and resources during the month of September to then address other matters, without delay, in the first half of the month of October.

8. In short, LUMA proposes collaborative solutions to minimize overlapping filings and conferences and allow for sufficient time between filings and appearances at technical conferences for personnel to prepare and comply with the orders of this Energy Bureau. In turn, this will reduce the need for piecemeal requests to extend times for submissions or re-schedule conferences.

9. Given that the August 18<sup>th</sup> Order was issued recently and after LUMA was working on several other filings and conferences that had been scheduled prior or close to August 18, 2022, such as the requirements issued in the Annual Budgets, unbundling and Electronic Vehicles, and the permanent rate proceedings, it is respectfully submitted that the time allotted by this Energy Bureau in the August 18<sup>th</sup> Order for LUMA to submit both explanations on system data and performance that spans twelve (12) months of operations and to outline corrective actions, is unduly short and does not properly consider the steps required to fully and properly comply with the referenced two-pronged order. It is crucial to grant LUMA additional time to conduct said analysis because this Energy Bureau announced that it will consider LUMA's submission to issue a final determination on several aspects of LUMA's performance that this Energy Bureau has determined show performance below relevant baselines. *See* August 18<sup>th</sup> Order on page 7.

10. Furthermore, compliance with that portion of the August 18<sup>th</sup> Order that requires submission of explanations on LUMA's performance and with reference to corrective actions, first requires examination by LUMA's team of experts of Attachments A and B to evaluate and assess the Energy Bureau's summary and analysis of system data. This is a time-intensive endeavor given that the August 18<sup>th</sup> Order does not explain or outline the methodology underlying this Energy Bureau's analysis of the system data.

11. On March 21, 2022, LUMA filed a motion styled "Request for Clarification or Amendment of Energy Bureau Resolution and Order of December 14, 2021," whereby LUMA identified a disagreement with a conclusion by this Energy Bureau in a prior order issued in this proceeding where the Energy Bureau issued conclusions on LUMA's performance for June, July and August 2021, as measured by the SAIDI and SAIFI reliability metrics. LUMA explained in

said submission that it had to rely on inferences to understand the Energy Bureau's methodology to analyze LUMA's system data to draw conclusions on system reliability data<sup>1</sup>. To comply with that portion of the August 18<sup>th</sup> Order that requires explanations on the Energy Bureau's assessment of system data for several performance categories, LUMA is conducting similar time-intensive analyses of Attachments A and B of the August 18<sup>th</sup> Order. This, to be in a position to identify any discrepancies regarding the information included in Attachments A and B of the August 18<sup>th</sup> Order or matters that may merit clarification by this Energy Bureau to ensure that the calculations of the relevant system data and conclusions on performance are accurate.

12. LUMA currently understands that it will file narrative explanations on system data and performance approximately sixty-seven (67) of the metrics outlined in Attachments A and B. This requires input from LUMA personnel and experts in different aspects of LUMA's operations, as well as LUMA management personnel. Given that said personnel is also involved in important aspects of LUMA's operations and day-to-day activities, it is currently estimated that LUMA will need several weeks to obtain their input. Moreover, in good faith and after having adopted a comprehensive plan to comply with the order issued by this Energy Bureau, LUMA understands that after the input from its personnel is available, it needs several weeks to draft, review, edit, and obtain final sign offs from management personnel for the submission required on page 7 of the August 18<sup>th</sup> Order. This work will be performed simultaneously with the efforts needed to comply with that portions of the August 18<sup>th</sup> Order that requires on August 31, 2022 to designate a representative to work with the Energy Bureau to develop a process to collect and report on the monthly peak by customer class and monthly peak by district; and on

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<sup>1</sup> This Motion is pending adjudication by the Energy Bureau.



September 30, 2022, submit a timeline to report on non-technical losses as well as a report on the status of LUMA's reporting on non-technical losses.

13. Given the aforementioned, LUMA respectfully requests until October 3, 2022, to file its submission in compliance with that portion of the August 18<sup>th</sup> Order that requires explanation on LUMA's performance and actions taken or to be taken to address specified performance areas that this Energy Bureau has concluded are below baselines set in this proceeding.

14. LUMA appreciates the importance of timely complying with the orders issued by this Energy Bureau. Accordingly, this Motion has been filed expediently, six (6) business days after LUMA received the August 18<sup>th</sup> Order and after having conducted expedient and reasonable diligences to ascertain the time frame needed to comply with the August 18<sup>th</sup> Order without unduly delaying proceedings

15. The extension of time requested herein will enable LUMA to submit information and data explanations that will place this Energy Bureau in a position to ascertain the conditions of the Transmission and Distribution System ("T&D System") and of the infrastructure and resources available to LUMA to operate the T&D System and provide services to customers, that are relevant to LUMA's performance in the months of June 2021 through May 2022.

**WHEREFORE**, LUMA respectfully requests this Honorable Bureau **take notice of the** aforementioned; and **grant** LUMA until October 3, 2022 to file its submission in compliance with that portion of the August 18<sup>th</sup> Order that requires explanations on LUMA's performance in response to the Energy Bureau's summary of specified metrics included in Attachments A and B of the August 18<sup>th</sup> Order.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 26<sup>th</sup> day of August, 2022.

We hereby certify that we filed this motion using the electronic filing system of this Energy Bureau and that we will send an electronic copy of this motion to the attorneys for PREPA, Joannely Marrero-Cruz, [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law); and Katiuska Bolaños-Lugo, [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law), and the Independent Consumer Protection Office, Hannia Rivera, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov).



**DLA Piper (Puerto Rico) LLC**  
500 Calle de la Tanca, Suite 401  
San Juan, PR 00901-1969  
Tel. 787-945-9107  
Fax 939-697-6147

/s/ Margarita Mercado Echegaray  
Margarita Mercado Echegaray  
RUA NÚM. 16,266  
[margarita.mercado@us.dlapiper.com](mailto:margarita.mercado@us.dlapiper.com)