

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

NEPR

Received:

Sep 9, 2022

10:25 AM

IN RE:

THE PERFORMANCE TARGETS FOR
LUMA ENERGY SERVCO, LLC

CASE NO.: NEPR-AP-2020-0025

SUBJECT:

**Amended Request for Extension of Time to
Submit a Revised Annex IX and Pre-Filed
Written Direct Testimonies in Compliance
with the Resolution and Order of August 1,
2022**

**AMENDED REQUEST FOR EXTENSION OF TIME TO SUBMIT A REVISED ANNEX
IX AND PRE-FILED WRITTEN DIRECT TESTIMONIES IN COMPLIANCE WITH
THE RESOLUTION AND ORDER OF AUGUST 1, 2022**

TO THE HONORABLE 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 December 22, 2021, the Puerto Rico Energy Bureau (“Energy Bureau”) entered a Resolution and Order whereby it concluded that additional performance-based incentive metrics must be evaluated as part of this procedure (“December 22 Resolution and Order”). To that end, the Energy Bureau identified three additional categories of performance metrics: (i) Interconnection of Distributed Energy Resources; (ii) Energy Efficiency and Demand Response; and (iii) Vegetation Management. In the December 22 Resolution and Order, the Energy Bureau ordered LUMA to file a revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (“T&D OMA”), including targets and supporting metrics for (i) Interconnection; (ii) Energy Efficiency/Demand Response; and (iii) Vegetation

Management. The Energy Bureau also ordered LUMA to provide supplemental or revised direct pre-filed testimonies for the new metrics and targets.

2. On February 17, 2022, LUMA filed *LUMA's Response in Opposition and Objection to December 22, 2021 Resolution and Order and Request to Vacate or Grant LUMA Relief from the December 22, 2021 Resolution and Order* (“LUMA’s Objection”).¹ In essence, LUMA contended that the entry of the December 22 Resolution and Order was arbitrary and in violation of LUMA’s due process rights and requested that this Energy Bureau vacate said order.

3. Nearly five months thereafter, on August 1, 2022, this Energy Bureau entered a Resolution and Order, whereby it denied LUMA’s Objection (“August 1st Order”). In turn, it ordered LUMA to file within twenty (20) days: (i) a revised Annex IX to the T&D OMA, including targets and supporting metrics for Interconnection, Energy Efficiency/Demand Response, and Vegetation Management; and (ii) a supplemental or revised direct pre-filed testimony for targets and supporting metrics for the performance metric targets described in the December 22 Resolution and Order.

4. On August 18, 2022, LUMA submitted a Motion styled *Motion to Request Extension of Time to Submit a Revised Annex IX and Pre-Filed Written Direct Testimonies in Compliance with the Resolution and Order of August 1, 2022* (“August 18th Request for Extension”), whereby LUMA requested an extension until September 21, 2022 to file its submissions in compliance with the August 1st Order. In the August 18th Request for Extension,

¹ On March 14, 2022, LECO filed a *Reply to LUMA's Response in Opposition to the December 22, 2021 Resolution and Order on Additional Metrics*. LECO averred that the Energy Bureau has authority to require the inclusion of additional metrics in this proceeding and that the Determination of Completeness entered by the Energy Bureau on August 25, 2021, does not prohibit the Energy Bureau from requiring consideration of additional metrics. LECO also set forth that the December 22 Resolution and Order ensure due process rights to all parties in this proceeding and that LUMA’s Objection constitutes a tardy motion for reconsideration. Thereafter, on March 24, 2022, LUMA filed *LUMA's Response to LECO's Reply to LUMA's Response in Opposition to the December 22, 2021 Resolution and Order on Additional Metrics*.

LUMA suggested a filing date of September 21, 2022. Said proposed date was congruent with the then current regulatory workload and considered the then current workload of the at least three witnesses who will offer the pre-filed written direct testimonies on the additional metrics.

5. When LUMA prepared the August 18th Request for Extension, it was not able to consider the workload required to comply with a Resolution and Order issued on August 18, 2022 in the separate proceeding, *In re the Performance of the Puerto Rico Electric Power Authority*, NEPR-MI-2019-0007, whereby this Energy Bureau, in pertinent part, directed that LUMA shall file a motion explaining the causes of LUMA's performance in specific areas and the corrective measures that LUMA will implement. *See* Resolution and Order of August 18, 2022, Case No. NEPR-MI-2019-0007 ("August 18th Order on LUMA's Performance"). Currently, LUMA's submission in compliance with the August 18th Order on LUMA's Performance is due on September 20, 2022.

6. To comply with the August 18th Order on LUMA's Performance, LUMA has to submit explanations on system data that spans twelve (12) months of operations for approximately sixty-seven (67) metrics, all of which require the input of LUMA personnel and some of which require the input from the Puerto Rico Electric Power Authority. Said time intensive endeavor is underway and currently occupying the time and efforts of key personnel who are also working on the Revised Annex IX to the T&D OMA and the pre-filed testimonies to be submitted in this proceeding. At least two of the individuals whose input is necessary to submit the Revised Annex IX to the T&D OMA and supporting testimonies, are dedicating time and effort to the August 18th Order on LUMA's Performance. Furthermore, LUMA's personnel in charge of providing input for and approving the Revised Annex IX to the T&D OMA are also called upon to review and approve the submission in compliance with the August 18th Order on LUMA's Performance.

7. At the same time, LUMA is compiling the data on financial performance for the fourth quarter of Fiscal Year (“FY”) 2022 (“FY2022”) to be submitted on September 8, 2022, Case NEPR-MI-2021-0004, preparing for the technical conference to consider LUMA’s Certified Budget for FY2023 that is scheduled for September 13, 2022, and working on the submission of the quarterly reconciliations and calculated factors for the Fuel Charge Adjustment, Purchased Power Clause Adjustment and Fuel Oil Subsidy Riders that are to be submitted on September 15, 2022 per this Energy Bureau’s Resolution and Order of July 31, 2022 in *In re Tarifa Permanente de la Autoridad de Energía Eléctrica de Puerto Rico*, Case No. NEPR-MI-2020-0001.

8. Given the aforementioned overlapping submissions that are due between September 9th and September 20th and LUMA’s participation in the technical conference set for September 13th, LUMA respectfully informs that it will not be feasible to submit the Revised Annex IX and the supporting testimonies in connection with the additional metrics by September 21, 2022, as stated in the August 18th Request for Extension. LUMA in good faith states that it will need eight (8) additional business days, until October 3, 2022 to complete the submission of the Revised Annex IX and until October 6th to submit the testimonies in relation thereto.

9. The additional time requested herein will allow LUMA to fulfill the Energy Bureau’s requirements in cases NEPR-MI-2021-0004 and NEPR-MI-2020-0001 to then finalize the Revised Annex IX to the T&D OMA and supporting testimonies. This request for an extension of time is made in good faith and has no impact in this proceeding given that a procedural calendar has not been established.

WHEREFORE, LUMA respectfully requests this Honorable Bureau **consider** the aforementioned and **grant** this request to reschedule the deadline to file the Revised Annex IX to

the T&D OMA for October 3, 2022, and the deadline to file the pre-filed direct written testimonies on the additional metrics for October 6, 2022.

RESPECTFULLY SUBMITTED.

We hereby certify that we filed this motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this motion to the attorneys for PREPA, Joannely Marrero-Cruz, jmarrero@diazvaz.law; and Katuska Bolaños-Lugo, kbolanos@diazvaz.law, the Office of the Independent Consumer Protection Office, Hannia Rivera Diaz, hrivera@jrsp.pr.gov, and counsel for the Puerto Rico Institute for Competitiveness and Sustainable Economy (“ICSE”), Fernando Agrait, agraitfe@agrailawpr.com, counsel for the Colegio de Ingenieros y Agrimensores de Puerto Rico (“CIAPR”), Rhonda Castillo, rhoncat@netscape.net, and counsels for Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace Latino de Acción Climática, Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club and its Puerto Rico Chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (jointly, Puerto Rico Local and Environmental Organizations), larroyo@earthjustice.org, lvez@earthjustice.org, rmurthy@earthjustice.org, rstgo2@gmail.com, notificaciones@bufete-emmanuelli.com, pedrosaade5@gmail.com, jessica@bufete-emmanuelli.com; rolando@bufete-emmanuelli.com.

In San Juan, Puerto Rico, on this 9th day of September 2022.



DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969
Tel. 787-945-9132
Fax 939-697-6102

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

/s/Ana Margarita Rodríguez Rivera
Ana Margarita Rodríguez Rivera
RUA Núm. 16,195
ana.rodriguezrivera@us.dlapiper.com