

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

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

**CASE NO. NEPR-MI-2020-0001**

**SUBJECT: Submission of Reconciliations for  
the Months of July and August, 2022 and FCA,  
PPCA, PPCA and FOS Calculated Factors and  
Request for Confidential Treatment**

**MOTION SUBMITTING RECONCILIATIONS FOR THE MONTHS OF JULY AND  
AUGUST, 2022 AND 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**

Pursuant to a Resolution and Order dated January 17, 2020, this honorable Puerto Rico Energy Bureau (“Energy Bureau”) has conducted approval and revisions of the factors associated with several riders including, contributions in lieu of taxes cost adjustment (CILTA), help to human subsidies (SUBA-HH), non-help to human subsidies (SUBA-NHH), Fuel Charge Adjustment (FCA), the Purchased Power Charge Adjustment (PPCA), and the Fuel Oil Subsidy (FOS), and their reconciliations, in this proceeding, NEPR-MI-2020-0001. The reconciliations and FCA, PPCA and FOS calculated factors are filed quarterly with this honorable Energy Bureau pursuant to the Final Rate Order issued on January 10, 2017, Case CEPR-AP-2015-0001, as amended (“Final Rate Order”).

LUMA does not own or operate generation facilities, nor does it purchase any fuel for generation. LUMA's costs of operations are not included in the FCA, PPCA and FOS riders. The Final Rate Order and the Puerto Rico Electric Power Authority's ("PREPA") tariff book requires the calculation of the FCA, PPCA, and FOS riders to assure the pass-through of fuel used in generation by PREPA and the power purchased from private generators, without any markup, profit or additional charges that would benefit PREPA. As Operator of the Transmission and Distribution System, and in furtherance of its duties over system regulatory matters under 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 is tasked with the preparation of the required quarterly reconciliations and factors for the FCA, PPCA and FOS riders.

In a Resolution and Order issued in this proceeding on June 31, 2022, this Energy Bureau set the FCA, PPCA and FOS factors to be applied from July 1<sup>st</sup>, 2022, until September 30, 2022 ("June 31<sup>st</sup> Order"). In the June 31<sup>st</sup> Order, the Energy Bureau also directed that on or before September 15<sup>th</sup>, 2022 at noon, LUMA shall file the FCA, PPCA and FOS reconciliations for the months of June, July, and August, 2022 as well as the calculated factors to be applied starting on October 1, 2022. Thereafter, on July 13, 2022 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 ("July 13<sup>th</sup> Order"). 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).

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 20<sup>th</sup> Motion”). On July 22, 2022, this Energy Bureau issued a Resolution and Order (“July 22<sup>nd</sup> 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. In compliance with the July 22<sup>nd</sup> Order, LUMA submitted revised calculated factors for the FCA, PPCA, and FOS riders. *See Motion in Compliance with Order of July 22, 2022, Submitting Reconciliations for the Month of June 2022 and Revised FCA, PPCA and FOS Factors, and Request for Confidential Treatment* filed on July 28, 2022.

On July 31, 2022, this Energy Bureau determined to adjust the FCA, PPCA and FOS factors prior to the end of the quarter (accelerated adjustment), that \$48,081,693.44 for fuel and purchased power costs should be recovered for the month of June, 2022 and modified the FCA and PPCA factors for the months of August and September to: FCA: \$0.194468 and PPCA:\$0.032409 (“July 31<sup>st</sup> Order on Accelerated Adjustment”). This Energy Bureau also directed that LUMA should file the proposed FCA, PPCA and FOS factors to be implemented on October 1, 2022, on or before September 15, 2022. On September 13, 2022, LUMA requested a brief extension of time, until September 19, 2022, to submit the calculated factors due to delays in receipt of fuel purchase data that is produced by the Puerto Rico Electric Power Authority (“PREPA”). On September 16, 2022, this Energy Bureau granted LUMA until September 19, 2022 at 1:00 pm, to submit the calculated factors.

As this Energy Bureau is aware, on September 14, LUMA activated its Emergency Response Plan in preparation for the potential impacts of a tropical weather system which would later become Hurricane Fiona. On September 17, 2022, the Government of Puerto Rico issued Executive Order OE-2022-045, as may be amended from time to time, to declare a State of Emergency due to the passing of Hurricane Fiona. On September 18, 2022, Hurricane Fiona passed through Puerto Rico and caused widespread damage. Similarly, on September 18, 2022, President Joseph R. Biden, Jr approved an Emergency Declaration for Puerto Rico (EM-3583-PR) pursuant to the Stafford Act, to save lives and protect property and public health and safety, and to lessen or avert the threat of catastrophe in all 78 municipalities in the Commonwealth of Puerto Rico due to Hurricane Fiona. In the aftermath of Hurricane Fiona, LUMA and PREPA have and continue to work on recuperation efforts to reestablish electric power service in Puerto Rico. In attention to the emergency caused by Hurricane Fiona, on September 20, 2022, this Energy Bureau extended the time to file the reconciliations and calculated factors to September 23, 2022 at 5:00 pm.

LUMA has calculated the reconciliations for the FCA and PPCA riders for the months of July and August, 2022 and the factors for the FCA, PPCA and FOS riders to be applied for the period from October 1<sup>st</sup> until December 31<sup>st</sup>, 2022 consistent with the approved and currently existing PREPA tariff book and the Final Rate Order. LUMA's submission 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 IX *infra*, it is hereby respectfully requested that the Bureau accept and maintain the files and spreadsheets submitted in the file, *Confidential*, under seal of confidentiality.

## **II. Energy Bureau Authority**

This submission of the quarterly reconciliations and proposed FCA, PPCA, and FOS factors involves the Energy Bureau’s authority under Act 57-2104, as amended by Act 17-2019, to “review and approve and, if applicable, modify the rates or fees charged by electric power service companies in Puerto Rico or the contractor of the transmission and distribution system of Puerto Rico in connection with any matter directly or indirectly related to the provision of electric power services.” *See* Act 17-2014, Section 6.3 (n), 22 LPRA §1054(n) (Spanish language) (2021). Also relevant is the Energy Bureau’s authority to “formulate and implement strategies to achieve the objectives of this Act including, but not limited to, attaining the goal of reducing and stabilizing energy costs....” *See Id.*, Section 6.3 (f).

## **III. 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 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:

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

*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.

**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.*

**IV. Factors Fixed by PREB for July 1<sup>st</sup> through September 30<sup>th</sup>, 2022**

In the June 30<sup>th</sup> Order and the July 31<sup>st</sup> Order on Accelerated Adjustment, this honorable Energy Bureau, set the following factors to apply from July 1<sup>st</sup> through July 31, and then from August 1<sup>st</sup> through September 30<sup>th</sup>, 2022, respectively:

<b>Adjustment</b>	<b>Factor</b>	<b>Effective Dates</b>
FCA	0.221919	July 1, 2022 – July 31, 2022
PPCA	0.032501	July 1, 2022 – July 31, 2022
FOS	-0.028901	July 1, 2022 - September 30, 2022
FCA	0.194468	August 1, 2022 - September 30, 2022
PPCA	0.032409	August 1, 2022 - September 30, 2022

## **V. Reconciliations for FCA and PPCA Riders**

The quarterly reconciliations for the FCA and PPCA riders that are submitted in the file entitled “FCA-PPCA Reconciliation (Jul-Aug 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.

For July 2022, the Fuel Costs, and the prior period adjustments were \$300,879,653.80 and revenues totaled \$314,243,060.87. There was a revenue excess of \$13,363,407.07. However, there was a penalty due to excess fuel nominations of \$6,482,687.51, which resulted with an updated revenue excess of \$6,880,719.56. Purchased Power Costs and the prior adjustments were \$42,912,771.16 and revenues totaled \$46,123,135.18. There was a revenue excess of \$3,210,364.03.

For August 2022, the Fuel Costs and prior period adjustments were \$320,746,758.45 and revenues totaled \$272,726,522.46. There was a revenue insufficiency of \$48,020,235.98. However, a credit adjustment of \$504,922.89 was applied due to San Juan Natural Gas mitigation corresponding to July 2022, which resulted in a revenues insufficiency of \$47,515,313.10. The Purchased Power Costs and prior period adjustments were \$43,462,513.53 and revenues totaled \$44,752,518.58. There was a revenue excess of \$1,290,005.05.

The Fuel Costs, and prior period adjustments, for July 2022, and August 2022, and were \$621,616,412.24, revenues totaled \$586,969,583.33 and the San Juan nomination adjustments totaled \$5,997,764.63. There was a revenue insufficiency of \$40,634,593.54.

The Purchased Power Costs, and the prior period adjustments, for July 2022, and August 2022, were \$86,375,284.68, and revenues totaled \$90,875,653.76. There was a revenue excess of \$4,500,369.08.



**VI. Calculated Factors**

The excel spreadsheet entitled: “Oct-Dec2022 Factors” includes the calculations for the FCA, PPCA and FOS factors for the subject period.

LUMA respectfully requests that the Energy Bureau review the following calculated factors, applicable for the next quarter from October 1<sup>st</sup>, 2022, until December 31<sup>st</sup>, 2022:

**FCA:** \$0.170496

**PPCA:** \$0.030171

**FOS :** \$0.026605

See “Oct-Dec 2022 Factors”, Attachments 1 and 2.

LUMA notes that for the second time since July 2022, the reconciliations and calculated factors show a reduction in costs to benefit customers. Per the current calculated factors, customers will experience a reduction in the fuel and purchased power costs to be billed starting on October 1, 2022:

	July 2022 - September 2022	October 2022 - December 2022	Abs Variance	% Variance
FCA	19.45	17.05	-2.40	-12.33%
PPCA	3.24	3.02	-0.22	-6.91%

The reduction for GRS residential customers with a consumption of 400 kWh is -\$10.48 or -\$0.02620 \$/kWh, equivalent to a -8.5% variance. The estimated reduction for GSS Secondary Commercial and Industrial Customers with a consumption of 1,200 kWh is -\$31.44 or -\$0.02620 \$/kWh, equivalent to a -7.8% variance. *See Id.* Attachment 6, LUMA Bill Impacts.

**VII. List of Documents Filed in Support of Reconciliations and Proposed FCA, PPCA and FOS Factors.**

**A. Confidential Folder**

Oct-Dec 2022 Factors.xlsx
FAC-PPAC RECONCILIATION (JUL-AUG 2022)
<ul style="list-style-type: none"> <li>• Inventory (Fuel) - August 31, 2022: <ul style="list-style-type: none"> <li>• PRECIO PONDERADO DIRECTORADO DE GENERACION.xlsx <ul style="list-style-type: none"> <li>• Precio Ponderado Analisis _ 2022.08.31 (1).xlsx</li> </ul> </li> </ul> </li> </ul>

**B. Public Files in Values Folder**

Oct-Dec 2022 Factors_Values.xlsx
FAC-PPAC RECONCILIATION (JUL-AUG 2022)_Values.xlsx
<ul style="list-style-type: none"> <li>• Inventory (Fuel) - August 31, 2022: <ul style="list-style-type: none"> <li>• <i>Oct-Dec 2022 Factors_Values.xlsx</i></li> <li>• <i>FAC-PPAC RECONCILIATION (JUL-AUG 2022)_Values.xlsx</i></li> <li>• <i>Inventory (Fuel) - August 31, 2022</i> <ul style="list-style-type: none"> <li>▪ <i>PRECIO PONDERADO DIRECTORADO DE GENERACION DIARIO COMBUSTIBLES agosto 31 2022 (1_Values) .xlsx</i></li> <li>▪ <i>Precio Ponderado Analisis _ 2022.08.31 (1)_Values.xlsx</i></li> <li>▪ <i>GA022620 PREPA AGUIRRE TANK INVENTORY (8.31.22).pdf</i></li> <li>▪ <i>GA022615 PREPA YB TANK INVENTORY (Aug. 31, 2022).pdf</i></li> <li>▪ <i>GA022612 PREPA CENTRAL SAN JUAN TANK INVENTORY (8.31.22).pdf</i></li> <li>▪ <i>Full Report 1310100016758 - PUERTO RICO ELECTRIC (BR) POWER AUTHORITY, M. Rios.pdf</i></li> <li>▪ <i>Full Report 1310100016757 - PUERTO RICO ELECTRIC (BR) POWER AUTHORITY, M. Rios.pdf</i></li> <li>▪ <i>Full Report 1310100016756 - PUERTO RICO ELECTRIC (BR) POWER AUTHORITY, M. Rios.pdf</i></li> <li>▪ <i>Full Report 1310100016756 - PUERTO RICO ELECTRIC (BR) POWER AUTHORITY, M. Rios.pdf</i></li> <li>▪ <i>CERTIFICADO DE CANTIDAD - INVENTARIO DO @ PREPA JOBOS GUAYAMA, P.R..pdf</i></li> </ul> </li> </ul> </li> </ul>

- 22-00188 END OF MONTH INVENTORY 31AUGUST2022 NO. 2 FUEL OIL @ PREPA CAMBALACHE ARECIBO, P.R. - REF. CAM-TANKINVENTORY-8-22.pdf
- 22-00187 END OF MONTH INVENTORY 31AUGUST2022 NO. 2 FUEL OIL @ PREPA DAGUAO CEIBA, P.R. - REF. DG-TANKINVENTORY-8-22.pdf
- 22-00186 END OF MONTH INVENTORY 31AUGUST2022 NO. 2 FUEL OIL @ PREPA JOBOS GUAYAMA, P.R. - REF. JB-TANKINVENTORY-8-22.pdf
- 22-00185 FINAL REPORT END OF MONTH INVENTORY 31AUGUST2022 NO. 6 FUEL OIL @ PREPA PALO SECO SAN JUAN, P.R. - REF. PS-TANKINVENTORY-8-22.pdf
- 22-00185 FINAL REPORT END OF MONTH INVENTORY 31AUGUST2022 NO. 2 FUEL OIL @ PREPA PALO SECO SAN JUAN, P.R. - REF. PS-TANKINVENTORY-8-22.pdf

### **VIII. Request for Confidential Treatment of Excel Files and Supporting Memorandum of Law.**

The confidential excel files mentioned in Section VIIA 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.

#### **A. 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, 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.<sup>1</sup> 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)).

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<sup>1</sup> 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 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).

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 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 and PPCA reconciliations for the months of July and August 2022, and the calculated factors for the quarter starting on October 1, 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 23<sup>rd</sup> day of September 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](mailto:kbolanos@diazvaz.law) and to the Independent Consumer Protection Office, through Director Hannia Rivera, [hrivera@oipc.pr.com](mailto:hrivera@oipc.pr.com).



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