

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

NEPR

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IN RE:

REVIEW OF THE PUERTO RICO ELECTRIC
POWER AUTHORITY'S SYSTEM
REMEDATION PLAN

CASE NO. NEPR-MI-2020-0019

**SUBJECT: Motion for Partial Reconsideration of
Resolution and Order of August 31, 2022, and
Proposing Alternative Schedule for Submission and
Consideration of Quarterly Report**

**MOTION FOR PARTIAL RECONSIDERATION OF RESOLUTION AND ORDER OF
AUGUST 31, 2022, AND PROPOSING ALTERNATIVE SCHEDULE FOR
SUBMISSION AND CONSIDERATION OF QUARTERLY REPORT**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COME NOW LUMA Energy, LLC ("ManagementCo"), and **LUMA Energy ServCo, LLC** ("ServCo"), (jointly referred to as "LUMA"), and respectfully state and request the following:

1. On June 23, 2021, this honorable Puerto Rico Energy Bureau of the Public Service Regulatory Board ("Energy Bureau") issued and published a Resolution and Order approving LUMA's System Remediation Plan ("June 23rd Order"). In Section IV, paragraphs 1 through 3 of the June 23rd Order, this honorable Energy Bureau directed that, starting on September 15, 2021, LUMA shall file reports every two months on the implementation of the SRP that shall include:

- i. Actual spending amounts, broken down by spending initiative/portfolio, and reflecting in detail any variances from the System Remediation Plan;
- ii. A detail[ed] timeline per portfolio with sufficient detail to allow the Energy Bureau to assess project status for System Remediation Plan capital expenditures and operational initiatives; and

- iii. Any capital expenditure or operational initiatives that are behind schedule, compared to the initial System Remediation Plan timeframe and a detail[ed] explanation as to the cause of the delay and the corrective actions implemented to prevent further delays, as applicable.

Id.

2. On August 25, 2021, the Energy Bureau issued a Resolution and Order (“August 25th Order”) modifying the bimonthly reporting requirement to a quarterly basis and establishing a filing due date for these reports of thirty (30) days following the close of the reported quarter. *See* August 25th Resolution and at p. 3. Thereafter, on November 4, 2021, this Energy Bureau issued a Resolution and Order (the “November 4th Order”) establishing a filing date for these reports of forty-five (45) days after each quarter closes. *See* November 4th Order at p. 2.

3. In compliance with the June 23rd Order, as modified by the August 25th Order and the November 4th Order, LUMA has submitted to date, three quarterly reports for the Fiscal Year 2022 on November 15, 2021 (“Q1 Report”); February 15, 2022 (“Q2 Report”), and May 16, 2022 (“Q3 Report”) (jointly, “the Quarterly Reports”). The Quarterly Reports that have been filed in this proceeding also addressed quarterly reporting requirement set in Case No. NEPR-MI-2021-0004, *In Re: LUMA’s Initial Budgets* (“Initial Budgets Proceeding”) and Case No. NEPR-MI-2021-0002, *In Re: Review of Puerto Rico Electric Power Authority’s 10 Year Infrastructure Plan* (“10 Year Plan Proceeding”). The Quarterly Reports cover the information regarding the T&D System Initial Budget spending amounts, SRP activities and spending and the information on federal funding activity. Therefore, LUMA submitted the same in the dockets of the Initial Budgets Proceeding and the 10 Year Plan Proceeding.

4. On April 14, 2022, LUMA submitted a motion styled “Motion Submitting Proposed Modifications to System Remediation Plan and Request for Confidential Treatment” (“Request to Modify the SRP”). As the title of the Request to Modify the SRP states, LUMA submitted for consideration by this Energy Bureau a request to modify the SRP in compliance with the June 23rd Order.

5. On August 12, 2022, LUMA submitted with this Energy Bureau a “Request to Align the Filing of Quarterly Report for Fourth Quarter of Each Fiscal Year “Q4 Report”) with Year-End Reporting under the T&D OMA and to File the Q4 Report on October 28, 2022 (“Request for Alignment”).¹ Thereafter, on August 31, 2022, this Energy Bureau denied LUMA’s Request for Alignment and directed that LUMA shall file the Q4 Report by September 7, 2022 (the “August 31st Order”).

6. LUMA respectfully requests that this Energy Bureau reconsider the August 31st Order and adopt the alternate proposed schedule included in the Request for Alignment by which LUMA would submit the Q4 Report on or before October 28, 2022. LUMA respects in earnest the authority of the Energy Bureau to issue orders and require information to effectuate its faculties over the implementation of energy public policy and the approved SRP. Further, LUMA is committed to submit the information that is Energy Bureau requested in the June 23rd Order on LUMA’s spending in connection with SRP Programs and the status of the SRP Programs. However, it is respectfully submitted that the work to be completed to prepare Q4 results is different than the one that has been performed each quarter in Fiscal Year (“FY”) 2022 to prepare

¹The Request for Alignment was submitted to the Energy Bureau via electronic mail as the electronic filing system was not working on the evening of Friday, August 12, 2022. As per the Clerk’s directive, LUMA filed it through the electronic portal on August 15, 2022.

quarterly reports. Thus, it is not feasible to comply with that portion of the August 31st Order that requires that LUMA submit a Q4 Report within a week, by September 7, 2022.

7. Preparation of a year-to-date (“YTD”) Q4 Report requires that LUMA compile information from multiple financial systems, conduct requisite internal administrative review of financial and operational information, prepare any variance explanations, and compile the quarterly report which encompasses the totality of LUMA’s operation and includes reporting on SRP improvement programs and timelines, and the budget, both operational and capital expenditures included in the Budgets for FY 2022 that were approved by this Energy Bureau in Case No. NEPR-MI-2021-0004 (“FY2022 Approved Budgets”). It is also important to note that the same technical teams that contribute to reporting information regarding LUMA’s operational and capital activities on a quarterly and annual basis, are the same teams that are endeavoring to improve LUMA’s outage response performance, report on performance metrics, and are witnesses for the FY2023 Annual Budgets technical conference scheduled for September 13, 2022 in Case No. NEPR-MI-2021-0004. It is not possible for the same individuals to prepare a quarterly report consisting of over eighty (80) pages in **four (4) business days** while also working to complete year end reporting activities, improve LUMA’s outage response performance, prepare to be witnesses for the FY2023 Annual Budgets technical conference scheduled for September 13, 2022, and execute SRP improvement programs to further the recovery and transformation of the Puerto Rico transmission and distribution system.

8. LUMA acknowledges the importance of submitting the financial and operational data for FY2022 for consideration by this Energy Bureau. However, given current systems and processes, LUMA is not in a position to produce Q4 results by September 7, 2022. Annual processes that include adjustments to financials occur in the months following the close of a fiscal year and are

reflected in fourth quarter results. As is typical in company processes, the process to make all the necessary adjustments at fiscal year-end takes substantially longer than the process to make adjustments at the end of the first, second, or third quarters of a fiscal year. Year-end activities must formally close out the adjustments and estimates made throughout the year. This would include items such as: reconciliation of all subledger and general ledger accounts, clearing and justification of all accruals; ensuring that all completed work that has not been billed by vendors has been reflected in the financials; reconciling clearing accounts; validating asset and depreciation schedules; and conducting additional checks and verification. Historically, PREPA did not complete these activities until years after the close of the fiscal year when PREPA completed its audit. LUMA is endeavoring to complete them in a timely manner to ensure accurate reporting. This highly involved process prevents LUMA from being able to provide fourth quarter results prior to producing full year financials. This is why producing an annual report inclusive of fourth quarter results is common practice and this necessity is without consideration of the numerous challenges that LUMA is experiencing due to the state of the inherited financial systems, as outlined in LUMA's Improvement Programs and the highly manual processes that are required as a result of financial information being housed across multiple antiquated systems. LUMA will continue to work to submit said report as early as possible in the month of October 2022 and on or before October 28, 2022.

9. Furthermore, it is important to note that it is not possible to submit Q4 results on the progress and status of the SRP programs without first having the financial actuals for the last quarter of FY2022. This, because evaluation of the progress in implementing the SRP goes hand in hand with LUMA's spending and investment in those programs. Furthermore, Q4 and annual results are presented alongside financial actuals for each program and those program financial

actuals are used as a basis to discuss variance and milestones, as stated by the Energy Bureau within its reporting requirements set out on June 23, 2021. It is a combination of spending and ability to perform activities that yields the information that LUMA includes in its reports to inform the status of the SRP improvement programs. This analysis requires that LUMA have the year-end financials. Thus, LUMA cannot produce a Q4 Report for September 7th.

10. If the Q4 Report is hurried and prepared without the year-end financials or with preliminary information, LUMA will not be able to provide accurate information on the requirements of this Energy Bureau stated in the June 23rd Order. It is respectfully submitted that it is in the public interest for this Energy Bureau to reconsider the August 31st Order and grant LUMA's Request for Alignment to allow LUMA to file the Q4 Report by October 28, 2022.

11. LUMA respectfully submits that an alternate schedule by which this Energy Bureau affords LUMA the time needed to close its financial records and prepare a year-end report that will include the Q4 financial actuals in LUMA's examination on the progress to implement the SRP, on or close to October 28, 2022, is reasonable and congruent with the purposes that underly the reporting requirements of the June 23rd Order, which LUMA understands include to ascertain the progress of the SRP improvement programs and be aware of LUMA's spending for the SRP improvement programs and of any variances in spending or timelines. LUMA also appreciates that the quarterly reports help this Energy Bureau determine if new information or occurrences may require that the SRP or the SRP improvement programs need to be updated or amended and to ensure that the work performed to achieve remediation is timely, efficient and compliant with public policy and the goals enunciated in the SRP. Cognizant of this, LUMA has filed three Quarterly Reports outlining the progress of the SRP improvement programs, expenses and spending, as well as identifying and explaining variances in spending and summarizing key activities. Furthermore, on April 14, 2022,

LUMA submitted the Request to Modify the SRP which included as Exhibit 1, a document that details the proposed modifications to several of the SRP improvement programs, which include: consolidations of some of the improvement programs; updates to the timelines; in a few cases, updates to the scope of the improvement programs; identification any new gaps and activities; and updates to milestones. Exhibit 1 also includes a table identified as Table 3-1 that summarizes the changes to SRP Programs for 2023 with a description of the changes and applicable rationale. Finally, as Exhibit 2 to Request to Modify the SRP, LUMA submitted the SRP improvement programs that have proposed modifications.

12. The aforementioned filings support the conclusion that the record of this proceeding includes extensive and developed information on the implementation of the SRP and modifications to the SRP in the form of three Quarterly Reports and the Request to Modify the SRP, as well as information regarding LUMA's plan to implement the SRP in the current Fiscal Year. Those submissions are under consideration by this Energy Bureau. Although LUMA is not currently able to submit Q4 results and needs until the month of October to submit the same, LUMA submits respectfully, that given the aforementioned filings on the SRP, the alternate schedule for Q4 results is not meant to nor should impede the Energy Bureau's oversight authority in connection with the efforts to remediate the transmission and distribution system in compliance with public policy and applicable legal mandates.

WHEREFORE, LUMA respectfully requests that the honorable Bureau **take notice** of the aforementioned for all purposes; **reconsider** the August 31st Order; **alter the schedule for submission of the Q4 Report**; and **grant a delay** for LUMA to submit the Q4 Report on or before October 28, 2022.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 6th day of September 2022.

We hereby certify that this motion was filed using the electronic filing system of this Energy Bureau. We also certify that copy of this motion will be notified to the Puerto Rico Electric Power Authority, through its attorneys of record: jmarrero@diazvaz.law and kbolanos@diazvaz.law.



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