

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

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IN RE:

THE PERFORMANCE TARGETS FOR
LUMA ENERGY SERVCO, LLC

CASE NO.: NEPR-AP-2020-0025

SUBJECT:

**Motion to Amend Procedural Calendar,
Requesting Additional Time to Submit
Revised Annex IX and Pre-Filed Written
Direct Testimonies due to Change in
Circumstances, and Proposing Amended
Procedural Calendar**

**MOTION TO AMEND PROCEDURAL CALENDAR, REQUESTING ADDITIONAL
TIME TO SUBMIT REVISED ANNEX IX AND PRE-FILED WRITTEN DIRECT
TESTIMONIES DUE TO CHANGE IN CIRCUMSTANCES, AND PROPOSING
AMENDED PROCEDURAL CALENDAR**

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, this Puerto Rico Energy Bureau (“Energy Bureau”) entered a Resolution and Order identifying three additional categories of performance metrics that it determined to evaluate as part of this proceeding, to wit: (i) Interconnection of Distributed Energy Resources; (ii) Energy Efficiency and Demand Response; and (iii) Vegetation Management (the “December 22 Resolution and Order”).

2. In the December 22 Resolution and Order, the Energy Bureau also 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. In

addition, the Energy Bureau instructed LUMA to provide supplemental or revised direct pre-filed testimonies for the new metrics and targets.

3. 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.

4. 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.

5. On August 15, 2022, the intervenors collectively known as LECO filed a *Request to Authorize Discovery on LUMA's Supplemental Testimony*. The Independent Consumer Protection Office joined said request through a motion filed on August 17, 2022.

6. 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

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*.

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, 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.

7. On September 9, 2022, LUMA filed an *Amended Request for Extension of Time to Submit Revised Annex IX and Pre-filed Written Direct Testimonies in Compliance with Order of August 1, 2022*, requesting the Energy Bureau to further extend the deadline to file the revised Annex IX until October 3, 2022, and the deadline to file the pre-filed direct written testimonies on the additional metrics until October 6, 2022.

8. As explained at the time, when LUMA prepared the August 18th Request for Extension, it was not able to consider certain overlapping submissions that were due between September 9th and September 20th in other proceedings before the Energy Bureau as well as LUMA’s participation in the technical conference on the Fiscal Year 2023 Certified Budget which was set for September 13th, 2022. For that reason, LUMA in good faith stated that it would need eight (8) additional business days to complete the submission of the revised Annex IX.

9. On September 16, 2022, this Energy Bureau entered a Resolution and Order granting LUMA’s Amended Request for Extension of Time as well as LECO’s and the ICPO’s request for discovery limited to the additional metrics. Through the September 16th Order, the Energy Bureau also issued an amended procedural calendar for the instant proceeding contemplating the celebration of the virtual evidentiary hearings during January 24-27, 2022.

10. On Thursday, September 15, 2022, at 0800, since the United States National Weather Services announced the imminent passage of Tropical Storm Fiona through Puerto Rico,

LUMA activated its Emergency Operations Center (LEOC) in compliance with LUMA's Emergency Response Plan. Preparing for and responding to Hurricane Fiona required the engagement of many key personnel and components of the organization. Consequently, LUMA personnel involved in the preparation of the revised Annex IX and including the witnesses whose testimonies as to the three additional metrics will be presented, were activated in the LEOC, and remain activated today in the response and restoration efforts in the aftermath of Hurricane Fiona. Restoration, repairs, and the concomitant administrative support are expected to continue in the coming weeks. Thus, it is not possible at this time to complete the submissions in compliance with the Energy Bureau's August 1st Order by October 6, 2022.

11. Given the aforementioned urgent and unforeseeable circumstances, additional time beyond October 6th is needed for LUMA's personnel to finalize their duties in LEOC operations, return to their non-emergency duties and be in position to finalize and file the revised Annex IX and the pre-filed written testimonies on the additional metrics by October 6th.

12. LUMA appreciates the importance of moving forward in this proceeding and restates its commitment to comply with the order issued by this Honorable Energy Bureau in setting performance baselines and benchmarks that will inform the Bureau's consideration of a Revised Annex IX to the T&D OMA. To that end, LUMA hereby respectfully proposes modifications to the procedural calendar based on the extensions sought.

13. This proposed amended calendar is based on LUMA's good faith estimation on the time that operationally and reasonably is needed to complete the revised Annex IX and the pre-filed written rebuttal testimonies on the additional metrics as well as the intervenor's discovery on the additional metrics.

Proposed Procedural Schedule

Date	Phase
October 28, 2022	LUMA's Submission on new targets metrics and revised Annex IX to the OMA
October 28, 2022	Filing Supplemental Written Testimony by LUMA (Limited to Additional Performance Metrics)
October 31, 2022- November 14, 2022	Discovery on LUMA's Supplemental Written Testimony (Limited to Additional Performance Targets)
December 8, 2022	Filing of Supplemental Written Testimony by Intervenors (Limited to Additional Performance Metrics)
December 9, 2022- December 22, 2022	Discovery on Intervenor's Supplemental Written Testimony (Limited to Additional Performance Targets)
January 23, 2023	Rebuttal on Intervenor's Supplemental Written Testimony due
The first week of February, 2023	Pre-Hearing Conference
The third week of February, 2023	Virtual Evidentiary Hearing
The fourth week of February, 2023	Virtual Public Hearings
March 9, 2023	Filing of Final Substantive and Legal Briefs by the Parties
March 23, 2023	Filing of Replies to Final Briefs by the Parties
April 12, 2023	Filing of Comments by the General Public Due, Filing of Final Brief by <i>Amicus Curiae</i>

14. It is respectfully set forth that due to the unforeseen circumstances mentioned above, LUMA cannot responsibly file a complete revised Annex IX to the T&D OMA and pre-filed written direct testimonies on the additional testimonies by the deadline set in the September 16th Order. Thus, LUMA respectfully moves this Energy Bureau to extend the timeframe to file the revised Annex IX to the T&D OMA and the pre-filed written direct testimonies on the additional metrics to October 28, 2022. LUMA's request for an extension of time is made in good faith and with the only purpose of complying with the Energy Bureau's order. LUMA suggests that this Energy Bureau seek the input of the other parties to the proceeding as to the proposed calendar for the phases following the filing of the revised Annex IX and the pre-filed direct written testimonies by LUMA.

15. Additionally, LUMA's expert witnesses, Mr. Branko Terzic, is not available on January 24th and 25th, which are two of the days currently scheduled for the evidentiary hearing. On those days, Mr. Terzic is to provide testimony in a separate proceeding.

16. This proposed amended procedural calendar will not cause undue delay in this proceeding, as the final procedural events would only be delayed for less than three weeks in comparison with the procedural calendar set forth in the September 16th Order.

WHEREFORE, LUMA respectfully requests this Honorable Bureau to **consider** the aforementioned; **grant** this request to reschedule the deadline to file the Revised Annex IX to the T&D OMA and pre-filed direct written testimonies on the additional metrics for October 28, 2022; and **amend** the procedural calendar accordingly per the calendar suggested in this Motion.

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@agraitlawpr.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 Climatica, Alianza Comunitaria Ambientalista del Sureste, Inc., Coalicion 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, lvelez@earthjustice.org, rmurthy@earthjustice.org, rstgo2@gmail.com, notificaciones@bufete-emmanueli.com, pedrosaade5@gmail.com, jessica@bufete-emmanueli.com; rolando@bufete-emmanueli.com.

In San Juan, Puerto Rico, on this 30th day of September 2022.



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