

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

NEPR

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IN RE: REVIEW OF LUMA'S INITIAL
BUDGETS

CASE NO. NEPR-MI-2021-0004

**SUBJECT: Urgent Request for Extension of Time to
Submit Responses to Requests for Information and
Request for an Agenda for the October 18th Technical
Conference.**

**URGENT REQUEST FOR EXTENSION OF TIME TO SUBMIT RESPONSES TO
REQUESTS FOR INFORMATION AND REQUEST FOR AN AGENDA FOR THE
OCTOBER 18TH TECHNICAL CONFERENCE**

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 April 2, 2022, LUMA submitted to this Energy Bureau its Annual Budgets for Fiscal Years 2023 through 2025 (“Annual Budgets”). LUMA also submitted supporting workpapers on April 8, 2022.

2. On May 19, 2022, this Energy Bureau issued a Resolution and Order with the subject “Fiscal Year 2023 Annual Budget Review: Requirement of Information and Establishing a Procedural Calendar” (“May 19th Order”). This Energy Bureau issued one hundred and sixteen (116) requests for information, stated in Attachments A through F of the May 19th Order.

3. Additionally, in the May 19th Order, this Energy Bureau scheduled a Technical Conference for June 10, 2022, which conference convened and was cancelled minutes after the record opened and witnesses were administered the oath or affirmation.

4. In compliance with the May 19th Order, through separate filings dated May 26, June 3 and 7, 2022, LUMA and the Puerto Rico Electric Power Authority (“PREPA”) submitted their responses to the Energy Bureau’s Requirements for Information.¹

5. On July 13, 2022, LUMA filed a *Motion Submitting Fiscal Year 2023 Annual Budget as Approved by the Financial Oversight and Management Board for Puerto Rico* (the “Informative Motion”) whereby it submitted to this Energy Bureau the Fiscal Year 2023 Budget as certified by the Financial Oversight Management Board for Puerto Rico (“FOMB”). LUMA included the FY2023 Budget as certified by the FOMB (“Certified Budget”), an updated LUMA Annual Budgets report for FY2023 to FY2025, and its accompanying updated schedules with its Informative Motion.

6. On July 16, 2022, the Energy Bureau entered a Resolution and Order (the “July 16th Order”) whereby it took notice of the Certified Budget. The Energy Bureau further determined to open a review of the Certified Budget. As part of such process, the Energy Bureau ordered LUMA to submit further responses to 9 requests included in the July 16th Order before July 29, 2022 at noon. The requests called for a detailed explanation and side by side comparison of the Certified Budget and the Annual Budgets previously submitted by LUMA, “with the budget requested for each individual portfolio, entity, division, program or project, contrasted with the approved FY2022 budgets”. The Energy Bureau required that such comparison include *at a minimum* 8 categories of information items but nonetheless “avoid unnecessary use of references to separate supporting documents, to the extent possible.” The Energy Bureau also required the filing of an executive summary in the Spanish language of the Certified Budget. Finally, the Energy Bureau

¹ LUMA responded to all of the Energy Bureau’s requirements, except for Requirements nos. A7, A8, A9, F1, F2, F3(A)-(C), F4, F5(A)-(E), F6(A)-(E), F7, F8, F9(A), F10(A)-(D) which were responded by PREPA.

ordered PREPA to provide LUMA with any additional information necessary to comply with the Resolution and Order.

7. In compliance with the July 16th Order, on July 29, 2022, LUMA submitted the information requested. On the same date, this Energy Bureau entered a Resolution and Order whereby it established a second procedural calendar in this proceeding. As per the second procedural calendar a virtual technical conference was scheduled for August 17, 2022.

8. On August 12, 2022, this Energy Bureau entered a Resolution and Order through which, in its pertinent part, it issued a third revision to the procedural calendar as per which the virtual technical conference was postponed for September 9, 2022, the filing of revised or additional information required by the Energy Bureau during the conference was scheduled for September 23, 2022 and the virtual public hearing and filing of comments by the public was set for October 7, 2022 (“August 12th Order”). LUMA’s filing of its presentation for the virtual technical conference was consequently set for September 6, 2022.

9. In the August 12th Order, this Energy Bureau also issued seven (7) additional requests for information due on August 29, 2022. The requests called for more information on the comparison between the FY2022 Budget and the Certified Budget, to include actual expenditures; and identify any movement or reallocation of funds between portfolios, services, divisions, programs or projects to and from which the monies were reallocated with a detailed explanation of each reallocation.

10. On August 18, 2022, PREPA filed a *Request for Continuance of Technical Conference* which was granted through Resolution and Order entered on August 19, 2022. Therefore, the virtual technical conference was postponed to September 13, 2022.

11. On August 29, 2022, LUMA submitted its Responses in Compliance with the August 12th Order. With its Responses, LUMA submitted a comparison between the FY2023 Certified Budgets and the FY2022 Budget as approved by the Energy Bureau on August 2, 2021.

12. On September 7, 2022, LUMA was notified of a Resolution and Order whereby this Energy Bureau set September 14, 2022, as a second day for the Technical Conference to consider the Certified Budget (“September 7th Order”). On September 9, 2021, LUMA filed a motion styled “Urgent Request to Re-Schedule Second Day of Technical Conference and for Issuance of Agenda,” where it informed that several of its witnesses and management personnel as well as PREPA’s witnesses, were not available to appear before this honorable Energy Bureau on September 14, 2022 and requested that the Energy Bureau re-schedule the second day of the Technical Conference on the Certified Budget. LUMA and PREPA both offered September 27, 2022 as an alternative date for the second day of the Technical Conference.

13. The first day of the Technical Conference on the Certified Budget was held on September 13, 2022 from 10:00 a.m. until past 5:00 p.m. (“September 13th Technical Conference”). Twenty-nine (29) members of LUMA’s work force in charge of different aspects of LUMA’s operations and organization, appeared and were sworn in to answer questions from this Energy Bureau. Representatives of PREPA also appeared but were excused given that the Energy Bureau and its consultants first addressed questions to LUMA.

14. Regarding the second day for the Technical Conference, this Energy Bureau informed that at the close of the September 13th Technical Conference it would make a determination on the need to convene LUMA and PREPA for a second day and, if needed, the second day of the Technical Conference would be held on September 27, 2022.

15. Throughout the Technical Conference, this Energy Bureau and its consultants issued several requests for information to LUMA (“RFIs”). In total, the Energy Bureau issued eighteen (18) RFIs, some of which include several requests.

16. Close to 5:00 pm during the September 13th Technical Conference, this Energy Bureau determined that it was necessary to extend the Technical Conference for a second day and set the same for September 27, 2022.

17. Regarding the RFIs, at the close of the September 13th Technical Conference, this Energy Bureau indicated that it would issue a written order with the RFIs and granted LUMA until 5:00 pm on September 23, 2022 to submit its responses. The Energy Bureau explained that the responses were needed on September 23rd to allow Commissioners and Energy Bureau consultants to review the responses ahead of the September 27th Technical Conference.

18. On September 16, 2022, PREPA submitted a motion styled “Request for Continuance of Technical Conference Scheduled for September 27, 2022,” (“PREPA’s Motion to Continue Second Day of Technical Conference”) whereby it informed that one of its main witnesses, its chief financial advisor, was not available to appear before this Energy Bureau on September 27th. Thus, PREPA requested to continue the second day of the Technical Conference for a later date on or after October 7, 2022.

19. On September 20, 2022, this Energy Bureau issued a Resolution and Order whereby it issued an amended procedural calendar in this proceeding. In what is relevant to this Motion, this Energy Bureau set the date for LUMA to file its responses to the RFIs for October 7, 2022. Further, the Energy Bureau scheduled the continuation of the Technical Conference for October 18, 2022.

20. After the September 13th Technical Conference ended, LUMA's witnesses and supporting personnel adopted a workplan to answer the RFIs and immediately begun work to prepare the responses. However, the unforeseen event beyond LUMA's control of the passage through Puerto Rico of Hurricane Fiona on September 18, 2022, required the deployment of LUMA's workforce to prepare for and address an island-wide emergency and forced LUMA and its personnel to stay work on the responses to the RFIs.

21. On Thursday, September 15, 2022 at 0800, since the announcement by the United States National Weather Services of 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. The preparation for and response to Hurricane Fiona has required the engagement of many key personnel and components of the organization. LUMA has been focused on emergency operations, damage assessments and efforts to restore power to customers as quickly and safely as possible. As this Energy Bureau is aware, LUMA is still in the midst of active emergency response and ongoing restoration efforts that are its primary focus.

22. Importantly, several of LUMA's witnesses regarding the Certified Budget and supporting personnel involved in preparing the responses to the RFIs, were activated in the LEOC and remain activated today in the recuperation and restoration efforts in the aftermath of Hurricane Fiona. Recuperation efforts are expected to continue in the coming weeks and the LEOC continues to be activated. Thus, it is not possible at this time to complete the full set of responses to the RFIs by October 7, 2022. LUMA will submit the first set of RFI responses that are complete as of October 7th and requests that additional time beyond October 7th be granted to submit a second set of RFI responses. Specifically, LUMA requests that this Energy Bureau grant it leave to submit the second set of RFI responses on or before October 12, 2022.

23. The additional time beyond October 7, 2022 is needed for LUMA's personnel to finalize duties in LEOC operations, rest, and return to their non-emergency duties to work on the full set of responses to the RFIs. In good faith, LUMA currently understands that it may submit all of the responses to the RFIs by October 12, 2022. LUMA will inform this Energy Bureau in due course of the status of its efforts to complete the responses to the RFIs and will timely request appropriate remedies if additional time beyond October 12, 2022 is needed to submit some of the responses.

24. LUMA's personnel is available to appear for the second day of the Technical Conference on October 18, 2022. Thus, LUMA requests that the Energy Bureau maintain the Technical Conference as scheduled. It is respectfully submitted that because LUMA is working to submit the full set of responses to RFIs five (5) days ahead of the second day of the Technical Conference, this request for extension is aligned with the Energy Bureau's bench order of September 13, 2022, stating that Commissioners and Energy Bureau consultants should receive the responses for review, ahead of the Technical Conference.

25. Respectfully, LUMA submits that the aforementioned unforeseen circumstances that were not present on September 13th when this Energy Bureau set the deadline for the responses to the RFIs, constitute just cause to extend the deadline for LUMA to file its responses to the RFIs.

26. Finally, after this Energy Bureau's decision of September 13th to schedule an additional day of hearing for the consideration of the Certified Budget, an agenda on the topics to be discussed has not been issued. LUMA respectfully requests that this Energy Bureau issue an agenda outlining the topics that will be discussed during the second day of the Technical Conference. This request seeks to ensure that LUMA's representatives attending the October 18th

Technical Conference are prepared to address the Energy Bureau's questions. The agenda will also allow for a more effective hearing process.

WHEREFORE, LUMA respectfully requests that the honorable Bureau **take notice** of the aforementioned for all purposes; **extend** the time to submit the full set of responses to the RFIs to at least October 12, 2022; **hold** the second day for the Technical Conference on October 18, 2022; and **issue** an agenda for the second day of the Technical Conference.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 5th day of October, 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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