

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

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IN RE: PERFORMANCE METRICS
TARGETS FOR LUMA ENERGY SERVCO,
LLC

CASE NO. NEPR-AP-2020-0025

**SUBJECT: LUMA's Request for Brief
Extension to Answer the Energy Bureau's
10th Requirement of Information**

**MOTION REQUESTING A BRIEF EXTENSION FOR LUMA TO ANSWER THE
ENERGY BUREAU'S 10TH REQUIREMENT OF INFORMATION**

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"), and respectfully state and request the following:

1. On April 8, 2021, this Honorable Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order ("April 8 Resolution") establishing the procedural calendar and dates for filings in the instant proceeding to evaluate the *Request for Approval of Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA)*.

2. As part of the procedural calendar, this Energy Bureau established a discovery deadline. It also set forth that every intervenor would have the right to issue Requests for Information ("ROIs") according to the provisions of Regulation No. 8543, *Regulation on Adjudicative, Notice of Non Compliance, Rate Review and Investigation Proceedings*. LUMA would have a ten (10) day term to answer each of the information requests.

3. In what is relevant to this request, on August 31, 2021, the Energy Bureau issued a Resolution and Order (“August 31 Resolution”) clarifying that, according to the April 8 Resolution, the time frame to respond to information requests in the instant proceeding is ten (10) days.

4. On September 27, 2021, this Energy Bureau issued a Resolution and Order to amend the procedural calendar. The Energy Bureau issued a subsequent order amending the procedural calendar on October 20, 2021.

5. On December 22, 2021, the Energy Bureau entered a Resolution and Order, concluding 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. Thus, 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.¹

6. 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*

¹ On January 14, 2022, this Energy Bureau entered a Resolution and Order to amend the procedural calendar.

Relief from the December 22, 2021, Resolution and Order (“LUMA’s Objection”).² In essence, LUMA contended that the December 22 Resolution and Order entry was arbitrary and in violation of LUMA’s due process rights and requested that this Energy Bureau vacate said order.³

7. 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.

8. 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 (“ICPO”) joined said request through a motion filed on August 17, 2022.

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 (“September 16th Order”). 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 from January 24 through 27, 2023.

² 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*. 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*.

³ This Energy Bureau issued a subsequent order amending the procedural calendar on April 22, 2022.

10. Subsequently, on October 14, 2022, this Energy Bureau issued a Resolution and Order amending the procedural calendar. It established that all discovery requests on LUMA's written testimonies on additional metrics must be submitted before November 14, 2022.

11. Within the deadline for issuance of discovery, LUMA received a Requirement of Information on Additional Metrics, sent by the OIPC on November 11, 2022, and, on November 14, 2022, the Ninth Set of Information Requests from LECO.

12. On November 16, 2022, this Energy Bureau served the *10th Requirement of Information* on LUMA, in excess of the allotted timeframe to issue discovery requests. According to the time frame set forth by this Energy Bureau to respond to information requests, the deadline for LUMA to submit its answers to the Energy Bureau's written discovery is Monday, November 28, 2022.

13. It bears noting that LUMA received the Energy Bureau's *10th Requirement of Information* on Wednesday, November 16, 2022. Thus, the ten-day period to answer the Energy Bureau's *10th Requirement of Information* effectively affords LUMA only six business days to prepare its answer, given the intervening Thanksgiving Holiday observed from November 24th and up to and including November 27th, 2022. In these circumstances, LUMA faces considerable time constraints to address the Energy Bureau's *10th Requirement of Information* responsibly. The allotted six business days to answer the Energy Bureau's *10th Requirement of Information* place LUMA in an unfair position detrimental to its interests in this proceeding and deprives LUMA of a fair process.

14. The *10th Requirement of Information* includes fifty-seven questions. Additionally, the subject matter covered by said request is technical. It requires review and consideration by at least two witnesses who submitted pre-filed testimonies and their support staff and review by LUMA management personnel. The tasks to collect, organize, and prepare the necessary documents or information comprehensively and comprehensibly are time-consuming; thus, LUMA requires additional time to respond.

15. Considering the foregoing, LUMA respectfully submits that it will need at least five additional business days from the deadline of November 28, 2022, to submit its answers to the Energy Bureau's *10th Requirement of Information*. To wit, up to and including December 5, 2022.

16. This extension request is not intended to cause unnecessary delay and should not cause inconvenience to the parties. LUMA remains committed to complying with the orders issued by the Energy Bureau.

WHEREFORE, LUMA respectfully requests that the Energy Bureau, in its discretion, grant LUMA an extension of five business days to submit its responses or objections, if any, to the Energy Bureau's *10th Requirement of Information* - that is on or before December 5, 2022, at 5:00 pm.

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, 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, this 18th day of November 2022.



DLA Piper (Puerto Rico) LLC
500 Calle de la Tanca, Suite 401
San Juan, PR 00901-1969
Tel. 787-945-9107
Fax 939-697-6147

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

/s/ Yahaira De la Rosa Algarín
Yahaira De la Rosa Algarín
RUA NÚM. 18,061
yahaira.delarosa@us.dlapiper.com