

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

NEPR Received: Dec 27, 2022 2:54 PM
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IN RE:
IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY PERMANENT RATE

CASE NO. NEPR-MI-2020-0001

**SUBJECT: Motion in Compliance with
Resolution and Order of December 22, 2022**

**MOTION IN COMPLIANCE WITH
RESOLUTION AND ORDER OF DECEMBER 22, 2022**

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:

1. On December 15, 2022, LUMA filed before the Energy Bureau a *Submission of Reconciliations for September, October, and November 2022, and FCA, PPCA and FOS Calculated Factors and Request for Confidential Treatment* (“December 15th Submission”). LUMA submitted the quarterly reconciliations for the Fuel Charge Adjustment (“FCA”) and Purchased Power Charge Adjustment (“PPCA”) riders for September through November 2022, and the factors for the FCA, PPCA, and Fuel Oil Subsidy (“FOS”) riders for the period from January 1 until March 31, 2023. As part of the filing, LUMA included Excel spreadsheets filed publicly and confidential Excel spreadsheets with formulae intact.

2. On December 16, 2022, LUMA filed a *Motion to Substitute Exhibits of the Submission of Reconciliations for September, October, and November 2022, FCA, PPCA, PPCA, and FOS Calculated Factors and Request for Confidential Treatment*. LUMA explained that there was an error in the submission of the files labeled “Precio Ponderado Análisis _

2022.11.30_Values.xlsx” in the Values folder and “Precio Ponderado Análisis _ 2022.11.30.xlsx” in the Confidential folder. The submitted versions of those files were not the final version. However, the error did not affect the calculation of the factors already presented to the Energy Bureau in the December 15th Submission. Those numbers remained the same.

3. On December 20, 2022, the Energy Bureau issued a Resolution and Order instructing LUMA and the Puerto Rico Electric Power Authority (“PREPA”) to submit and/or clarify on or before December 22, 2022, at 3 p.m. the following information:

- i. PREPA needs to submit supporting documentation for the lines identified as Excess Nominations and Credit Mitigation contained in the “FUEL REPORTS” tab within the Excel file titled “QUARTERLY FAC-PPAC RECONCILIATION SEP-OCT-NOV 2022.xlsx”. That documentation must include a certification on the sale of surplus natural gas to a third party and the detail on such sale made by NFEnergy as requested by the Authority in its November 15 Report and its December 15 Report. In addition, it must include the detail and a certification of the credit attributable to the Authority for 15% of the cost of the surplus gas, after the mitigation sale.
- ii. The Authority shall submit, in detail, the current status of the \$26,838,161.78 claim filed with NFEnergy, as indicated in the following documents: August 15 Report, September 15 Report, November 21 and December 15 Report.
- iii. LUMA, in coordination with PREPA, shall submit any claims made to FEMA or insurers related to the impacts caused by Hurricane Fiona on the electrical system. It shall include any communication responsive to such requests. You shall indicate in detail the quantities attributable to fuel consumption and energy purchase.
- iv. If LUMA or the Authority has not yet made claims to FEMA or insurers for the impacts caused by Hurricane Fiona, they must submit their plan to make such claims. In addition, you must submit an estimate of the amounts that will be claimed for fuel and energy purchases.
- v. In reference to tab FUELREP-OCT22-Busqueda within the “QUARTERLY FAC-PPAC RECONCILIATION SEP-OCTNOV 2022.xlsx” document, line 21 identified as Ecoeléctrica Diesel No. 2-Fiona, and cells D21 and E21.
 - a. Does the word, Fiona, in the description line, refer to Hurricane Fiona?
 - b. How does the amount of \$17,786,238 in cell E21 relate to Hurricane Fiona?
 - c. Does LUMA or the Authority estimate that FEMA or insurers will reimburse any portion of the \$17,786,238? If the answer is in the affirmative, you must indicate the quantities. If the answer is negative, please explain in detail the reasons.

- vi. In reference to tab “Summary” within the “20221216 MI20200001 Confidential Price Weighted Analysis_.xlsx” document, cells k13: k14.
 - a. Did PREPA physically transfer 29,000 barrels of No. 6 from Palo Seco to San Juan in November 2022?
 - b. What amount was transferred?
 - c. What was the cost incurred to transport such fuel from the Palo Seco units to the San Jun units?
 - d. Identify the amount of fuel transported.

- vii. In reference to tab “Summary” within the “20221216 MI20200001 Confidential Price Weighted Analysis_.xlsx” document. There is a difference from the Daguao plant over 400 barrels of No. 2 fuel between the current storage and the J28 inventory report.
 - a. How reliable is the measurement socket in the storage tank at the Daguao plant?
 - b. How many days does the burning of 400 barrels represent?
 - c. Is LUMA or the Authority investigating such a dispute? It must include the documents that support such investigation.

- viii. In reference to tab “Summary” within the “20221216 MI20200001 Confidential Price Weighted Analysis_.xlsx” document.
 - a. What is the method, e.g., current storage or J28 inventory report, used by LUMA and PREPA to measure the current cost of fuel that was held in inventory versus the cost of fuel that was burned, for purposes of identifying the cost to be recovered in FCA?

- ix. In reference to the letter from NFEnergy to PREPA, dated December 6, 2022, re: PREPA’s letter dated November 20, 2022, to Request a Mitigation Sale of the Excess Nomination from November 2022; Fuel Sale and Purchase Agreement between NFEnergia LLC and PREPA dated March 5, 2019.
 - a. Was the mitigation sale described in this letter made?
 - b. If such a mitigation sale had taken place, how much fuel was sold and at what price?
 - c. What was the cost differential between the mitigation sale and the price paid by the Authority?
 - d. How do you compare the difference identified in question (c) and a credit of 15% of the cost paid by the Authority?
 - e. What does the \$3,554,105 credit apply to November 2022 correspond to?
 - f. Was the November 2022 mitigation sale request for the nomination overlooked? If so, quantify the result and provide the relevant accounting entries. If not, identify the status of the mitigation sale procedure.

- x. In reference to San Juan units 5 and 6. Why are San Juan units 5 and 6 out of service and not operating until January 8, 2023? Was that related to a forced or planned outage in those

units? If this is a planned outage, was the duration of the planned outage extended? If it was extended, please explain why.

- xi. Credit from Naturgy. See Annex B of the December 15 Motion.
 - a. An amount of \$13,272,518 is indicated. Was a Naturgy credit of \$13,272,518 applied in November 2022 for penalty provision, that is, lack of gas delivered to Costa Sur during the third quarter, from July to September 2022? If not, explain the source of that \$13,272,518 amount.
 - b. How much MMBtu deficit for gas that was not delivered below specification relates to \$13,272,518, and what price was applied to that amount of MMBtu deficit to get the \$13,272,518?
 - c. Confirm that the \$13,272,518 reflected by LUMA for purposes of calculating the Authority's fuel costs for the new FCA and PPAC factors effective January 1, 2023, as a negative amount on file – “\Temp1_Luma CONFIDENTIAL for 2023-01-01 factors.zip\[QUARTERLY FAC-PPAC RECONCILIATION SEP-OCT-NOV 2022.xlsx]FUELREP-NOV22-Busqueda” in cell E27, which was moved to cell F29 on the “Reconciliation Grand Summary” tab.”
- xii. Can the Authority store Liquefied Natural Gas (LNG) somewhere on the island? Describe in detail the Authority's ability and ability to store LNG. In other words, what are the maximum amounts of LNG that the Authority can store where?
- xiii. Was the AES plant's capacity reduction using coal as its fuel source from May 1, 2022, through December 31, 2022, due to insufficient inventory at AES facilities?
- xiv. By the first quarter of 2023, an AES coal-fired generation facility with which the Authority has a power purchase agreement will be reduced due to having inadequate coal inventory at the plant site? If so, identify those periods and explain the related downgrade.
- xv. If any of the answers to questions 5 or 6 were “yes,” please explain the impact on the Authority's replacement power cost because AES's coal-fired generating facility was reduced because it did not have adequate coal inventory at the plant.

4. On December 22, 2022, LUMA filed a *Motion in Compliance with Resolution and Order of December 20, 2022*, with the responses to such requests that procured information in its possession, custody and/or control. LUMA presented the information responsive to the Energy Bureau's requests iii, iv, v(a-b), viii, xi (c), xiii, xiv, and xv listed above. The responses and/or information for the rest of the requests for information were submitted by PREPA separately.

5. On that same day, December 22, 2022, the Energy Bureau entered a second Resolution and Order (“December 22 Order”) requiring LUMA and/or PREPA to submit and/or clarify on or before December 27, 2022, at 3 p.m. the following information:

- i. PREPA shall submit its most recent 13-Week Cash Flow Update.
- ii. LUMA shall submit the last 3 months’ balances for the accounts it uses in connection with the services it provides for the operation and maintenance of the transmission system and management of PREPA under the T&D OMA, including, but not limited to, the following accounts:
 - a. Operating Account;
 - b. Capital Account-Federally Funded;
 - c. CapitalAccount Non-Federally Funded;
 - d. Outage Event Reserve Account;
 - e. Generation Expenditure Accounts;
 - f. Contingency Reserve Account

LUMA shall submit the amounts requested from PREPA for the last three (3) months to replenish the amounts required to be maintained in the accounts as described in section 7.5 of the OMA.

6. In compliance with the December 22 Order, LUMA hereby submits the last three months’ balances for the accounts it uses in connection with the services it provides for the operation and maintenance of the transmission system and management of PREPA under the T&D OMA. *See Exhibit 1. Exhibit 1* to this Motion also includes the amounts requested from PREPA for the last three months to replenish the funds required to be maintained in the accounts as described in section 7.5 of the OMA.

WHEREFORE, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned; **accept** the information submitted in Exhibit 1 to the Motion; and **deem** LUMA complied with the Resolution and Order of December 22, 2022.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 27th day of December 2022.

We hereby certify that we filed this Motion using the electronic filing system of this Energy Bureau. We will send an electronic copy of this Motion to counsel for PREPA Katiuska Bolaños-Lugo, kbolanos@diazvaz.law, and to the Independent Consumer Protection Office, through Director Hannia Rivera, hrivera@oipc.pr.com.



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Exhibit 1

Permanent Rate

Proposed Quarterly FCA & PPCA Factors

NEPR-MI-2020-0001

Response: RFI-LUMA-MI-2020-0001-20221222-PREB-002

REQUEST

LUMA shall present the balances for the last 3 months of the accounts it uses in connection with the services it provides for the operation and maintenance of PREPA's transmission and administration system under the T&D OMA, including, but not limited to, the following accounts.

- a. *Operating Account,*
- b. *Capital Account-Federally Funded,*
- c. *Capital Account Non-Federally Funded,*
- d. *Outage Event Reserve Account,*
- e. *Generation Expenditure Accounts, and*
- f. *Contingency Reserve Account*

RESPONSE

In accordance with the Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA) executed by the Puerto Rico Electric Power Authority (PREPA), the Puerto Rico Public-Private Partnerships Authority (P3A), LUMA Energy and its subsidiary LUMA Energy ServCo, LLC (LUMA) and dated as of June 22, 2020, LUMA manages PREPA's accounts for the provision of O&M Services (Annex I).

LUMA is responsible for paying invoices from the T&D system from funds in PREPA's accounts. PREPA requests and approves all payments related to Generation and HoldCo activities which LUMA pays based on PREPA direction. As the manager of PREPA's financial accounts, LUMA is providing to the Energy Bureau information related to PREPA's accounts.

The table below provides the end of the month balance of the following accounts: (i.) Operating, (ii.) Capital Federally Funded, (iii.) Capital Non-Federally Funded), (iv..) Outage Event, (v.) Generation Expenditure, and (vi.) Contingency Reserve.

OMA - Service Account	9/30/2022	10/31/2022	11/30/2022
Operating Account	\$177,186,999.15	\$185,178,735.21	\$115,787,137.23
Capital Account Federally Funded	\$217,984,445.66	\$200,786,595.80	\$201,167,485.22
Capital Account Non- Federally Funded	\$46,585,174.70	\$29,644,578.79	\$29,973,094.35
Outage Event Account	\$30,031,610.07	\$30,072,963.19	\$30,130,011.19
Generation Expenditure Accounts	\$41,016,997.41	\$41,072,522.06	\$25,050,569.74
Contingency Reserve Account	\$48,907,285.15	\$52,193,282.79	\$55,483,576.81

Permanent Rate

Proposed Quarterly FCA & PPCA Factors

NEPR-MI-2020-0001

Response: RFI-LUMA-MI-2020-0001-20221222-PREB-003

REQUEST

LUMA shall submit the amounts requested to the Authority, over the past three (3) months, to replenish the amounts required to be held in the accounts as described in section 7.5 of the OMA.

RESPONSE

In compliance with the T&D OMA, executed on June 22, 2020, and specifically with Section 7.5, the following tables show the refunding amounts that were requested to replenish each of the following accounts to the amount required under the T&D OMA : (i.) Operating, (ii.) Capital Federally Funded, (iii.) Capital Non-Federally Funded), (iv.) Outage Event, (v.) Generation Expenditure, and (vi.) Contingency Reserve for September 2022, October 2022, and November 2022.

OMA - Service Account	T&D OMA Requirement	Amount in Bank Account 9/30/22	Difference
Operating Account	\$250,841,000.00	\$177,186,999.15	\$73,654,000.85
Capital Account Federally Funded	\$217,775,000.00	\$217,984,445.66	\$0.00
Capital Account Non- Federally Funded	\$29,917,000.00	\$46,585,174.70	\$0.00
Outage Event Account	\$30,000,000.00	\$30,031,610.07	\$0.00
Generation Expenditure Accounts	\$40,979,000.00	\$41,016,997.41	\$0.00
Contingency Reserve Account	\$52,123,000.00	\$48,907,285.15	\$3,215,714.85

OMA - Service Account	T&D OMA Requirement	Amount in Bank Account 10/31/22	Difference
Operating Account	\$250,841,000.00	\$185,178,735.21	\$65,662,264.79
Capital Account Federally Funded	\$217,775,000.00	\$200,786,595.80	\$16,988,404.20
Capital Account Non- Federally Funded	\$29,917,000.00	\$29,644,578.79	\$272,421.21
Outage Event Account	\$30,000,000.00	\$30,072,963.19	\$0.00
Generation Expenditure Accounts	\$40,979,000.00	\$41,072,522.06	\$0.00
Contingency Reserve Account	\$55,381,000.00	\$52,193,282.79	\$3,187,717.21

OMA - Service Account	T&D OMA Requirement	Amount in Bank Account 11/30/22	Difference
Operating Account	\$250,841,000.00	\$115,787,137.23	\$135,053,862.77
Capital Account Federally Funded	\$217,775,000.00	\$201,167,485.22	\$16,607,514.78
Capital Account Non- Federally Funded	\$29,917,000.00	\$29,973,094.35	\$0.00
Outage Event Account	\$30,000,000.00	\$30,130,011.19	\$0.00
Generation Expenditure Accounts	\$40,979,000.00	\$25,050,569.74	\$15,928,430.26
Contingency Reserve Account	\$58,638,000.00	\$55,483,576.81	\$3,154,423.19