

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

IN RE: PERFORMANCE TARGETS FOR
LUMA ENERGY SERVCO, LLC

CASE NO.: NEPR-AP-2020-0025

SUBJECT: Order to Compel Responses to the
Energy Bureau's 10th Requirements of
Information to LUMA.

RESOLUTION AND ORDER

On November 16, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued its Tenth Requirement of Information ("ROI 10") to LUMA,¹ which included fifty-seven (57) questions to be answered on or before November 28, 2022. On November 18, 2022, LUMA filed before the Energy Bureau a document titled *Motion Requesting a Brief Extension for LUMA to Answer the Energy Bureau's 10th Requirement of Information* ("November 18 Request"). Through the November 18 Request, LUMA requested five additional days from the deadline of November 28, 2022, to respond to ROI 10. On November 22, 2022, the Energy Bureau granted LUMA's November 18 Request and provided an extension through December 5, 2022.

On December 5, 2022, LUMA filed a document titled *Urgent Motion Requesting an Additional Brief Extension of a Few Hours for LUMA to Answer the Energy Bureau's 10th Requirement of Information* ("December 5 Request"). LUMA requested an additional extension of a few hours, past the 5:00 p.m. deadline, to respond to ROI 10.²

On December 5, 2022, LUMA served a document titled *LUMA's Responses to PREB's 10th Requirement of Information* ("ROI 10 Responses"). As for two of the information requests, numbered 48 and 49 (respectively, PREB-LUMA-10-48 and PREB-LUMA-10-49), LUMA objected to these requests and indicated that it had not prepared the requested formal analyses to file publicly. Concerning PREB-LUMA-10-48, LUMA further indicated that it would require 1-2 months to provide the requested information, should it be required to do so in response to an order from the Energy Bureau.

LUMA's objections to PREB-LUMA-10-48 and PREB-LUMA-10-49 were substantially the same. To wit, LUMA indicated these information requests fell outside of the scope of the ongoing proceeding, which, per the Energy Bureau's past orders, is limited to LUMA's Supplemental Written Testimonies on Additional Metrics and the amended parts of the Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (T&D OMA), collectively filed on October 28, 2022. LUMA further objected to PREB-LUMA-10-48 and PREB-LUMA-10-49 because these information requests pertained to respectively, LUMA's performance in FY2022 and LUMA's performance during Hurricane Fiona, neither of which are at issue in the instant proceeding.

Upon review of LUMA's objections, the Energy Bureau DETERMINES that PREB-LUMA-10-48 and PREB-LUMA-10-49 are needed and require suitable responses by LUMA. The Energy Bureau's duty in the instant proceeding is to determine that the Revised Annex IX complies with applicable energy policy directives. The requested information is pertinent and discoverable as part of the subject matter of the instant case.

Further, the Energy Bureau **CLARIFIES** that, for regulatory matters, the Energy Bureau is not bound or limited by the T&D OMA, as established in its Section 20.17. Neither is the Energy Bureau bound or limited by any of its orders applicable to the parties, including the intervenors, regarding the permissible scope of any Requirements of Information it may issue to further obtain a comprehensive and thorough administrative file.

¹ LUMA Energy, LLC ("ManagementCo") and LUMA Energy ServCo, LLC ("ServCo") (collectively "LUMA").

² The December 5 Request is *moot* due to LUMA's filing of the ROI 10 Responses.



Therefore, the Energy Bureau **ORDERS** LUMA to, on or before January 31, 2023, provide suitable responses that adequately answers the questions listed as part of Appendix 1 of this Resolution and Order.

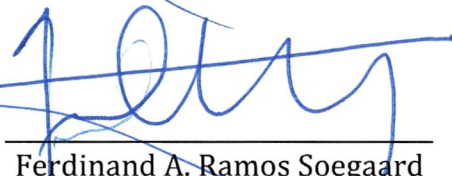
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Lillian Mateo Santos
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Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 10, 2023. I also certify that on January 10, 2023 a copy of this Resolution and Order was notified by electronic mail to margarita.mercado@us.dlapiper.com, yahaira.delarosa@dlapiper.com, jmarrero@diazvaz.law, kbolanos@diazvaz.law, hrivera@jrsp.pr.gov, contratistas@jrsp.pr.gov, agraitfe@agraitlawpr.com, rstgo2@gmail.com, pedrosaade5@gmail.com, flcaseupdates@earthjustice.org, rolando@bufete-emmanuelli.com, notificaciones@bufete-emmanuelli.com, jessica@bufete-emmanuelli.com, rhoncat@netscape.net, larroyo@earthjustice.org; lvelez@earthjustice.org; rmurthy@earthjustice.org. I also certify that today, January 10, 2023, I have proceeded with the filing of the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today, January 10, 2023.



Sonia Seda Gaztambide
Clerk



Appendix 1

Questions to be Answered by LUMA

ROI No.	Requirements of Information	LUMA Response	Reason for Compelling Answer
PREB-LUMA-10-48	Please indicate whether LUMA has evaluated its performance during the fiscal year ending on June 30, 2022, against its proposed revised Annex IX targets. If so, please provide a copy of the analysis. If not, please explain why not.	<p>LUMA objects to this request as it seeks information outside the scope of the ongoing discovery. Per the orders of this Energy Bureau, including the Resolutions and Orders of October 14, 2022, and November 22, 2022, the current round of discovery is limited to LUMA's Supplemental Written Testimonies on the Additional Metrics (EE/DR, DG Interconnections and Vegetation Management) and the amended parts of the Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA"), that LUMA filed on October 28, 2022, to include the additional metrics. Also, LUMA's performance during FY2022 is not a matter of controversy to be adjudicated in this proceeding, which is being conducted to consider LUMA's proposed Revised Annex IX to the T&D OMA. As this Energy Bureau is aware, the proposed Revised Annex IX to the T&D OMA was adopted within the competitive negotiated processes conducted by the Puerto Rico Public-Private Partnerships Authority from 2018 through 2020, which led to the execution of the T&D OMA on June 22, 2020. LUMA's proposed Revised Annex IX to the T&D OMA was later revised as per the T&D OMA and submitted to this Energy Bureau on August 18, 2021, and September 24, 2021. Thus, the proposed Revised Annex IX to the T&D OMA does not involve LUMA's performance in FY2022. Certain performance metrics are tracked by this Energy Bureau in a separate proceeding, Case NEPR-MI-2019-0007.</p> <p>Without waiving the foregoing objections, LUMA has not prepared a formal analysis to file publicly on its performance for FY2022 with the targets set in the proposed Revised Annex IX to the T&D OMA. If such analysis must be prepared and filed in this proceeding through an order by this Energy Bureau, LUMA would need 1-2 months to review data and prepare said formal analysis before LUMA could submit such analysis to the Energy Bureau.</p>	<p>The Energy Bureau is not bound or limited by the T&D OMA, nor is the Energy Bureau's authority to issue information requirements bound or limited by any previous orders issued by the Energy Bureau.</p> <p>The Energy Bureau's duty in the instant proceeding is to determine that the Revised Annex IX complies with applicable energy policy directives.</p> <p>The requested information is pertinent and discoverable as part of the subject matter of the instant case.</p>



ROI No.	Requirements of Information	LUMA Response	Reason for Compelling Answer
PREB-LUMA-10-49	Please indicate whether LUMA has evaluated its performance during Hurricane Fiona against the proposed revised Annex IX Major Outage Event metrics. If so, please provide a copy of the analysis. If not, please explain why not.	<p>LUMA objects to this request as it seeks information outside the scope of the ongoing discovery. Per the orders of this Energy Bureau, including the Resolutions and Orders of October 14, 2022, and November 22, 2022, the current round of discovery is limited to LUMA's Supplemental Written Testimonies on the Additional Metrics (EE/DR, DG Interconnections and Vegetation Management) and the amended parts of the Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement ("T&D OMA"), that LUMA filed on October 28, 2022, to include the additional metrics. Also, LUMA's performance during FY2022 is not a matter of controversy to be adjudicated in this proceeding, which is being conducted to consider LUMA's proposed Revised Annex IX to the T&D OMA. As this Energy Bureau is aware, the proposed Revised Annex IX to the T&D OMA was adopted within the competitive negotiated processes conducted by the Puerto Rico Public-Private Partnerships Authority from 2018 through 2020, which led to the execution of the T&D OMA on June 22, 2020. LUMA's proposed Revised Annex IX to the T&D OMA was later revised as per the T&D OMA and submitted to this Energy Bureau on August 18, 2021, and September 24, 2021. Thus the proposed Revised Annex IX to the T&D OMA does not involve LUMA's performance during hurricane Fiona. Without waiving the foregoing objections, LUMA has not prepared a formal analysis to file publicly on its performance during hurricane Fiona as compared with the proposed Revised Annex IX to the T&D OMA. As this Energy Bureau is aware, in Case <i>In re LUMA's Response to Hurricane Fiona</i>, NEPR-MI-2022-0003, LUMA submitted information on its response and restoration efforts during and after hurricane Fiona. That information, however, is not a formal analysis of performance in connection with the proposed Revised Annex IX to the T&D OMA, and is not relevant to this proceeding.</p>	<p>The Energy Bureau is not bound or limited by the T&D OMA, nor is the Energy Bureau's authority to issue information requirements bound or limited by any previous orders issued by the Energy Bureau.</p> <p>The Energy Bureau's duty in the instant proceeding is to determine that the Revised Annex IX complies with applicable energy policy directives.</p> <p>The requested information is pertinent and discoverable as part of the subject matter of the instant case.</p>

