

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

IN RE: REVIEW OF LUMA'S INITIAL
BUDGETS

CASE NO.: NEPR-MI-2021-0004

SUBJECT: Memorandum of Law in Support of Request for Confidential Treatment of Portions of Response to Request No. 13 Submitted as part of the Second Set of Responses to Requests for Information filed on October 12, 2022.

RESOLUTION AND ORDER

On October 12, 2022, LUMA Energy LLC, ("ManagementCo"), and LUMA Energy ServCo, LLC ("ServCo"), (jointly referred to as "LUMA"), filed a document titled *Submission of Second Set of Responses to Requests for Information in Compliance with Bench Order Issued During Technical Conference of September 13, 2022* ("October 12 Motion"), which included as Exhibit 1 the second set of responses to the requests for information issued by the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") through a bench order entered during the technical conference held on September 13, 2022 ("September 13 Hearing"). LUMA filed an unredacted version of the response under seal, and informed that it intended to submit a Memorandum of Law within ten (10) days in support of its request for confidential treatment. LUMA also filed a redacted version of the responses.¹

On October 24, 2022, LUMA filed a document titled *Memorandum of Law in Support of Request for Confidential Treatment of Portions of Response to Request No. 13 Submitted as part of the Second Set of Responses to Requests for Information filed on October 12, 2022* ("Memorandum"). LUMA states that the Energy Bureau should protect the parts of information of Exhibit 1 of the October 12 Motion ("Response to RFI No. 13") from public disclosure as they contain LUMA's sensitive commercial or trade secrets information under Section D(1) of Energy Bureau's Policy on Confidential Information CEPR-MI-2016-0009.² Specifically, LUMA request the confidentiality of Response: TC-RFI-LUMA-MI-2021-0004-220913-PREB-013 at page 84 of the October 12 Motion ³.

In its Memorandum, LUMA argues that parts of its Response to RFI No. 13 are Trade Secret Information as they contain the Median Base Compensation that LUMA has designated for LUMA ServCo's employee positions as well as secondees and which specific information, LUMA has not disclosed publicly.⁴ LUMA alleges that the Energy Bureau should protect the Media Base Compensation included as part of LUMA's Response to RFI No. 13 because it constitutes financial information that may prove advantageous or useful to LUMA's competitors in the energy business utilities in Puerto Rico, as well as in the competitive job market for skilled and professional employees in Puerto Rico, as they could use the information to best LUMA in employee recruitment.⁵ LUMA states that the Median Base Compensation is a part of LUMA's process, methods, or formula of allocating its financial

¹ October 16 Motion, p. 6, ¶22.

² Resolution, *In re: Energy Bureau Policy on the Management of Confidential Information*, case no. CEPR-MI-2016-0009, August 31, 2016.

³ Memorandum, p. 6.

⁴ *Id.*, p. 3.

⁵ *Id.*, p. 5.




resources to provide services in a competitive manner and disclosure of the information will compromise LUMA's ability to fairly compete.⁶

LUMA alleges, as stated in its Memorandum, that the Puerto Rico Supreme Court has extended the trade secret privilege to commercial information confidential in nature.⁷ LUMA further states that the right of public access to information is promoted and protected by the public version of the Response to RFI No. 13. and that the interest in the public viewing the information that LUMA requests be kept confidential is outweighed by the harm that LUMA would be exposed to should the information be made available to the public.⁸

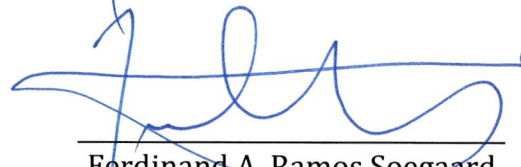
Act No. 57-2014⁹ establishes that any person having the obligation to submit information to the Energy Bureau can request privilege or confidential treatment to any information that the party submitting understands deserves such protection.¹⁰ Specifically, Act 57-2014 requires the Energy Bureau to treat the submitted information as confidential provided that "the Energy Bureau, after the appropriate evaluation, believes such information should be protected." In such case, the Energy Bureau "shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted."¹¹

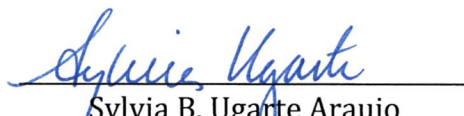
Upon review of LUMA's Memorandum, the Energy Bureau **GRANTS** confidential designation and treatment to Response to RFI No. 13 of Exhibit 1 attached to the October 12 Motion, under Article 6.15 of Act 57-2014.


Be it notified and published.


Edison Avilés Deliz
Chairman


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner


Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

⁶ Memorandum, p. 5.

⁷ *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891 (2017).

⁸ Memorandum, p. 5.

⁹ *Puerto Rico Transformation and RELIEF Act*, as amended ("Act 57-2014")

¹⁰ Section 6.15 of Act 57-2014.

¹¹ Section 6.15(a) of Act 57-2014,



CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on January 9, 2023. I also certify that on January 10, 2023 a copy of this Resolution and Order was notified by electronic mail to the following: margarita.mercado@us.dlapiper.com; ana.rodriguezirivera@us.dlapiper.com; jmarrero@diazvaz.law and kbolanos@diazvaz.law. 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

