

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

<b>NEPR</b>  <b>Received:</b>  <b>Jan 30, 2023</b>  <b>3:35 PM</b>
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**IN RE:**

REVIEW OF THE PUERTO RICO  
ELECTRIC POWER AUTHORITY'S 10-  
YEAR INFRASTRUCTURE PLAN-  
DECEMBER 2020

**CASE NO. NEPR-MI-2021-0002**

**SUBJECT: Submission of Initial Scope of Work  
and Request for Confidentiality and Supporting  
Memorandum of Law**

**MOTION SUBMITTING INITIAL SCOPE OF WORK AND REQUEST FOR  
CONFIDENTIALITY AND SUPPORTING MEMORANDUM OF LAW**

**TO THE PUERTO RICO ENERGY BUREAU:**

COME NOW LUMA Energy, LLC<sup>1</sup>, and LUMA Energy ServCo, LLC (jointly referred to as "LUMA"), through the undersigned legal counsel and respectfully submits the following:

**I. Submittal of Initial Scope of Work and Request for Confidentiality**

1. On March 26, 2021, this Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order in the instant proceeding (the "March 26 Order"), ordering, in pertinent part, that the Puerto Rico Electric Power Authority ("PREPA") submit to the Energy Bureau the specific projects to be funded with Federal Emergency Management Agency ("FEMA") funds or any other federal funds at least thirty (30) calendar days prior to submitting these projects to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3"), FEMA or any other federal agency. *See* March 26 Order on pages 18-19. This Energy Bureau thereafter determined that this directive applied to both PREPA and LUMA. *See* Resolution and Order of August 20, 2021 ("August 20 Order") on page 3.

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<sup>1</sup> Register No. 439372.

2. Consequently, LUMA has submitted to this Energy Bureau several Transmission and Distribution projects (“T&D Projects”) on July 8, 2021 (twenty-eight (28) Scopes of Work and an itemized list of T&D Projects), August 30, 2021 (twenty-nine (29) SOWs and an updated list of T&D Projects) and October 4, 2021 (thirty-eight (38) SOWs and an updated list of T&D Projects), February 2, 2022 (three (3) SOWs and an updated list of T&D Projects), May 20, 2022 (one (1) SOW and an updated list of T&D Projects), July 29, 2022 (four (4) SOWs and an updated list of T&D projects), August 10, 2022 (two (2) SOWs and an updated list of T&D projects), November 11, 2022 (sixty (60) SOWs and an updated list of T&D projects), and November 16, 2022 (one (1) SOW and an updated list of T&D Projects). The Energy Bureau has approved all the T&D Project SOWs submitted by LUMA as of August 10, 2022.

3. Since the commencement of operations, LUMA has submitted to the Energy Bureau, in this instant proceeding, those T&D projects it intends to present to the COR3 and FEMA for federal funding approval in alignment with the approved Integrated Resources Plan (“IRP”) and Modified Action Plan. On May 9, 2022, LUMA requested this Energy Bureau to expand the scope of this instant proceeding to encompass all federally funded projects, irrespective of whether they were part of the 10-Year Infrastructure Plan authored by PREPA, as long as they were aligned with the approved IRP and Modified Action Plan (“May 9 Motion”). *See Motion Submitting FEMA Approval of Project and Requesting Subject Matter of this Proceeding be Expanded.*

4. LUMA is currently developing additional T&D projects, as instructed by this Energy Bureau. Notably, the Energy Bureau has urged LUMA to seek federal funding for the Network Upgrades necessary to interconnect energy projects of Tranche I, subject of the

proceeding *In Re: Implementation of the Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, Case No. NEPR-MI-2020-0012.

5. As part of this Energy Bureau’s proceedings in Case No. NEPR-MI-2020-0012, a Resolution and Order was issued on April 27, 2022, in connection with eighteen (18) renewable solar photovoltaic (“PV”) energy projects of the Tranche I renewable energy procurement that was previously authorized. See *Resolution and Order of April 27, 2022*, in Case No. NEPR-MI-2020-0012.

6. After other procedural events, on May 31, 2022, LUMA filed with the Energy Bureau a *Motion Submitting Final Interconnection Studies for Eighteen Tranche 1 Projects Required under Energy Bureau’s Resolution and Order of April 27, 2022, and Request for Confidential Treatment* submitting the Final Interconnection Study Reports for the eighteen (18) approved PV projects. LUMA also included a report of the results of a System Impact & Facility Study (“System Impact & Facility Study”) conducted by LUMA. It comprised a summary, and analytical detail for a cluster study of the system developed to determine required transmission system network upgrades (the “Network Upgrades”), including cost estimates and cost allocation by project. See *Motion Submitting Final Interconnection Studies for Eighteen Tranche 1 Projects Required under Energy Bureau’s Resolution and Order of April 27, 2022, and Request for Confidential Treatment*, in Case No. NEPR-MI-2020-0012.

7. On June 13, 2022, the Energy Bureau issued a Resolution and Order (“June 13<sup>th</sup> Order”) ordering LUMA to (i) “proceed with” the Network Upgrades; (ii) “fund these projects from the [Capital Budget-Non-Federally Funded (“Non-Federally Funded Capital Budget”)] as needed[,] employing procurement processes that follow federal procurement guidelines, with such

expenditures to be offset by federal funds as soon as such funds become available”; and (iii) reflect these costs in the annual budgets filed with the Energy Bureau pursuant to the Determination on LUMA’s Initial Budgets Resolution and Order issued in *In re: Review of LUMA’s Initial Budgets*, Case No. NEPR-M1-2021-0004, on May 31, 2021. *See Resolution and Order of June 13, 2022*, in Case No. NEPR-MI-2020-0012.

8. In the pertinent part, the Energy Bureau also directed LUMA to “investigate whether all or a portion of the [Network Upgrades] can be procured employing federal funds obligated for the reconstruction of the electric grid, or by additionally available supplemental federal funding” and suggested that the Network Upgrades could be eligible for funding under the Bipartisan Budget Act of 2018 (“BBA”) “as critical facilities under Section 406 of the Stafford Act and under the BBA”. The Energy Bureau then directed LUMA to file, within 45 days of the June 13<sup>th</sup> Order, a plan “laying out a roadmap for seeking and obtaining federal funding for the transmission system network upgrades identified in the “System Impact & Facility Study Results Report,” and outlining the steps required in that process including expected timelines.” *See Resolution and Order of June 13, 2022*, in Case No. NEPR-MI-2020-0012.

9. On June 22, 2022, LUMA filed an *Urgent Motion Requesting Reconsideration of Energy Bureau’s Resolution and Order of June 13, 2022, and Stay of All Directives Therein*, requesting the Energy Bureau to reconsider its determination in the June 13<sup>th</sup> Order insofar as it required LUMA to seek federal funding for the transmission system network upgrades for the Approved Projects and because it ordered LUMA to proceed with executing those projects by funding these upgrades with the Capital Budget Non-Federally Funded to be offset by federal funding once such funding is obtained. Specifically, LUMA raised concerns as to whether these

projects would qualify for federal funding, the potential impacts of this approach on the financing of other critical projects and/or customer rates, and the inconsistency of the Energy Bureau's approach with the customary industry practice of having the developer pay these costs, among others. *See Urgent Motion Requesting Reconsideration of Energy Bureau's Resolution and Order of June 13, 2022, and Stay of All Directives Therein*, in Case No. NEPR-MI-2020-0012.

10. On July 20, 2022, the Energy Bureau issued a Resolution and Order ("July 20<sup>th</sup> Order") and (i) denied LUMA's request to reconsider the June 13<sup>th</sup> Order and to stay all directives therein and (ii) "reaffirm[ed] its June [13<sup>th</sup>] Order directing LUMA to proceed with the transmission system network upgrade projects needed to support the Tranche 1 selected resources once an Updated Study is available, and to fund said projects from the Non-Federally Funded Capital Budget, while federal funding is being sought". In the July 20<sup>th</sup> Order, the Energy Bureau also indicated that it continued to require LUMA to file the roadmap outlining the federal funding options required under the June 13<sup>th</sup> Order. *See Resolution and Order of July 20, 2022*, in Case No. NEPR-MI-2020-0012.

11. On July 28, 2022, LUMA filed a *Motion to Submit Federal Funding Roadmap in Compliance with Energy Bureau Resolution and Order of June 13, 2022* ("July 28<sup>th</sup> Order"). Therein, LUMA submitted a roadmap for seeking and obtaining federal funding for Network Upgrades and outlining the steps required in that process, including expected timelines. LUMA stated that it would pursue the type of federal funding contemplated in the June 13<sup>th</sup> Order for the Network Upgrades, and the proposed federal funding requests thereof will be submitted for this Energy Bureau's review and approval in the current proceeding, using processes consistently and in alignment with the federal procurement process presented by LUMA in this docket. *See Motion*

*to Submit Federal Funding Roadmap in Compliance with Energy Bureau Resolution and Order of June 13, 2022*, in Case No. NEPR-MI-2020-0012.

12. On August 15, 2022, LUMA filed a *Response to Resolution and Order of July 20, 2022, and Request for Technical Conference* (“August 15<sup>th</sup> Motion”). LUMA stated that the most appropriate and customer-beneficial solution is to allow LUMA to continue advancing the Network Upgrades work with the developer of the approved projects and incorporate the costs of the Network Upgrades into the PPOA price. This approach would result in a smaller and impartial impact to customer rates, provide fair treatment to all developers and it would not affect the prioritization of System Improvement Programs and timelines to achieve reliability and resiliency of the grid, all while following the standard industry practice in private large-scale generation procurement. *See Response to Resolution and Order of July 20, 2022, and Request for Technical Conference*, in Case No. NEPR-MI-2020-0012.

13. Notwithstanding the concerns raised by LUMA in the August 15<sup>th</sup> Motion filed in Case No. NEPR-MI-2020-0012, and in line with the May 9 Motion filed in the instant proceeding, LUMA hereby submits to the Energy Bureau an initial SOW on Network Upgrades for this Energy Bureau’s review and approval prior to submittal to FEMA for the following project: “Network Upgrades to Support the Integration of Tranche 1 Utility Scale Renewable Projects” dated July 11, 2022. *See Exhibit 1*.

14. LUMA hereby requests that *Exhibit 1* be maintained confidential and is submitting a redacted version for public disclosure and an unredacted non-public version under seal of confidentiality. LUMA submits below its Memorandum of Law stating the legal basis for which the unredacted version of *Exhibit 1* should be filed under seal of confidentiality. As will be

explained below, portions of the initial SOW in *Exhibit 1* should be protected from public disclosure as these documents contain confidential information associated with Critical Energy Infrastructure Information (“CEII”) as defined in federal regulations, 18 C.F.R. §388.113; 6 U.S.C. §§ 671-674, and per the Energy Bureau’s Policy on Management of Confidential Information (the “SOWs with CEII”). *See* Energy Bureau’s Policy on Management of Confidential Information, CEPR-MI-2016-0009 (“Policy on Management of Confidential Information”), issued on August 31, 2016, as amended by the Resolution dated September 20, 2016. In addition, the initial SOW includes personal identifying information of individuals who are LUMA staff or contractors protected under Puerto Rico’s legal framework on privacy emanating from the Puerto Rico Constitution and should also be protected pursuant to the Energy Bureau’s Policy on Management of Confidential Information.

## **II. Memorandum of Law in Support of Request for Confidentiality**

### **A. Applicable Laws and Regulations to Submit Information Confidentially Before the Energy Bureau**

15. The bedrock provision on the management of confidential information filed before this Energy Bureau is Section 6.15 of Act 57-2014, known as the “Puerto Rico Energy Transformation and Relief Act.”. It provides, in pertinent part, that: “[i]f any person who is required to submit information to the [Energy Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the [Energy Bureau] to treat such information as such [...]” 22 LPRA §1054n. If the Energy Bureau determines, after appropriate evaluation, that the information should be protected, “it 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.” *Id.* §1054n(a).

16. Access to confidential information shall be provided “only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.” *Id.* §1054n(b). Finally, Act 57-2014 provides that this Energy Bureau “shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the [Energy Bureau] who needs to know such information under nondisclosure agreements. However, the [Energy Bureau] shall direct that a non-confidential copy be furnished for public review.” *Id.* §1054n(c).

17. Relatedly, in connection with the duties of electric power service companies, Section 1.10 (i) of Act 17-2019 provides that electric power service companies shall provide the information requested by customers, except for confidential information in accordance with the Puerto Rico Rules of Evidence.

18. Moreover, the Energy Bureau’s Policy on Management of Confidential Information details the procedures a party should follow to request that a document or portion thereof be afforded confidential treatment. In essence, the referenced Policy requires identifying confidential information and filing a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 20, 2016, CEPR-MI-2016-0009. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and why each claim or designation conforms to the applicable legal basis of



confidentiality. *Id.* at ¶ 3. The party who seeks confidential treatment of information filed with the Energy Bureau must also file both a “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* at ¶ 6.

19. The Energy Bureau’s Policy on Management of Confidential Information states the following with regard to access to validated Trade Secret Information and CEII:

1. Trade Secret Information

Any document designated by the [Energy Bureau] as Validated Confidential Information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Energy Bureau], unless otherwise set forth by the [Energy Bureau] or any competent court.

2. Critical Energy Infrastructure Information (“CEII”)

The information designated by the [Energy Bureau] as Validated Confidential Information on the grounds of being CEII may be accessed by the parties’ authorized representatives only after they have executed and delivered the Nondisclosure Agreement.

Those authorized representatives who have signed the Non-Disclosure Agreement may only review the documents validated as CEII at the [Energy Bureau] or the Producing Party’s offices. During the review, the authorized representatives may not copy or disseminate the reviewed information and may bring no recording device to the viewing room.

*Id.* at § D (on Access to Validated Confidential Information).

20. Energy Bureau Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, also includes a provision for filing confidential information in proceedings before this Energy Bureau. To wit, Section 1.15 provides that “a person has the duty to disclose information to the [Energy Bureau] considered to be privileged pursuant to the Rules of Evidence, said person shall identify the allegedly privileged

information, request the [Energy Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Energy Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed according to [...] Article 6.15 of Act No. 57-2015, as amended.” *See also* Energy Bureau Regulation No. 9137 on *Performance Incentive Mechanisms*, § 1.13 (addressing disclosure before the Energy Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

### **B. Request for Confidentiality**

21. The initial SOW with CEII included in *Exhibit 1* contains portions of CEII that, under relevant federal law and regulations, are protected from public disclosure. LUMA stresses that the initial SOW with CEII warrants confidential treatment to protect critical infrastructure from threats that could undermine the system and negatively affect electric power services to the detriment of the interests of the public, customers, and citizens of Puerto Rico. In several proceedings, this Energy Bureau has considered and granted requests by PREPA to submit CEII under seal of confidentiality.<sup>2</sup> In at least two proceedings on Data Security,<sup>3</sup> and Physical Security,<sup>4</sup>

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<sup>2</sup> *See e.g., In re Review of LUMA’s System Operation Principles*, NEPR-MI-2021-0001 (Resolution and Order of May 3, 2021); *In re Review of the Puerto Rico Power Authority’s System Remediation Plan*, NEPR-MI-2020-0019 (order of April 23, 2021); *In re Review of LUMA’s Initial Budgets*, NEPR-MI-2021-0004 (order of April 21, 2021); *In re Implementation of Puerto Rico Electric Power Authority Integrated Resource Plan and Modified Action Plan*, NEPR MI 2020-0012 (Resolution of January 7, 2021, granting partial confidential designation of information submitted by PREPA as CEII); *In re Optimization Proceeding of Minigrid Transmission and Distribution Investments*, NEPR MI 2020-0016 (where PREPA filed documents under seal of confidentiality invoking, among others, that a filing included confidential information and CEII); *In re Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, CEPR-AP-2018-0001 (Resolution and Order of July 3, 2019 granting confidential designated and request made by PREPA that included trade secrets and CEII) *but see* Resolution and Order of February 12, 2021 reversing in part, grant of confidential designation).

<sup>3</sup> *In re Review of the Puerto Rico Electric Power Authority Data Security Plan*, NEPR-MI-2020-0017.

<sup>4</sup> *In re Review of the Puerto Rico Electric Power Authority Physical Security Plan*, NEPR-MI-2020-0018.

this Energy Bureau, *motu proprio*, has conducted proceedings confidentially, thereby recognizing the need to protect CEII from public disclosure.

22. Additionally, this Energy Bureau has granted requests by LUMA to protect CEII in connection with LUMA's System Operation Principles. *See* Resolution and Order of May 3, 2021, table 2 on page 4, Case No. NEPR-MI-2021-0001 (granting protection to CEII included in *LUMA's Responses to Requests for Information*). Similarly, in the proceedings on LUMA's proposed Initial Budgets and System Remediation Plan, this Energy Bureau granted confidential designation to several portions of LUMA's Initial Budgets and Responses to Requests for Information. *See* Resolution and Order of April 22, 2021, on Initial Budgets, table 2 on pages 3-4, and Resolution and Order of April 22, 2021, on *Responses to Requests for Information*, table 2 on pages 8-10, Case No. NEPR-MI-2021-0004; Resolution and Order of April 23, 2021, on Confidential Designation of Portions of LUMA's System Remediation Plan, table 2 on page 5, and Resolution and Order of May 6, 2021, on Confidential Designation of Portions of LUMA's Responses to Requests for Information on System Remediation Plan, table 2 at pages 7-9, Case No. NEPR-MI-2020-0019.

23. As mentioned above, the Energy Bureau's Policy on Management of Confidential Information provides for the management of CEII. It directs that the parties' authorized representatives access information validated as CEII only after executing and delivering a Non-Disclosure Agreement.

24. Generally, CEII or critical infrastructure information is exempted from public disclosure because it involves assets and information which pose public security, economic, health, and safety risks. Federal Regulations on CEII, particularly 18 C.F.R. § 388.113, state that:

Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

*Id.*

25. Additionally, “[c]ritical electric infrastructure means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters. *Id.* Finally, “[c]ritical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.” *Id.*

26. The Critical Infrastructure Information Act of 2002, 6 U.S.C. §§ 671-674 (2020), part of the Homeland Security Act of 2002, protects critical infrastructure information (“CII”).<sup>5</sup>

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<sup>5</sup> Regarding the protection of voluntary disclosures of critical infrastructure information, 6 U.S.C. § 673 provides in pertinent part, that CII:

- (A) shall be exempt from disclosure under the Freedom of Information Act;
- (B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision-making official;
- (C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;
- (D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this part, except—
  - (i) in furtherance of an investigation or the prosecution of a criminal act; or
  - (ii) when disclosure of the information would be--

CII is defined as “information not customarily in the public domain and related to the security of critical infrastructure or protected systems [...]” 6 U.S.C. § 671 (3).<sup>6</sup>

27. The initial SOW with CEII in *Exhibit 1* qualify as CEII because each of these documents contains the express coordinates to power transmission and distribution facilities and aerial maps with the pinned specific location thereof (18 C.F.R. § 388.113(iv)), and this information could potentially be helpful to a person planning an attack on the energy facilities listed as part of the initial SOW. The information identified as confidential in this paragraph is not common knowledge and is not made publicly available. Therefore, it is respectfully submitted that,

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(I) to either House of Congress, or the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or an authorized representative of the Comptroller General, in the course of the performance of the duties of the Government Accountability Office

(E) shall not be provided to a State or local government or government agency; of information or records;

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical Infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

<sup>6</sup> CII includes the following types of information:

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, construction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

on balance, the public interest in protecting CEII weighs in favor of protecting the relevant portions of the initial SOW with CEII in *Exhibit 1* from disclosure, given the nature and scope of the details included in those portions of the Exhibit.

28. Based on the above, LUMA respectfully submits that the initial SOW with CEII should be designated as CEII. This designation is a reasonable and necessary measure to protect the specific location and other engineering and design information of the energy facilities listed or discussed in the initial SOW in *Exhibit 1*. Given the importance of ensuring the safe and efficient operation of the generation assets and the T&D System, LUMA respectfully submits that these materials constitute CEII that should be maintained confidentially to safeguard their integrity and protect them from external threats.

29. In addition, the initial SOW in *Exhibit 1* contains the name, signature, and role of an individual who is a LUMA employee and a contractor, respectively, who reviewed the initial SOW as part of LUMA's internal review and approval of each document.<sup>7</sup> LUMA respectfully requests that information on the names, signatures, and roles of these individuals be maintained confidentially in the context that these reveal details of their employment duties and that their protection is in the public interest and aligned with Puerto Rico's legal framework on privacy which protects from the disclosure of personal information. *See, e.g.*, Const. ELA, Art. II, Sections 8 and 10, which protect the right to control personal information and distinctive traits, which applies *ex proprio vigore* and against private parties. *See also e.g. Vigoreaux v. Quiznos*, 173 D.P.R. 254, 262 (2008); *Bonilla Medina v. P.N.P.*, 140 D.P.R. 294, 310-11 (1996), *Pueblo v.*

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<sup>7</sup> This employee and contractor are different from the top tier employees who have in the past signed these documents and who may be publicly known.

*Torres Albertorio*, 115 D.P.R. 128, 133-34 (1984). *See also* Act 122-2019, Article 4(vi) (which provides, as an exception to the rule on public disclosure, information the disclosure of which could invade the privacy of third parties or affect their fundamental rights); and Article 3(c) of Act 122-2019 (stating that personnel files and similar information does not constitute public information subject to disclosure). It is respectfully submitted that the redaction of the aforementioned information does not affect the public’s or the Energy Bureau’s review of the initial SOW nor interfere with processes before this Energy Bureau. Therefore, on balance, the public interest to protect privacy weighs in favor of protecting the relevant portions of the initial SOW.

**C. Identification of Confidential Information**

30. In compliance with the Energy Bureau’s Policy on Management of Confidential Information, CEPR-MI-2016-0009, below, find a table summarizing the hallmarks of this request for confidential treatment.

<b>Document</b>	<b>Name</b>	<b>Pages in which Confidential Information is Found, if applicable</b>	<b>Summary of Legal Basis for Confidentiality Protection, if applicable</b>	<b>Date Filed</b>
Exhibit 1	FEMA Project Scope of Work Project Name: Network Upgrades to Support the Integration of Tranche 1 Utility Scale Renewable Projects	Page 1	Right to privacy ( <i>see, e.g.</i> , Const. ELA, Art. II, Sections 8 and 10)	January 30, 2023
		Pages 4 and 12-15	Critical Energy Infrastructure Information, 18 C.F.R. § 388.113; 6 U.S.C. §§ 671-674.	January 30, 2023

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned; **approve** the initial SOW for T&D Project submitted as *Exhibit 1* to this Motion; and **grant** the request for confidential treatment of *Exhibit 1*.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 30<sup>th</sup> of January 2023.

I hereby certify that I 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](mailto:jmarrero@diazvaz.law), and Katiuska Bolaños-Lugo, [kbolanos@diazvaz.law](mailto:kbolanos@diazvaz.law).



**DLA Piper (Puerto Rico) LLC**  
500 Calle de la Tanca, Suite 401  
San Juan, PR 00901-1969  
Tel. 787-945-9132  
Fax 939-697-6102

/s/Laura T. Rozas  
Laura T. Rozas  
RUA Núm. 10,398  
[laura.rozas@us.dlapiper.com](mailto:laura.rozas@us.dlapiper.com)



Exhibit 1