

**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:** Resolution pertaining *Motion Requesting that PREB Address Outstanding Issues*, filed by Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc.- Enlace Latino de Acción Climática, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club y su Capítulo de Puerto Rico y la Unión de Trabajadores de la Industria Eléctrica y Riego; *Moción Uniéndonos a Solicitud de LECO*, filed by la Oficina Independiente de Protección al Consumidor de la Junta Reglamentadora de Servicio Público; and *Response to LECO's Motion Requesting that PREB Address Outstanding Issues*, filed by LUMA Energy, LLC and LUMA ServCo, LLC.

**RESOLUTION**

On January 27, 2023, Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc.- Enlace Latino de Acción Climática, Inc., Alianza Comunitaria Ambientalista del Sureste, Inc., Coalición de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club y su Capítulo de Puerto Rico y la Unión de Trabajadores de la Industria Eléctrica y Riego (jointly referred to as "LECO") filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") a document titled *Motion Requesting that PREB Address Outstanding Issues* ("January 27 Motion"). Through the January 27 Motion, LECO indicated there was a pending motion to be resolved by the Energy Bureau, that is, the May 26, 2022 *Motion Requesting the Imposition of Penalties in LUMA's Performance-Based Mechanisms* ("May 26 Motion"). In the referenced Motion, LECO requested the Energy Bureau to affirm its authority to impose penalties pursuant to the Puerto Rico energy statutory framework, as part of the performance-based mechanism to be determined in the instant proceeding.<sup>1</sup>

Also, LECO requested that the Hybrid Evidentiary Hearing to be held from February 7 to February 10, 2023 be held in Spanish with simultaneous translation available.<sup>2</sup> Further, LECO asserted that if the Energy Bureau conducts the hearing in English, then it should guarantee simultaneous translation and be flexible for participants, including attorneys and witnesses, to speak in the language of their choice.<sup>3</sup>

LECO also requested that the Energy Bureau provide more information pertaining the Public Hearings, among others: the time of the hearing, whether they are going to be held virtually or in person, instructions for the public to participate, and crucial information in the Spanish language for the public.<sup>4</sup> Furthermore, LECO requested that the Public Hearings be rescheduled and that the public be granted at least thirty (30) days to prepare and

<sup>1</sup> January 27 Motion, pp. 1 – 2.

<sup>2</sup> *Id.*, p. 2.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, pp. 2 – 3.



participate from the day the notice is published.<sup>5</sup> Lastly, LECO asks that the Energy Bureau not only celebrate virtual public hearings, but also in person public hearings.<sup>6</sup>

On January 28, 2023, the Independent Consumers Protection Office of the Puerto Rico Public Service Regulatory Board (“OIPC”), filed before the Energy Bureau a document titled *Moción Uniéndonos a Solicitud de LECO* (“January 28 Motion”). Through the January 28 Motion, OIPC stated that it coincided with LECO’s request that the Evidentiary Hearing be held in Spanish in benefit of the public’s interest and due to the technical nature of the case.<sup>7</sup> OIPC also noted that if the Energy Bureau conducts the hearing in English, its participation would be in Spanish.<sup>8</sup>

On January 31, 2023, LUMA Energy, LLC and LUMA ServCo, LLC (referred to jointly as “LUMA”) filed before the Energy Bureau a document titled *Response to LECO’s Motion Requesting that PREB Address Outstanding Issues* (“January 31 Motion”). Through the January 31 Motion, LUMA requested that LECO’s petition that the Energy Bureau issue a ruling on its May 26 Motion be denied.<sup>9</sup> LUMA argued that for the Energy Bureau to make a ruling on whether to adopt penalties as part of the performance-based mechanism applicable to LUMA prior to the evidentiary hearing was premature because the testimony upon which LECO bases its request has not been subject to cross-examination.<sup>10</sup> According to LUMA, any order adopting LECO’s proposal would be premature, null, void, and contrary to LUMA’s due process rights.<sup>11</sup>

Upon review of the January 27 and January 28 Motions, the Energy Bureau **DETERMINES** that the Evidentiary Hearing will be conducted in English with simultaneous translation in Spanish.

Pertaining the Public Hearings, the Energy Bureau **REAFFIRMS** they will be held on **February 16-17, 2023**, as per established in the revised procedural calendar issued on October 14, 2023, **from 9:00 a.m. to 4:00 p.m.** The Energy Bureau **MODIFIES** the format of the Public Hearings and sets forth they will be conducted using a hybrid model; thus, participants can attend the hearings in person or remotely. The Energy Bureau will provide a link and instructions to access the hearing remotely.

The general public will have the opportunity to present their opinion about LUMA’s Revised Request during the public hearings. Since public hearings are designed to obtain comments from the general public, Intervenor, LUMA or its employees, associates, witnesses or legal representation, and any other party to this proceeding may not participate in the public hearings. Any person interested in presenting oral comments or questions during the February 16-17, 2023 Public Hearing shall, on or before Tuesday, February 14, 2023 at 3:00 p.m., contact the Energy Bureau’s Clerk at (787) 523-6262 or via email to [secretaria@jrsp.pr.gov](mailto:secretaria@jrsp.pr.gov) to request a turn and to obtain instructions and a link to access the virtual Public Hearing. The Public Hearing will be streamed live via the Energy Bureau’s YouTube Channel. The Energy Bureau’s YouTube channel may be accessed through the following link: <https://www.youtube.com/channel/UCxZYn-qtlk0Lu9TX37-11oA>.

Note that the filing of public comments is due April 12, 2023. The comments shall include in their title the following: “Public Comments on LUMA’s Revised Request — Case No. NEPR-AP-2020-0025” and shall be addressed to the attention of Edison Avilés Deliz, Chairman, and shall be filed by electronic mail at: [comentariosjrsp.pr.gov](mailto:comentariosjrsp.pr.gov); through the Energy Bureau’s

<sup>5</sup> *Id.*, p. 4.

<sup>6</sup> *Id.*, pp. 4 – 5.

<sup>7</sup> January 28 Motion, pp. 1 – 2, ¶¶ 2 – 4.

<sup>8</sup> *Id.*, p. 2, ¶ 5.

<sup>9</sup> January 31 Motion, p. 2.

<sup>10</sup> *Id.*, ¶ 4.

<sup>11</sup> *Id.*





electronic filing tool at: <https://radicacion.energia.pr.gov/>; by postal mail addressed to the Puerto Rico Energy Bureau's Clerk's Office at World Plaza Building, 268 Muñoz Rivera Ave., Plaza Level Suite 202, San Juan, PR 00918; or in person at the Energy Bureau's Clerk's Office, at the referenced address. The hours of operations of the Clerk's office are Monday through Friday from 8:30 am. to 5:30 p.m., excluding holidays.


The participation of the general public in this proceeding, through the submission of public comments or the appearance at public hearing, shall be governed by the June 18, 2021 Resolution issued under Case No. NEPR-MI-2021-0010.<sup>12</sup>

Finally, the Energy Bureau **INFORMS** that the May 26 Motion will be addressed through a separate Resolution.


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

## CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on February 1, 2023. I also certify that on February 1, 2023 a copy of this Resolution was notified by electronic mail to margarita.mercado@us.dlapiper.com, yahaira.delarosa@dlapiper.com, jmarrero@diazvaz.law, kbolanos@diazvaz.law, hriviera@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, February 1, 2023, I have proceeded with the filing of the Resolution issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today, February 1, 2023.

  
Sonia Seda Gaztambide  
Clerk



<sup>12</sup> See *In Re: Política Pública Sobre Recibo y Manejo de Comentarios y Comparecencia en Vistas Públicas*, Caso Núm.: NEPR-MI-2021-0010.