

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

NEPR

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IN RE: PERFORMANCE METRICS
TARGETS FOR LUMA ENERGY SERVCO,
LLC

CASE NO. NEPR-AP-2020-0025

**SUBJECT: LUMA's Request for the
Energy Bureau to Amend the Procedural
Calendar**

**MOTION REQUESTING THE ENERGY BUREAU TO
AMEND PROCEDURAL CALENDAR**

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"), and respectfully state and request the following:

1. On October 14, 2022, this Honorable Puerto Rico Energy Bureau ("Energy Bureau") issued a Resolution and Order establishing the final procedural calendar and dates for remaining filings in the instant proceeding to evaluate the *Request for Approval of Revised Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement (OMA)*.

2. As part of the procedural calendar, this Energy Bureau determined the Evidentiary Hearing would take place during February 7-10, 2023. It also established March 10, 2023, as the deadline to file final substantive and legal briefs by the parties and March 31, 2023, as the timeframe to file replies to the final substantive and legal briefs. Finally, the Energy Bureau set

April 12, 2023, as the last day for the general public to file comments and for the *amicus curiae* to file its final brief.

3. On February 7-10, 2023, this Energy Bureau held the Evidentiary Hearing in the instant proceeding.

4. During the Evidentiary Hearing, the Energy Bureau issued two orders to LUMA for compliance on or before February 21, 2023 (the “Bench Orders”). The Energy Bureau also directed the intervenors to state their position on LUMA’s findings before February 28, 2023.

5. The first Bench Order was issued on February 9, 2023, during the testimony of Mr. Juan Fonseca regarding the “Day Sales Outstanding” performance metrics. To wit, the Energy Bureau requested LUMA to research and present findings for Louisiana, Arkansas, and Mississippi on the existing low-income subsidies or other assistance available to customers of the electric utilities in these jurisdictions.

6. The second Bench Order arose on the final day of the Evidentiary Hearing, February 10, 2023, whereby the Energy Bureau instructed LUMA to clarify in writing the request included in its proposed Annex IX to the Puerto Rico Transmission and Distribution System Operation and Maintenance Agreement pages 35 through 37, on the relief from the “Day Sales Outstanding” performance metrics for three (3) to six (6) months after a moratorium period has been lifted. Particularly, the Energy Bureau directed LUMA to explain how such relief would be implemented, what would be considered, and how the weight distribution for said performance metrics would operate.

7. On February 14, 2023, LUMA filed a *Motion Requesting Audio Recording of Evidentiary Hearing*. LUMA petitioned the Energy Bureau to provide the full audio recording of the evidentiary hearing in order to prepare a certified transcript of the proceedings.

8. On February 21, 2023, LUMA filed a *Motion in Compliance with Bench Orders Issued During the Evidentiary Hearing (Motion in Compliance)*. LUMA submitted its findings on the existing low-income subsidies or other assistance available to customers of the electric utilities in Louisiana, Arkansas, and Mississippi, as well as supporting information on its proposal for relief from the “Day Sales Outstanding” performance metrics for three (3) to six (6) months after a moratorium period has been lifted.

9. On February 22, 2023, the Energy Bureau entered a Resolution and Order granting the request for the audio recording of the Evidentiary Hearing and instructed the Secretary of the Energy Bureau to provide it as soon as possible.¹

10. On February 24, 2023, the Local Environmental and Civil Organizations (“LECO”) filed a *Motion Requesting PREB’s Official Evidentiary Hearing Transcript*. Therein, LECO stated that according to the Hybrid Evidentiary Hearing protocol, the Energy Bureau committed to providing the official transcript of the Evidentiary Hearing. According to LECO, the transcript is essential to work on the legal brief. Given the current deadline to file the final substantive and legal briefs for all parties, LECO requested an extension to file the legal briefs at least fifteen days after the initial transcript is provided.

¹ The Secretary of the Energy Bureau provided LUMA with the audio recording of the Evidentiary Hearing on February 17, 2023.

11. On February 28, 2023, the Independent Consumer Protection Office (“ICPO”) filed a motion entitled *Comentarios a Moción en Cumplimiento de Orden Radicada por LUMA el 21 de Febrero de 2023*. In summary, ICPO alleged that LUMA did not provide the information requested on the totality of subsidies available in Louisiana, Mississippi, and Arkansas. As such, ICPO claimed it could not submit its position with the information provided. Additionally, ICPO argued that the Energy Bureau requested that LUMA explain how any performance metric in which LUMA requests relief of compliance due to special circumstances, such as “Major Outage Event” metrics, will be calculated and that LUMA only addressed the “Days Sales Outstanding Metric.” ICPO also argued that this “Days Sales Outstanding Metric” response is incomplete, as LUMA did not explain how the metric will be calculated. Thus, ICPO requested the Energy Bureau to order LUMA to provide the requested information.

12. As noted in the *Motion in Compliance*, LUMA provided to the Energy Bureau all publicly available information regarding the existing low-income subsidies or other assistance available to customers of the electric utilities in Louisiana, Arkansas, and Mississippi. LUMA also presented the explanation requested on the “Day Sales Outstanding” to the Energy Bureau. Notwithstanding, LUMA will address ICPO’s allegations in detail in a separate motion.

13. Considering the foregoing, LUMA respectfully submits that an amendment to the remaining dates in the procedural calendar of this instant proceeding is warranted. As LECO has stated, the official transcript of the Evidentiary Hearing has not been provided to date. LUMA is currently working on obtaining a certified transcript of the Evidentiary Hearing, which would take no less than one (1) month from today to complete. The transcript of the Evidentiary Hearing is

fundamental for the parties to present a comprehensive final substantive and legal brief. Following the completion of the transcript, LUMA will need at least two (2) weeks to finalize its final substantive and legal brief.

14. Moreover, LUMA considers it proper that the controversy raised by ICPO be ruled upon before the parties submit their final substantive and legal briefs. Although LUMA understands it complied with the Bench Orders fully, it is sensible to finalize that controversy before the parties file their respective final substantive and legal briefs. Otherwise, this issue will remain pending parallel to the core of the issues to be decided by the Energy Bureau.

15. In view of the above, LUMA understands the March 10, 2023, deadline to submit the final substantive and legal briefs should be extended until at least two (2) weeks after the official transcript is provided to the parties, and this Energy Bureau has deemed LUMA complied with the Bench Orders. As a consequence, the remaining deadlines in the procedural calendar will have to be rescheduled accordingly.

16. This amendment request is not intended to cause unnecessary delay and should not cause inconvenience to the parties. LUMA remains committed to complying with the orders issued by the Energy Bureau.

WHEREFORE, LUMA respectfully requests that the Energy Bureau take notice of the fact that at least one (1) month from today is needed to complete the transcript of the proceeding, and thus, at its discretion, the Energy Bureau amend the remaining dates in the procedural calendar of this proceeding to extend the March 10, 2023 deadline to submit the final substantive and legal

briefs until at least two (2) weeks after the official transcript is provided to the parties, and this Energy Bureau has deemed that LUMA complied with the Bench Orders.

RESPECTFULLY SUBMITTED.

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, Joannely Marrero-Cruz, jmarrero@diazvaz.law; the Office of the Independent Consumer Protection Office, Hannia Rivera Diaz, hrivera@jrsp.pr.gov, and counsel for the Puerto Rico Institute for Competitiveness and Sustainable Economy (“ICSE”), Fernando Agrait, agraitfe@agraitlawpr.com, counsel for the Colegio de Ingenieros y a de Puerto Rico (“CIAPR”), Rhonda Castillo, rhoncat@netscape.net, and counsels for Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace Latino de Acción Climatica, Alianza Comunitaria Ambientalista del Sureste, Inc., Coalicion de Organizaciones Anti-Incineración, Inc., Amigos del Río Guaynabo, Inc., CAMBIO, Sierra Club and its Puerto Rico Chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (jointly, Puerto Rico Local and Environmental Organizations), larroyo@earthjustice.org, rstgo2@gmail.com, notificaciones@bufete-emmanuelli.com, pedrosaade5@gmail.com, jessica@bufete-emmanuelli.com; rolando@bufete-emmanuelli.com, lvelez@earthjustice.org, rmurthy@earthjustice.org, jcassel@earthjustice.org.

In San Juan, Puerto Rico, this 3rd day of March 2023.



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