

**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 and Order pertaining
various motions including amending the
procedural calendar.

RESOLUTION AND ORDER

On October 14, 2022, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order through which it amended the procedural calendar of the instant proceeding. ("October 14 Resolution"). The October 14 Resolution, among others, established the dates for the Evidentiary Hearing, Public Hearings, and filing of final briefs after the Evidentiary Hearing ("Post-hearing briefs")¹.

On January 30, 2023, the Energy Bureau issued the Hybrid Evidentiary Hearing Protocol ("Hearing Protocol").

On February 21, 2023, LUMA² filed before the Energy Bureau a document titled *Motion in Compliance with Bench Orders Issued During the Evidentiary Hearing* ("February 21 Motion"). Through the February 21 Motion, LUMA submitted its responses to its findings on the existing low-income subsidies and/or other assistance available to customers of the electric utilities in Louisiana, Arkansas, and Mississippi.³ LUMA also provided supporting information on its proposal for relief from the "Day Sales Outstanding" performance metrics for 3-6 months after a moratorium period has been lifted.⁴

On February 24, 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 a document titled *Motion Requesting PREB's Official Evidentiary Hearing Transcript* ("February 24 Motion"). Through the February 24 Motion, LECO requested the Energy Bureau to provide the official transcript of the Evidentiary Hearing as specified in the Hybrid Evidentiary Hearing Protocol.⁵ LECO further requested an extension of fifteen (15) days to the deadline for the final substantive and legal brief after the initial transcript is provided.⁶

On February 28, 2023, the Independent Consumers Protection Office of the Puerto Rico Public Service Regulatory Board ("ICPO") filed a document titled *Comentarios a Moción en Cumplimiento de Orden Radicada por LUMA el 21 de febrero de 2023* ("February 28 Motion"). In its February 28 Motion, OIPC indicated that LUMA did not comply with certain bench orders issued by the Energy Bureau during the Evidentiary Hearing.⁷ ICPO argued that LUMA did not provide the information requested on the totality of subsidies in Louisiana,

¹ See October 14 Resolution, p. 3. The procedural schedule set timelines for three (3) post-hearing briefs and public comments: Final Substantive and Legal Briefs by the Parties, Replies to Final Briefs by the Parties, Comments by the General Public, and Final Brief by *Amicus Curiae*.

² LUMA Energy, LLC, and LUMA Energy ServCo, LLC (jointly referred to as "LUMA").

³ February 21 Motion, Exhibit 1.

⁴ *Id.*

⁵ February 24 Motion, pp. 2-3.

⁶ February 24 Motion, p. 3.

⁷ February 28 Motion, p. 2, ¶ 7.



Arkansas, and Mississippi.⁸ Pertaining the second bench order, ICPO stated that LUMA only addressed the "Day Sales Outstanding" metrics and did not identify other instances in which relief of compliance is sought, such as the "Major Outage Event" metrics.⁹ Further, ICPO maintained that LUMA did not explain how the "Day Sales Outstanding" metrics would be calculated.¹⁰ Thus, ICPO requested that the Energy Bureau order LUMA to provide the requested information and comply with the bench orders issued during the Evidentiary Hearing.¹¹

On March 3, 2023, LUMA filed a document titled *Motion Requesting the Energy Bureau to Amend Procedural Calendar* ("March 3 Motion"). In its March 3 Motion, LUMA requested that the Energy Bureau take notice of the fact that at least one (1) month is required for LUMA complete the transcript of the proceeding.¹² Therefore, LUMA requested an amendment to the procedural calendar 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 the Energy Bureau has deemed that LUMA complied with its bench orders.¹³ In addressing ICPO's February 28 Motion, LUMA states it had provided all the information publicly available regarding the existing low-income subsidies and LUMA also presented the explanation requested on the "Day Sales Outstanding".¹⁴ LUMA indicates that it will address ICPO's allegation in further detail through a separate motion.

Upon review of the February 21 Motion, the February 28 Motion, and the March 3 Motion, the Energy Bureau **DETERMINES** that LUMA complied with the Bench Orders issued during the Evidentiary Hearing and **DENIES** ICPO's request as stated in the February 28 Motion.

Pertaining the official transcript, the Energy Bureau **DETERMINES** that the Microsoft Teams recording will serve as the official record of the Evidentiary Hearing and all parties should cite to the recording in their remaining filings in this proceeding, where applicable. Upon issuing this Resolution and Order, the Secretary of the Energy Bureau will send all parties a link that includes the Microsoft Teams recordings of the Evidentiary Hearings celebrated from February 7 – 10, 2023.

The parties shall use the title of each recording which shall be sent to all the parties via a link¹⁵ and the time where the testimony was recorded. For example, to cite the recoding for the February 7, 2023 morning session the party shall cite:

AP-2020-0025 Evidentiary Hearing-20230207_Meeting Recording 1
[Hours: minutes: seconds].

The Energy Bureau is aware that the Hearing Protocol indicated that a written transcript would be produced after the hearing. Nevertheless, the timeline to produce a written transcript will likely further delay the proceeding by 6 to 8 weeks. The Energy Bureau developed the Hearing Protocol to guide conduct during the hearing and this modification, similar to other adjustments that were made to the Hearing Protocol, is meant to expedite the process and to facilitate parties' participation.

⁸ *Id.*, ¶ 8.

⁹ *Id.*, p. 3, ¶ 12.

¹⁰ *Id.*, ¶ 13.

¹¹ *Id.*, ¶ 14, p. 4.

¹² March 3 Motion, pp. 4-5, ¶ 13.

¹³ *Id.*, p. 5, ¶ 15.

¹⁴ *Id.*, p. 4, ¶ 12.

¹⁵ The link contains 12 videos. The hearing of 20230207 contains 3 videos



This clarification will avoid unnecessary delay while providing all parties equal opportunity to prepare their Post-hearing briefs. The Energy Bureau **CLARIFIES** it will not produce an official transcript of the Evidentiary Hearing to avoid further delays.

The Energy Bureau **GRANTS** LECO and LUMA’s requests and **AMENDS** the procedural calendar of the instant case as follows:

Date	Phase
March 30, 2023	Filing of Final Substantive and Legal Briefs by the Parties
April 20, 2023	Filing of Replies to Final Briefs by the Parties
April 27, 2023	Filing of Comments by General Public Due, Filing of Final Brief by <i>Amicus Curiae</i>

The Energy Bureau **ORDERS** the Energy Bureau’s Clerk to, as soon as possible, provide to the parties a link to the Microsoft Teams recording of the Evidentiary Hearing.

Be it notified and published.


Edison Avilés Deliz
Chairman


Sylvia B. Ugarte Araujo
Associate Commissioner


Ferdinand A. Ramos Soegaard
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 March 9, 2023. Associate Commissioner Lillian Mateo Santos did not intervene. I also certify that on March 9, 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, jcassel@earthjustice.org; 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, zoe@emmanuelli.law; rhoncat@netscape.net, larroyo@earthjustice.org; lvelez@earthjustice.org; rmurthy@earthjustice.org; jcassel@earthjustice.org. I also certify that today, March 9, 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, March 9, 2023.


Sonia Seda Gaztambide
Clerk

