

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

<b>NEPR</b>
<b>Received:</b>
<b>Mar 15, 2023</b>
<b>12:21 PM</b>

**IN RE:**  
IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY PERMANENT RATE

**CASE NO. NEPR-MI-2020-0001**

**SUBJECT: Submission of Reconciliations for  
December 2022, January 2023, and February  
2023, and Submission of FCA, PPCA, PPCA,  
and FOS Calculated Factors and Request for  
Confidential Treatment**

**MOTION SUBMITTING RECONCILIATIONS FOR DECEMBER 2022 AND  
JANUARY 2023, AND FEBRUARY 2023, SUBMISSION OF FCA, PPCA, AND FOS  
CALCULATED FACTORS AND REQUEST FOR CONFIDENTIAL TREATMENT**

**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”), through the undersigned counsel, and respectfully state and request the following:

**I. Introduction**

Pursuant to a Resolution and Order dated January 17, 2020, this honorable Puerto Rico Energy Bureau (“Energy Bureau”) has conducted approval and revisions of the factors associated with several riders, including contributions in lieu of taxes cost adjustment (CILTA), help to human subsidies (SUBA-HH), non-help to human subsidies (SUBA-NHH), Fuel Charge Adjustment (FCA), the Purchased Power Charge Adjustment (PPCA), and the Fuel Oil Subsidy (FOS), and their reconciliations, in this proceeding, NEPR-MI-2020-0001. The reconciliations and FCA, PPCA, and FOS calculated factors are filed quarterly with this honorable Energy Bureau pursuant to the Final Rate Order issued on January 10, 2017, Case CEPR-AP-2015-0001, as amended (“Final Rate Order”).

LUMA does not own or operate generation facilities nor purchase any fuel for generation. LUMA's operations costs are not included in the FCA, PPCA, and FOS riders. The Final Rate Order and the Puerto Rico Electric Power Authority's ("PREPA") tariff book require the calculation of the FCA, PPCA, and FOS riders to ensure the pass-through of fuel used in generation by PREPA and the power purchased from private generators, without any markup, profit or additional charges that would benefit PREPA. As Operator of PREPA's Transmission and Distribution System, and in furtherance of its duties over system regulatory matters under Section 5.6 of the Puerto Rico Transmission and Distribution Operation and Maintenance Agreement ("T&D OMA"), supplemented by the Puerto Rico Transmission and Distribution System Supplemental Terms Agreement, LUMA is tasked with the preparation of the quarterly reconciliations and calculated factors for the FCA, PPCA, and FOS riders.

In a Resolution and Order issued in this proceeding on December 29, 2022, this Energy Bureau set the FCA, PPCA, and FOS factors to be applied from October 1<sup>st</sup>, 2022, until March 31, 2022 ("December 29<sup>th</sup> Order"). PREB's December 29<sup>th</sup> Order maintained the same factors that were set in the Resolution and Order of September 29, 2022 (September 29<sup>th</sup> Order). Furthermore, in the December 29<sup>th</sup> Order, the Energy Bureau directed that on or before March 15<sup>th</sup>, 2022, at noon, LUMA shall file the FCA, PPCA, and FOS reconciliations for September 2022, October 2022, November 2022, December 2022, January 2023, and February 2023, as well as the calculated factors to be applied for the quarter period beginning on April 1, 2023.

LUMA has calculated the reconciliations for the FCA and PPCA riders for December 2022, January 2023, and February 2023 and the factors for the FCA, PPCA, and FOS riders to be applied for the period from April 1<sup>st</sup> until June 30<sup>th</sup>, 2023, consistent with the approved and currently existing PREPA Tariff Book and the Final Rate Order. The calculated factors include

the reconciliation amounts for September through November 2022, as per the December 29<sup>th</sup> Order. LUMA's submission includes Excel spreadsheets being filed publicly via email in a file entitled *Values* submitted with this Motion. With this Motion, LUMA is also submitting via email confidential Excel spreadsheets with formulae intact submitted in a file entitled *Confidential*. As explained in Section IX *infra*, it is hereby respectfully requested that the Bureau accept and maintain the files and spreadsheets submitted in the file, *Confidential*, under seal of confidentiality.

## **II. Energy Bureau Authority**

This submission of the quarterly reconciliations and proposed FCA, PPCA, and FOS factors involve the Energy Bureau's authority under Act 57-2104, as amended by Act 17-2019, to "review and approve and, if applicable, modify the rates or fees charged by electric power service companies in Puerto Rico or the contractor of the transmission and distribution system of Puerto Rico in connection with any matter directly or indirectly related to the provision of electric power services." *See* Act 17-2014, Section 6.3 (n), 22 LPRA §1054(n) (Spanish language) (2021). Also relevant is the Energy Bureau's authority to "formulate and implement strategies to achieve the objectives of this Act including, but not limited to, attaining the goal of reducing and stabilizing energy costs...." *See Id.*, Section 6.3 (f).

## **III. Regulatory Formulas for Calculated FCA, PPCA, and FOS Factors**

### **A. FCA**

The FCA is a reconciling tariff mechanism that recovers the costs of fuel consumed in PREPA's generating units on a quarterly basis. *See* PREPA Tariff Book page 49. The FCA applies to all the PREPA tariffs, except to the RHR tariff (RFR by its Spanish acronym, applicable to residents of public complexes owned by the Public Housing Administration). The formula to calculate the FCA factor is:

FCA = Total Cost of Fuel + Prior Period Reconciliation

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Total Applicable Net Retail kWh Sales

*Id.*

The total cost of fuel is the cost of fuel purchased for all PREPA-generating facilities for the three forecasted months in the quarterly time period. *Id.* The prior period reconciliations are the under or over-recovered funds for the first two months of the current quarter and the last month of the prior quarter. *Id.* LUMA, on behalf of PREPA, shall provide the estimates of the reconciling balance with each proposed quarterly filing of the FCA. *Id.* Finally, the applicable net retail kWh sales include the sale of energy to all customer classes, including the net metering clients. *Id.*

The quarterly filing of reconciliations and calculated factors is due the second week of the third month of each quarter, and the calculated factors, approved by this Energy Bureau, go into effect the first month of the following quarter.

The quarterly reconciliations also include, when applicable and as ordered by the Energy Bureau, any unreconciled amounts from the previous quarter if the factors were not adjusted during that period.

**B. PPCA**

The PPCA is a reconciling tariff mechanism that recovers the costs of purchased power consumed in PREPA's generating units on a quarterly basis. *See* PREPA Tariff Book page 51. The PPCA applies to all the PREPA tariffs, except to the RHR tariff (RFR by its Spanish language acronym) (applicable to residents of public complexes owned by the Public Housing Administration). The formula to calculate the PPCA factor is:

PPCA=Total Costs Purchased Power + Prior Period Reconciliation

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Total Applicable Net Retail kWh Sales

*Id.*

The total cost of purchased power is the cost of purchased resources of energy and capacity for the three forecasted months in the quarterly time period. *Id.* The prior period reconciliations are the under or over-recovered funds for the first two months of the current quarter and the last month of the prior quarter. *Id.* LUMA shall provide the estimated reconciling balance with each proposed quarterly filing of the PPCA. *Id.* Finally, the applicable net retail kWh sales include the sale of energy to all customer classes, including the net metering clients. *Id.*

### **C. FOS**

The FOS applies to certain general residential services tariffs (GRS by its English-language acronym), including disabled persons, elderly persons, and university students, tariffs for special residential services (LRS by its English-Language acronym), and residential services for public projects (RH3 by its English-Language acronym). *Id.* at page 53. This fuel subsidy applies to monthly consumption that does not exceed 500 kWh. It is calculated quarterly.

For the first \$30 per barrel of fuel, excluding natural gas, clients will receive a credit equivalent to the subsidy factor multiplied by the customer's monthly consumption of up to 400 kWh. *Id.* Customers that consume between 401 kWh and 425 kWh will receive a credit equivalent to a consumption of 400 kWh. *Id.* Finally, for customers that consume between 426 kWh and 500 kWh, the credit will be progressively reduced to 425 kWh to reach 0 kWh or 500 kWh. *Id.*

The quarterly filing of reconciliations and calculated factors is due the second week of the third month of each quarter. The calculated factors will go into effect the first month of the following quarter. The quarterly reconciliations also include, when applicable and ad ordered by the Energy Bureau, any unreconciled amounts from the previous quarter if the factors were not adjusted during that period.

**IV. Factors Fixed by PREB for January 1<sup>st</sup> through March 31<sup>st</sup>, 2023**

In the December 29<sup>th</sup> Order, this honorable Energy Bureau set the following factors to apply from January 1<sup>st</sup> through March 31<sup>st</sup>, 2023, respectively:

Adjustment Clause	Factor \$ kWh	Effective Dates
FCA	0.169068	January 1, 2023 – March 31, 2023
PPCA	0.030171	January 1, 2023 – March 31, 2023
FOS	-0.026605	January 1, 2023 – March 31, 2023

As ordered by the Energy Bureau, these factors remained unchanged from what was approved by this Energy Bureau in its September 29<sup>th</sup> Order.

**V. Reconciliations for FCA and PPCA Riders**

On December 15, 2022, LUMA submitted to this Energy Bureau, the quarterly reconciliations for the FCA and PPCA riders in a file entitled “QUARTERLY FAC-PPAC RECONCILIATION SEP-OCT-NOV 2022.xlsx.” *See Submission of Reconciliation for September, October, and November 2022 FCA, PPCA, and FOS Calculated Factors and Request for Confidential Treatment.*<sup>1</sup> Said filing includes the calculations for the reconciliations of the FCA and PPCA riders (costs versus revenues) and the amounts to be recovered or returned for each of these riders (December 15<sup>th</sup> Motion).

In the December 29<sup>th</sup> Order, this Energy Bureau discussed the proposed reconciliations pertaining to September, November, and December 2022: Fuel Costs to be recovered totaled \$69,449,913.65, and Power Purchased Costs to be recovered totaled \$267,736.83. *See* December 29<sup>th</sup> Order, pages 7-10.

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<sup>1</sup> Available at <https://energia.pr.gov/wp-content/uploads/sites/7/2022/12/Submission-of-Reconciliations-for-September-October-and-November-2022-FCA-PPCA-PPCA-and-FOS-Calculated-Factors-and-Request-for-Confidential-Treatment-FILED.pdf>.

The quarterly reconciliations for the FCA and PPCA riders submitted with this Motion in the file entitled “April-June 2023 Factors.xlsx,” include calculations for the reconciliation of the FCA and PPCA riders (costs versus revenues) and the amounts to be recovered or returned for each of these riders for December 2022 through February 2023. For December 2022, the Fuel Costs, and the prior period adjustments were \$199,099,265.22, and revenues totaled \$212,554,842.46. There was an excess revenue of \$13,455,577.25. The Purchased Power Costs and the prior adjustments were \$39,852,972.04, and revenues totaled \$37,457,376.58. There was a revenue insufficiency of \$2,395,595.46.

For the month of January 2023, the Fuel Costs and prior period adjustments were \$176,362,599.05. Revenues totaled \$201,815,507.67. There was an excess revenue of \$25,452,908.62. The Purchased Power Cost and the prior adjustments were \$43,342,475.71. Revenues totaled \$36,051,083.12. There was a revenue insufficiency of \$7,291,392.59.

Lastly, for the month of February 2023, the Fuel Costs and prior period adjustments were \$162,275,114.72. Revenues totaled \$189,582,875.85. There was an excess revenue of \$27,307,761.13. The Purchased Power Cost and the prior adjustments were \$37,670,818.57. Revenues totaled \$33,760,838.62. There was a revenue insufficiency of \$3,909,979.94.

The quarter total of Fuel Costs, and prior period adjustments for the months of September 2022, October 2022, and November 2022, were \$755,530,284.62. Revenues totaled \$682,287,812.50. The sum of excess nominations was \$3,792,558.46. There is a total revenue insufficiency of \$69,449,913.65.

The quarter total of Purchased Power Costs and prior period adjustment for the months of September 2022, October 2022, and November 2022, was \$119,053,328.73. Revenues totaled \$118,785,591.90. There was a revenue insufficiency of \$267,736.83.

The quarter total of Fuel Costs and prior period adjustments for the months of December 2022, January 2023, and February 2023 are \$537,736,978.98. Revenues totaled \$603,953,225.98. There was an excess revenue of \$66,216,247.00.

The quarter total of Purchased Power Costs and prior period adjustments for the months of December 2022, January 2023, and February 2023 is \$120,866,266.32. Revenues totaled \$107,269,298.32. There was a revenue insufficiency of \$13,596,967.99.

In the December 29<sup>th</sup> Order, PREB determined that the September factors would remain unchanged due to the uncertainty in payments from the Federal Emergency Management Agency (FEMA) and insurers, and the potential resulting impact on the factors proposed for implementation on January 1, 2023. Thus, the reconciliation submitted today in the file “April-June 2023 Factors.xlsx,” includes the costs to be recovered for the period of September 2022 through February 2023. For the period of September 2022 through February 2023, the fuel costs to be recovered totaled \$3,233,666.65, and the purchased power costs to be recovered totaled \$13,864,704.82.

## **VI. Calculated Factors**

In the December 29<sup>th</sup> Order, this Energy Bureau determined to maintain the factors set on September 29, 2022. Thus, the Energy Bureau ordered that in the current submission of FCA, PPCA, and FOS factors, LUMA shall include the reconciliations for September through November 2022. *See id.*, page 10.<sup>2</sup> The excel spreadsheet entitled “April-June 2023 Factors.xlsx,” includes the calculations for the proposed FCA, *see attachment 1*, PPCA, *see Attachment 2*, and FOS factors, *see Attachment 1*. In addition to the reconciliation amount for December 2022, January 2023, and February 2023, in compliance with the December 29<sup>th</sup> Order, the calculated factors also

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<sup>2</sup> The reconciliations for September, October, and November 2022 considered for the calculations of the proposed factors are identical to those submitted in December 2022 and approved by this Energy Bureau.



include the quarter reconciliation amounts pertaining to September, October, and November 2022.

*See id.*

LUMA respectfully requests that the Energy Bureau review the following calculated factors applicable for the next quarter from April 1<sup>st</sup>, 2023, through June 30<sup>th</sup>, 2023:

<b>Adjustment Clause</b>	<b>Factor (\$/kWh)</b>
FCA	\$0.134652
PPCA	\$0.035997
FOS	\$0.026671

*See Id.*

**VII. List of Documents Filed in Support of Reconciliations and Proposed FCA, PPCA, and FOS Factors.**

**A. Confidential Folder**

April-June 2023 Factors_Confidential.xlsx
Load Forecast Q4 FY2023 (FCA&PPCA)_Confidential.xlsx
Precio Ponderado Análisis _ 2022.11.30_Confidential.xlsx
Precio Ponderado Análisis _ 2023.02.28_updated 3.13.23_Confidential.xlsx
PRECIO PONDERADO DIRECTORADO DE GENERACION DIARIO COMBUSTIBLES Feb. 28, 2023_Confidential.xlsx
PRECIO PONDERADO DIRECTORADO DE GENERACION DIARIO COMBUSTIBLES NOVIEMBRE 30 2022_Confidential.xlsx
QUARTERLY FAC-PPAC RECONCILIATION DEC22-JAN-FEB-23_Confidential
QUARTERLY FAC-PPAC RECONCILIATION SEP-OCT-NOV 2022_Confidential

**B. Public Files in Values Folder**

April-June 2023 Factors_Values.xlsx
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QUARTERLY FAC-PPAC RECONCILIATION DEC22-JAN-FEB-23\_Values

QUARTERLY FAC-PPAC RECONCILIATION SEP-OCT-NOV 2022\_Values

Inventory (Fuel) – February 28, 2023

- Precio Ponderado Análisis \_ 2023.02.28 updated  
3.13.23\_Values.xlsx
- PRECIO PONDERADO DIRECTORADO DE  
GENERACION DIARIO COMBUSTIBLES Feb. 28,  
2023\_Values.xlsx
- 23-00040 EOM TANK INVENTORY # 2 FO  
28FEB2023\_VB.pdf
- 23-00041 EOM TANK INVENTORY # 2 FO  
28FEB2023\_MAY.pdf
- 23-00042 EOM TANK INVENTORY # 2 FO - # 6 FO  
28FEB2023\_CS.pdf
- AG\_Full Report 1310100016990 – PREPA.pdf
- Cambalache\_Full Report 1310100016989 – PREPA.pdf
- GA023097 PREPA JOBOS TANK INVENTORY  
(02.28.23).pdf
- GA023098 PREPA DAGUAO TANK INVENTORY  
(02.28.23).pdf
- GA023099 PREPA PALO SECO TANK INVENTORY  
(02.28.23).pdf
- SJ\_Full Report 1310100016988 – PREPA.pdf
- Yabucoa\_Full Report 1310100016991 – PREPA.pdf

Inventory (Fuel) - November 30, 2022\_Values

- Precio Ponderado Análisis \_ 2022.11.30\_Values.xlsx

- PRECIO PONDERADO DIRECTORADO DE GENERACION DIARIO COMBUSTIBLES NOVIEMBRE 30 2022\_Values.xlsx
- 22-00285 END OF MONTH INVENTORY  
30NOVEMBER2022 MULTIGRADE @ CENTRAL SJ SAN JUAN, P.R. - REF. SJ-TANKINVENTORY-11-22
- 22-00286 END OF MONTH INVENTORY  
30NOVEMBER2022 MULTIGRADE @ PREPA AGUIRRE, P.R. - REF. AG-TANKINVENTORY-11-22
- 22-00287 END OF MONTH INVENTORY  
30NOVEMBER2022 NO. 2 FUEL OIL @ PREPA YABUCOA, P.R. - REF. YB-TANKINVENTORY-11-22
- Full Report 1310100016873 - PUERTO RICO ELECTRIC (BR) POWER AUTHORITY, M. Rios
- Full Report 1310100016874 - PUERTO RICO ELECTRIC (BR) POWER AUTHORITY, M. Rios
- Full Report 1310100016875 - PUERTO RICO ELECTRIC (BR) POWER AUTHORITY, M. Rios
- GA022815 PREPA CAMBALACHE TANK INVENTORY (Nov 30, 2022)
- GA022816 PREPA MAYAGUEZ TANK INVENTORY (Nov 30, 2022)
- GA022817 PREPA COSTA SUR TANK INVENTORY (Nov 30, 2022)
- GA022818 PREPA VEGA BAJA TANK INVENTORY (Nov 30, 2022)

### **VIII. Request for Confidential Treatment of Excel Files and Supporting Memorandum of Law.**

The confidential excel files mentioned in Section VIIA of this Motion *supra*, submitted with this Motion, include excel spreadsheets submitted in native format (.xls) and with formulae intact. They include formulae and original calculations made by LUMA personnel that reveal confidential procedures and include sensitive commercial information belonging to LUMA and/or PREPA that are thus protected by law from disclosure, and that should not be disclosed in native form.

#### **A. Applicable Laws and Regulations to submit information confidentially before the Bureau.**

The bedrock provision on the management of confidential information filed before this 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: “if 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 Commission 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.*, Section 6.15 (a).

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

Access to the 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.*, Section 6.15(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 [Bureau] who needs to know such information under nondisclosure agreements. However, the [Bureau] shall direct that a non-confidential copy be furnished for public review”. *Id.*, Section 6.15 (c).

The Energy Bureau’s Policy on 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 the identification of the confidential information and the ... filing of 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 16, 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 the reasons why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* paragraphs 3. The party who seeks confidential treatment of information filed with the Bureau must also file both “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* paragraph 6.

The aforementioned Energy Bureau policy on the management of confidential information in procedures states the following with regard to access to validated Trade Secret Information:

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 [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

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

Relatedly, Energy Bureau Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing confidential information in adjudicatory proceedings before this honorable Bureau. To wit, Section 1.15 provides that “a person has the duty to disclose information to the [Bureau] considered to be privileged information, request the [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 accordingly to ... Article 6.15 of Act No. 57-2015, as amended.” *See also* Bureau Regulation No. 9137 on *Performance Incentive Mechanism*, Section 1.13 (addressing disclosure before the Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

### **B. Grounds for Confidentiality**

Under the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, 10 LPRA §§4131-4144, industrial or trade secrets are deemed to be any information:

- (a) That has a present or a potential independent financial value or that provides a business advantage, insofar as such information is not common knowledge or readily accessible through proper means by persons who could make a monetary profit from the use or disclosure of such information, and
- (b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.

*Id.* §4131, Section 3 Act. 80-2011.<sup>3</sup> Trade secrets include, but are not limited to, processes, methods, mechanisms, manufacturing processes, formulas, projects, or patterns to develop machinery and lists of specialized clients that may afford an advantage to a competitor. *See* Statement of Motives, Act 80-2011. As explained in the Statement of Motives of Act 80-2011, protected trade secrets include any information bearing commercial or industrial value that the owner reasonably protects from disclosure. *Id.* *See also* Article 4 of Puerto Rico's Open Data Law, Act 122-2019 (exempting the following from public disclosure: (1) commercial or financial information whose disclosure will cause competitive harm; (2) trade secrets protected by a contract, statute or judicial decision (3) private information of third parties). *See* Act 122-2019, Articles 4 (ix) and (x) and (xi)).

The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to commercial information that is confidential in nature. *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891, 901-02 (2017) (citation omitted).

The excel spreadsheets submitted today in native form and with formulae intact in the file entitled *Confidential* are protected as trade secrets. They have commercial value to LUMA and PREPA as they reveal confidential processes and analysis to produce calculations in support of the public filings of the proposed FCA, PPCA, and FOS factors. LUMA and PREPA keep and maintain these native files confidentially and do not disclose them to the public or unauthorized third parties.

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<sup>3</sup> Relatedly, Rule 513 of the Rules of Evidence of Puerto Rico provides that the owner of a trade secret may invoke the privilege to refuse to disclose, and to prevent another person, from disclosing trade secrets, provide that these actions do not tend to conceal fraudulent actions or lead to an injustice. 32 P.R. Laws Annot. Ap. VI, R 513. If a court of law mandates disclosure of a trade secret, precautionary measures should be adopted to protect the interests of the owner of the trade secret. *Id.*

LUMA appreciates the importance of placing the Energy Bureau in the position of reviewing the reconciliations and fixing the annual factors. However, to avoid future competitive harms that could ensue if original format spreadsheets with formulae and calculations are publicly disclosed, LUMA respectfully requests that the excel files submitted today in the file entitled *Confidential*, be received, kept, and maintained confidentially by this Energy Bureau.

The confidential spreadsheets included in the file entitled *Confidential* are: (1) documents with commercial and financial value, and (2) involve data that **is not common knowledge or readily accessible** by third parties who may seek to profit from the data or gain commercial advantages. The spreadsheets are business documents showing processes, methods, and mechanisms that garner protection under Act 80-2011. They are original documents that have not been disclosed to third parties and whose disclosure would reveal sensitive and private commercial processes employed by LUMA and PREPA. The disclosure of this sensitive commercial information would place LUMA and PREPA in vulnerable and disadvantageous commercial positions that could affect LUMA customers and impact rates. Reasonable measures have been taken to protect the files from disclosure and avoid unauthorized access by third parties that could seek to gain commercial advantages. It is respectfully submitted that the spreadsheets included in the file entitled *Confidential* are trade secrets protected from public disclosure by Act 80-2011.

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned, **accept** the filing of the FCA and PPCA reconciliations for the months of December 2022, January 2023, and February 2023, and the calculated factors for the quarter starting on April 1, 2023; and **grant** the request to keep confidentially the spreadsheets that have been filed in excel format and with formulae in the file entitled *Confidential* that is submitted with this Motion.



**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 15<sup>th</sup> day of March 2023.

We hereby certify that we filed this Motion using the electronic filing system of this Energy Bureau and that I will send an electronic copy of this Motion to counsel for PREPA Joannely Marrero, [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law) and to the Independent Consumer Protection Office, through Director Hannia Rivera, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov).



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