

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

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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 Further Amend the
Procedural Calendar**

MOTION TO FURTHER 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*. 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.

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*

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

de Febrero de 2023. ICPO alleged that LUMA did not provide the information requested on the totality of subsidies available in Louisiana, Mississippi, and Arkansas.

12. On March 3, 2023, LUMA filed a *Motion Requesting the Energy Bureau to Amend Procedural Calendar*. Therein, LUMA requested that the Energy Bureau take notice that at least one (1) month was required for LUMA to complete the proceeding transcript. 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. On March 9, 2023, the Energy Bureau issued a Resolution and Order whereas it ruled that LUMA complied with the Bench Orders issued during the Evidentiary Hearing, denying ICPO's *Comentarios a Moción en Cumplimiento de Orden Radicada por LUMA el 21 de Febrero de 2023*. Further, the Energy Bureau determined that the Microsoft Teams recording would serve as the official record of the Evidentiary Hearing and clarified it would not produce an official transcript to avoid further delays. The Energy Bureau ruled that the parties should cite the recording in their remaining filings in this proceeding, where applicable, referring to the hours, minutes, and seconds of the testimonies. Finally, this Energy Bureau amended the procedural calendar and set March 30, 2023, as the deadline to file the final substantive and legal briefs.

14. As this Energy Bureau is aware, LUMA has already commissioned a certified transcript of the Evidentiary Hearing, which is currently being prepared. LUMA respectfully submits that to secure uniformity in the references to the oral testimonies. For ease of reference

for the parties, the Energy Bureau and the public, a transcript of the Evidentiary Hearing is necessary. The transcript is essential to draft the legal brief and have an orderly proceeding. The Energy Bureau's instruction to refer to hours, minutes, and seconds of the testimonies in the briefs can be problematic, not only because it makes it more time-consuming to draft briefs and for the Energy Bureau to review the same, but it does not necessarily provides the parties and the Energy Bureau with a precise and universal mechanism to identify the testimonies. Further, in any event, if one of the parties decides to seek judicial review of the Energy Bureau's final determination, a transcript will be necessary, as per the procedural rules of the Puerto Rico Court of Appeals.

15. LUMA has already incurred the costs of commissioning a transcript of the Evidentiary Hearing. It is amenable to sharing the transcript with the Energy Bureau and all parties in order to reach a stipulation to adopt said transcript as the official transcript. This process was recently followed in Case *In re Unbundling of the Assets of the Puerto Rico Electric Power Authority*, NEPR-AP-2018-0004. LUMA proposes to share with the Energy Bureau and intervenors the different volumes of the transcript on a rolling basis as soon as they are made available by the court reporter working on them in order to reach the aforementioned stipulation. It should be noted that the complete set of volumes will be delivered by the court reporter no earlier than March 30, 2023.

16. Considering the foregoing, LUMA respectfully submits that an amendment to the remaining dates in the procedural calendar of this instant proceeding is warranted. LUMA is currently working on obtaining a certified transcript of the Evidentiary Hearing, which will be

delivered no earlier than March 30, 2023. Following the completion and stipulation of the transcript, LUMA will need at least two (2) weeks to finalize its final substantive and legal brief.

17. In view of the above, LUMA understands that the March 30, 2023, deadline to submit the final substantive and legal briefs should be extended until at least two (2) weeks after the parties stipulate the official transcript. Consequently, the remaining deadlines in the procedural calendar will have to be rescheduled accordingly.

18. 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 the transcript of the proceeding will not be delivered until March 30, 2023. Thus, it requests the Energy Bureau to amend the remaining dates in the procedural calendar of this proceeding to extend the March 30, 2023, deadline to submit the final substantive and legal briefs until at least two (2) weeks after the parties stipulate the official transcript.

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@agrailawpr.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-emmanueli.com, pedrosaade5@gmail.com,

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In San Juan, Puerto Rico, this 17th day of March 2023.



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