

**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:**

**Informative Motion on Parties' Agreement  
on the Evidentiary Hearing Transcript and  
Renewed Request to Amend the Procedural  
Calendar**

**INFORMATIVE MOTION ON PARTIES' AGREEMENT ON THE  
EVIDENTIARY HEARING TRANSCRIPT AND RENEWED REQUEST 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"), 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, and Sierra Club and its Puerto Rico chapter, and Unión de Trabajadores de la Industria Eléctrica y Riego (collectively, "LECO"), Oficina Independiente de Protección al Consumidor ("OIPC"), and the Puerto Rico Electric Power Authority (PREPA), 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*.

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.<sup>1</sup>

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

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

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 de Febrero de 2023*.

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 the 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 and denied 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 that 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. On March 17, 2023, LUMA filed a *Motion to Further Amend Procedural Calendar*. LUMA informed the Energy Bureau it had already commissioned a transcript of the Evidentiary Hearing, as it was necessary for ease of reference and to have an orderly proceeding. LUMA explained that 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 provide the parties and the Energy Bureau with a precise and universal mechanism to identify the testimonies. LUMA further expressed it was amenable to sharing the transcript with the Energy Bureau and all parties to reach a stipulation to adopt said transcript as the official transcript. As such, LUMA requested 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, and all remaining deadlines be extended accordingly.

15. The undersigned have been in contact with counsel for LECO, ICPO, and PREPA to discuss a stipulation of the already commissioned transcript of the Evidentiary Hearing. LUMA has offered to share the different volumes of the transcript on a rolling basis as soon as they are made available by the court reporter working on them to reach the stipulation. As stressed in LUMA's prior submission, the complete set of volumes is expected to be delivered by the court reporter no earlier than March 30, 2023.

16. Following discussions with counsel for LECO, ICPO, and PREPA, all attorneys have agreed to examine the different volumes of the transcript commissioned by LUMA and compare them against the audio recording, in order to stipulate the transcript that all parties will

be referring to in this instant proceeding. Counsels for all parties are in agreement that a reasonable amount of time is necessary to perform a revision of the transcript to be shared by LUMA. The parties have expressed that no less than two weeks will be needed to review the transcripts for accuracy.

17. Considering the foregoing, it is respectfully submitted that an amendment to the remaining dates in the procedural calendar of this instant proceeding is warranted. As mentioned before, 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, an effort that will take no less than two (2) weeks, the parties will need at least two additional (2) weeks to finalize their final substantive and legal brief.

18. In view of the above, 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.

19. This amendment request is not intended to cause unnecessary delay and should not cause inconvenience to the parties.

**WHEREFORE**, it is respectfully requested that the Energy Bureau take notice of the fact that the transcripts of the proceedings are expected to be delivered on March 30, 2023 and that the parties have agreed to review the same to stipulate their accuracy. The parties request that the Energy Bureau amend the remaining dates in the procedural calendar of this proceeding to extend

the March 30<sup>th</sup> 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 and that an electronic copy of the filed motion will be sent to counsel for PREPA, Joannely Marrero-Cruz, [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law); the Office of the Independent Consumer Protection Office, Hannia Rivera Diaz, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov), and counsel for the Puerto Rico Institute for Competitiveness and Sustainable Economy (“ICSE”), Fernando Agrait, [agraitfe@agraitlawpr.com](mailto:agraitfe@agraitlawpr.com), counsel for the Colegio de Ingenieros y a de Puerto Rico (“CIAPR”), Rhonda Castillo, [rhoncat@netscape.net](mailto: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](mailto:larroyo@earthjustice.org), [rstgo2@gmail.com](mailto:rstgo2@gmail.com), [notificaciones@bufete-emmanuelli.com](mailto:notificaciones@bufete-emmanuelli.com), [pedrosaade5@gmail.com](mailto:pedrosaade5@gmail.com)., [jessica@bufete-emmanuelli.com](mailto:jessica@bufete-emmanuelli.com); [rolando@bufete-emmanuelli.com](mailto:rolando@bufete-emmanuelli.com), [lvelez@earthjustice.org](mailto:lvelez@earthjustice.org), [rmurthy@earthjustice.org](mailto:rmurthy@earthjustice.org), [jcassel@earthjustice.org](mailto:jcassel@earthjustice.org).

In San Juan, Puerto Rico, this 24<sup>th</sup> day of March 2023.



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